



Oklahoma Public Employees Relations Board

Minutes of
February 11, 2010
9:00 a.m.
Regular Meeting

Approved 04-08-10

Pursuant to the legal notice required by the Oklahoma Open Meeting Act, including the posting of notice and agenda, required by the terms thereof, the Public Employees Relations Board met at the Agriculture Building, First Floor, 2800 N Lincoln Boulevard, Oklahoma City, 73105.

Call to Order

Chairman Barlow called the meeting to order at 9:00 a.m. and took notice of the Administrative Procedures Act, and assured that the meeting was in compliance with the Open Meeting Act.

Members present were Chairman Barlow, Members Larry Gooch and Max Speegle. Also present were Assistant Attorney General Gretchen Harris, Debbie Tiehen, PERB Administrator, City Attorneys Suzanne Paulson and Gerry Bender and Union Attorneys Jim Moore and Doug Vernier.

Board Members introduced themselves and Chairman Barlow stated the agenda for the day's meeting.

The Board took up agenda item III., PERB Case No. 00473, Fraternal Order of Police v. City of Tulsa concerning City's Motion for Extension of Time.

The Board called for appearances: Gerald Bender for the City of Tulsa, James Moore for the Union.

Both parties agreed on the request for extension of time to submit briefs in this case.

Mr. Gooch moved to approve the City's Motion for Extension of Time in Case No. 00473, Mr. Speegle seconded the motion, the motion passed and the vote was:

Mr. Gooch – aye Mr. Speegle – aye Chairman Barlow – aye

Chairman Barlow signed the Order for the Extension of Time.

The Board took up agenda item V., PERB Case No. 2009-PPC-013M, AFSCME v City of Tulsa concerning Complainant's Amended Motion To Be placed On April 8th, 2010 Board Meeting Agenda.

The Board called for appearances: Mr. Moore for the Union, Mr. Bender for the City.

Chairman Barlow explained that the Union had asked for a continuance of the case and directed the parties to submit the appropriate briefs by March 25th if the matter hasn't been resolