

State Employment Relations Board

Board Meeting Minutes
March 10, 2016

The State Employment Relations Board met on March 10, 2016, at 10:00 a.m., at 65 East State Street, 12th Floor, Columbus, Ohio. Present at the meeting were Chair W. Craig Zimpher and Vice Chair Aaron A. Schmidt. The third SERB member position is vacant.

I. APPROVAL OF MINUTES FOR THE FEBRUARY 18, 2016 BOARD MEETING:

Vice Chair Schmidt moved that the Board approve the minutes for the February 18, 2016 meeting. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

II. MEDIATION AND FACT-FINDING MATTERS AT ISSUE:

1. Case 2015-MED-01-0035 City of Fairborn and Fairborn Professional Fire Fighters Association, Local 1235

This matter is before the Board on the EMPLOYER'S MOTION FOR RECONSIDERATION OF BOARD'S ORDER GRANTING EMPLOYEE ORGANIZATION'S REQUEST FOR APPOINTMENT OF A CONCILIATOR. The employer's motion asks the Board to reconsider its February 5, 2016 decision granting the appointment of a Conciliator and directing the parties to Conciliation.

Ohio Administrative Code 4117-1-04 (E) requires that motions "must contain a clear and concise statement of the reasons why the Board should reconsider its previous decision". In this instance, the employer has not provided any new or additional information for reconsideration.

Vice Chair Schmidt moved that the Board deny the Employer's Motion For Reconsideration of the Board's February 5, 2016 Order. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

2. Case 2015-MED-10-1175 Fraternal Order of Police, Ohio Labor Council, Inc. and Gallia County Sheriff

On October 20, 2015, the Fraternal Order of Police, Ohio Labor Council, Inc. filed a Notice to Negotiate for a new collective bargaining agreement representing part-time Deputies and part-time Corrections Officers of the Gallia County Sheriff.

On January 29, 2016, a Petition for Decertification of Election was filed seeking to decertify the Fraternal Order of Police as the exclusive representative for these employees.

Since then, on February 4, 2016, the Gallia County Sheriff has filed a Motion to Stay Negotiations pending the outcome of the above representation petition Case No. 2016-REP-01-0011.

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Vice Chair Schmidt moved that the Board grant the Employer's Motion to Stay Negotiations in Case No. 2015-MED-10-1175 pending disposition of Case No. 2016-REP-01-0011. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

III. REPRESENTATION MATTERS AT ISSUE:

1. Case 2015-REP-12-0117 Ohio Patrolmen's Benevolent Association and City of Germantown- (Sergeants and Corporals)
(March 22, 2016-April 5, 2016)
2. Case 2015-REP-12-0118 Ohio Patrolmen's Benevolent Association and City of Germantown- (Patrolmen)
(March 22, 2016-April 5, 2016)

The parties entered into consent election agreements in both cases.

Vice Chair Schmidt moved that the Board approve the Consent Election Agreements and direct mail-ballot elections to be conducted in each case during the polling period of March 22, 2016 through April 5, 2016. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

3. Case 2016-REP-01-0003 International Association of Firefighters Local #3947 and N.O.F.F. and City of Macedonia

The parties jointly filed a petition to amend the certification to include the classification of Fire Inspector. The proposed amendment appears appropriate.

Vice Chair Schmidt moved that the Board approve the jointly filed petition and amend the unit accordingly. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

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4. Case 2015-REP-09-0080 Fraternal Order of Police, Ohio Labor Council, Inc. and Ohio Patrolmen's Benevolent Association and Brimfield Township, Portage County- (Patrol Officers)
 - There were 8 valid ballots cast
 - There were 0 void ballots
 - There were 0 challenged ballots
 - No Representative received 0 votes
 - Ohio Patrolmen's Benevolent Association received 0 votes
 - Fraternal Order of Police, Ohio Labor Council, Inc. received 8 votes and prevailed in this election.

5. Case 2015-REP-09-0081 Fraternal Order of Police, Ohio Labor Council, Inc. and Ohio Patrolmen's Benevolent Association and Brimfield Township, Portage County- (Sergeants)
 - There were 3 valid ballots cast
 - There were 0 void ballot
 - There were 0 challenged ballots
 - No Representative received 0 votes
 - Ohio Patrolmen's Benevolent Association received 0 votes
 - Fraternal Order of Police, Ohio Labor Council, Inc. received 3 votes and prevailed in this election.

6. Case 2015-REP-09-0082 Fraternal Order of Police, Ohio Labor Council, Inc. and Ohio Patrolmen's Benevolent Association and City of Gahanna
 - There were 9 valid ballots cast
 - There were 0 void ballots
 - There were 0 challenged ballots
 - No Representative received 1 vote
 - Ohio Patrolmen's Benevolent Association received 0 votes
 - Fraternal Order of Police, Ohio Labor Council, Inc. received 8 votes and prevailed in this election.

7. Case 2015-REP-09-0083 Teamsters Local 436 and City of Rocky River
 - There were 32 valid ballots cast
 - There were 0 void ballots
 - There were 0 challenged ballots
 - No Representative received 3 votes
 - Teamsters Local 436 received 29 votes and prevailed in this election.

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8. Case 2015-REP-09-0093 Ohio Patrolmen's Benevolent Association and Fraternal Order of Police, Lodge 25 and City of Bay Village
- There were 6 valid ballots cast
 - There were 0 void ballots
 - There were 0 challenged ballots
 - No Representative received 0 votes
 - Fraternal Order of Police, Lodge 25 received 2 votes
 - Ohio Patrolmen's Benevolent Association received 4 votes and prevailed in this election.
9. Case 2015-REP-09-0094 Fraternal Order of Police, Lodge 15 and Ohio Patrolmen's Benevolent Association (OPBA) and City of Broadview Heights
- There were 5 valid ballots cast
 - There were 0 void ballots
 - There was 1 challenged ballots
 - No Representative received 0 votes
 - Ohio Patrolmen's Benevolent Association received 0 votes
 - Fraternal Order of Police, Lodge 15 received 4 votes and prevailed in this election.

Mail-Ballot elections were held in each case.

Vice Chair Schmidt moved that the Board certify the election results and certify each prevailing employee organization as the exclusive representative of all employees in the relevant bargaining units. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

IV. ADMINISTRATIVE LAW JUDGE RECOMMENDATIONS AT ISSUE:

1. Case 2015-ULP-07-0155 Fraternal Order of Police, Ohio Labor Council, Inc. v. Highland County Sheriff

On July 13, 2015, Fraternal Order of Police, Ohio Labor Council, Inc. ("Charging Party") filed an unfair labor practice charge against the Highland County Sheriff's Office ("Charged Party"), alleging that Charged Party violated Ohio Revised Code §§ 4117.11(A)(1) and (A)(3). On December 17, 2015, the State Employment Relations Board ("the Board") determined that probable cause existed to believe Charged Party had committed or was committing an unfair labor practice, authorized the issuance of a complaint, and referred the matter to hearing. The Board also directed the parties to unfair labor practice mediation. The parties participated in unfair labor practice mediation. The hearing notice and the complaint were held in abeyance pending the outcome of the mediation.

On February 25, 2016, Charging Party filed a motion to withdraw the unfair labor practice

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charge in this case. The parties have resolved the matters which are the subject of this charge.

Vice Chair Schmidt moved that the Board grant Charging Party's motion to withdraw and dismiss the unfair labor practice charges in Case No. 2015-ULP-07-0155 with prejudice. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Chair Zimpher expressed appreciation for Brian Eastman's efforts in mediating this case.

Vote: SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

IV. UNFAIR LABOR PRACTICE CHARGE MATTERS AT ISSUE:

1. Case 2015-ULP-10-0214 Frank L. Hocker, Jr. v. Ohio Patrolmen's Benevolent Association
2. Case 2015-ULP-10-0215 Frank L. Hocker, Jr. v. Ohio Patrolmen's Benevolent Association

The unfair labor practice charges alleged that the Association violated Ohio Revised Code §4117.11 (B)(1), (2), (3) and (6).

Information gathered during the investigation revealed that Frank L. Hocker was issued a written request to submit a position statement and documentation to support the allegations set forth in the charge on October 13th and November 1st of 2015. Mr. Hocker failed to provide the requested information.

Vice Chair Schmidt moved that the Board dismiss the charges with prejudice for failure to pursue the matters. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

3. Case 2015-ULP-10-0219 Ohio Association of Public School Employees, AFSCME Local 4, AFL-CIO and its Local 131 v. Coventry Local School District Board of Education

The unfair labor practice charge alleged that the School Board violated Ohio Revised Code §4117.11 (A)(1), (2), (3), (5) and (8) by proposing changes to the composition of the bargaining unit after the parties reached impasse.

Information gathered during the investigation revealed the Employer's repeated requests to talk about an issue that the Union does not want to discuss does not rise to the level of a statutory violation. Based on the information provided, the Union did not provide sufficient information to support the (A)(1) and (5) allegations.

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Vice Chair Schmidt moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

4. Case 2015-ULP-10-0230 Ohio Patrolmen's Benevolent Association v. City of Vandalia

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11 (A)(1) and (5) by altering the promotion process to the position of Sergeant in the Police Department without consulting the Union.

Information gathered during the investigation revealed that the parties' CBA addresses the Employer's managerial right as it relates to promotion of personnel. Thus, the issue of whether the Employer can change the promotional process by allowing the City Manager to promote any of the top five (5) candidates who complete the promotional process is purely a contractual matter and encompasses no arguable statutory violation.

Vice Chair Schmidt moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

5. Case 2015-ULP-12-0259 Ayersville Education Association, OEA/NEA v. Ayersville Local School District Board of Education

The unfair labor practice charge alleged that the School Board violated Ohio Revised Code §4117.11 (A)(1), (3), (4) and (5) by unilaterally removing the bargaining-unit position of Craig Cicero and unilaterally assigning those additional duties to other bargaining-unit and nonbargaining-unit members.

Information gathered during the investigation revealed that contract interpretation and application appear to lie at the heart of both the unfair labor practice charge and the grievance dispute.

Vice Chair Schmidt moved that the Board *sua sponte* defer the matter for resolution through the grievance-arbitration procedure and retain jurisdiction in accordance with *In re Upper Arlington Ed Assn*, SERB 92-010 (6-30-92). The parties have thirty (30) days from the issuance of the arbitration award to file a request with the Board seeking review of the remaining issues, if any. If nothing is filed within the thirty (30) days, this Board will assume all issues were resolved in the grievance-arbitration procedure and dismiss the matter. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

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6. Case 2015-ULP-12-0263 Michael Rider v. Ohio Civil Services Employee Association, AFSCME Local 11

The unfair labor practice charge alleged that the Union violated Ohio Revised Code §4117.11 (B)(6) by failing to properly conduct the institution-wide re-canvass.

Information gathered during the investigation revealed that Michael Rider failed to provide sufficient information or documentation to show how the Union's actions were arbitrary, discriminatory or in bad faith. In addition, the matter appears to be moot since Mr. Rider was subsequently awarded a position with the hours and days off he had previously desired. Therefore, based on the totality of the circumstances, the Union's actions do not rise to the level of a (B)(6) statutory violation.

Vice Chair Schmidt moved that the Board dismiss the charge with prejudice for lack of probable cause to believe that an unfair labor practice has been committed and for being moot. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

7. Case 2015-ULP-12-0273 Erika Papp v. Cuyahoga County Sheriff's Department and Director Kenneth Mills

The unfair labor practice charge alleged that the County Sheriff violated Ohio Revised Code §4117.11 (A)(1), (2), (7) and (8).

Information gathered during the investigation revealed that information was requested, in writing, from Erika Papp on January 5th and January 28th, 2016. Ms. Papp did not respond to the written requests for information. To date, Ms. Papp has had no contact with SERB.

Vice Chair Schmidt moved that the Board dismiss the charge with prejudice for failure to pursue the matter. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

8. Case 2016-ULP-01-0002 Ohio Patrolmen's Benevolent Association v. City of Olmsted Falls

The unfair labor practice charge alleged that the City violated Ohio Revised Code §4117.11(A)(1) by interfering with the guaranteed rights of Sergeant Floyd Takacs to attend a meeting, open to the public, in his capacity as a Union representative.

Information gathered during the investigation revealed that the parties have differing versions of the events that transpired at the October 9, 2015 forum. Accordingly, the matter would be best addressed through a hearing to determine whether the City interfered with Sgt. Takacs in the exercise of his guaranteed rights.

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Vice Chair Schmidt moved that the Board find probable cause to believe an unfair labor practice has been committed, order the parties immediately to ULP mediation for a period not to exceed 45 days, authorize the assigned mediator, after consultation with the parties, to issue and e-mail a mediator's procedural order, including date, time, and location of mediation within the time period designated. If the mediation is unsuccessful, authorize the issuance of a complaint and refer the matter to hearing to determine whether the City violated Ohio Revised Code § 4117.11(A)(1). Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

9. Case 2016-ULP-02-0021 Robert M. Campbell Jr. v. University of Akron

The unfair labor practice charge alleged that the University violated Ohio Revised Code §4117.11 (A)(1), (2) and (3).

However, the charge does not set forth sufficient facts alleging a violation of Ohio Revised Code Chapter 4117 pursuant to Ohio Administrative Code Rule 4117-07-01, which requires that a charge provide a clear and concise statement of the facts constituting the alleged violation. The charge is deficient on its face and is untimely filed.

Vice Chair Schmidt moved that the Board dismiss the charge with prejudice for failure to provide a clear and concise statement of facts constituting the alleged violation and for being untimely filed. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

10. Cases 2015-ULP-12-0270 Maricia L. Schell v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO

2015-ULP-12-0272 Andrea R. Minch v. Ohio Civil Service Employees Association, AFSCME Local 11, AFL-CIO

The unfair labor practice charges alleged that the Association violated Ohio Revised Code §4117.11 (B)(6) by failing to take the basic and required steps to advance their grievances to Step 3 (Mediation).

The Board found probable cause on February 28, 2016 and directed the parties to participate in mediation within 45 days. Furthermore, the Board directed the parties to a hearing if mediation was unsuccessful.

On March 1, 2016, the Association timely filed a Motion for Reconsideration and a Request to Stay [Board-directed] Mediation.

Ohio Administrative Code 4117-1-04(E) requires the filing of motions for reconsideration no later than thirty days after the issuance of the Board's final ruling. In this case, a finding of probable cause is not the Board's final ruling and therefore, the Association's Motion for Reconsideration is prematurely filed and the request for stay is now moot.

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Vice Chair Schmidt moved that the Board deny the Association's Motion for Reconsideration without prejudice for being prematurely filed and deny the Request to stay mediation as moot. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

11. Case 2016-ULP-01-0017 International Brotherhood of Teamsters Local No. 24 v. Portage County Solid Waste Management District

The unfair labor practice charge alleged that the County violated Ohio Revised Code §4117.11 (A)(1) and (3) by interfering, restraining and coercing its members in the exercise of their guaranteed rights.

Information gathered during the investigation revealed that on March 4, 2016, the parties entered into a Settlement Agreement which resolved the issues contained in the above referenced charge. Pursuant to the Settlement the parties request that the Board retain jurisdiction over this matter during the 60-day posting period to assure compliance and to withdraw the above referenced charge.

Vice Chair Schmidt moved that the Board retain jurisdiction over this matter during the 60-day posting period commencing March 14, 2016 and ending May 13, 2016 to ensure the County's compliance, construe the Settlement Agreement as a Motion to Withdraw and grant the motion with prejudice. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

12. Case 2015-ULP-12-0257 International Association of Fire Fighters, Local 3331 v. City of Perrysburg

13. Case 2015-ULP-12-0261 Pamela McGuinea v. Cuyahoga County Department of Jobs and Family Services

Items 12 and 13 were withdrawn pursuant to settlement agreements.

Vice Chair Schmidt moved that the Board construe the settlement agreements as motions to withdraw, and grant the motions with prejudice. Chair Zimpher seconded the motion. Chair Zimpher called for discussion and the vote.

Vote: SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied _____

VI. TABLED AND OTHER MATTERS:

There are no tabled matters.

VII. ADMINISTRATIVE MATTERS:

SERB REGULAR SCHEDULED MEETING DATES:

- March 31, 2016
- April 21, 2016
- May 12, 2016
- June 02, 2016
- June 23, 2016
- August 04, 2016
- August 25, 2016
- September 15, 2016
- October 06, 2016
- October 27, 2016
- November 17, 2016
- December 15, 2016

SYSTEM UPDATES:

- **Employee Organization Annual Report Filings:** For fiscal year ending 10/31/2015, 4 Employee Organizations were required to report not later than 3/15/2016. To date, 4 Employee Organizations have filed. Licia Sapp of the Research and Training Section tracks their status and works with the Employee Organizations to encourage compliance before the deadline. At this time, there are no employee organizations 31 days past due.
- **ePerformance HR Administrative Refresher:** March 4, 2016, attended an ePerformance Administrative Refresher course with Instructor Led Activities and Blended Learning "Types" to prepare our agency for the newest changes to the performance evaluation system.
- **Retention Schedule Revamped and Ready to Submit:** After several months of working on revisions to the Retention Schedules, the committee provided a final draft for review by the Chairman. The Retention Schedule Committee consisted of me, Erin Conn, Elaine Stevenson, and Shane Trace. Don Collins reviewed drafts as they were completed.
- **Operation Feed 2016:** The Operation Feed Campaign begins March 14, 2016 and will conclude on April 11, 2016. Our goal this year is 333 meals which equals an equivalent cost of \$85. Last year, SERB staff contributed \$430 to fund 1,075 meals; we have a very generous staff and Board!! Once again, it is our good fortune that Judy Knapp has volunteered to coordinate the Operation Feed Campaign and make it as easy as possible for all of us to contribute to this worthwhile cause.

TRAINING:

- **Spring SPBR Academy:** Scheduled for today, March 10, 2016 at the Crowne Plaza Hotel in Worthington. Agenda, topics and speakers have been arranged. CLE's were approved by the Ohio Supreme Court on January 14, 2016. There are 134 registrations, this does not include staff.
- **Intermediate Negotiations Training:** Training will be held March 15, 2016; it will be conducted by SERB Mediators Ken Hickey and Brian Eastman, supported by Don

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Collins, General Counsel and Mary Laurent, Administrative Professional 2 of the Bureau of Mediation. There are 10 registrations.

- **Contract Data Sheet Summary (CDSS) Training:** On March 02, 2016 Research and Training set up a test webinar training for practitioners to learn how to complete the CDSS (OAC 4117-09-07). The initial test of the webinar training system was held with an employer with a Fire Contract. R & T discovered it was very hard for them to complete the webinar because of interruptions on the employers end. The employer did not have enough privacy to complete the training. R & T got about 15 minutes into the training with several interruptions before cancelling the session. Since the office of the employer was close in proximity, the employer representative walked over to SERB and R & T completed the training on site at SERB. Cheri, Licia and Tammy did the training. R & T will reevaluate the webinar training to improve the effectiveness. No additional webinar sessions have been scheduled pending further refining of the training.
- **Spring SERB Academy:** Scheduled for May 19 and 20, 2016. CLE's will be applied for after March 10, 2016.
- **Fact-Finding Conference:** Scheduled for August 19, 2016. On Monday, January 04, 2016, save the date reminders were sent to all the Neutrals on SERB's roster. No registrations have been received as of this date; it is still a bit early.

IX. ADJOURNMENT:

Vice Chair Schmidt moved that the Board adjourn the meeting. Chair Zimpher seconded the motion. Chair Zimpher called for the vote.

Vote: SCHMIDT: Yes ZIMPHER: Yes
Affirmed X Denied

The Board meeting adjourned at 10:23 a.m.

/s/ 
W. Craig Zimpher, Chair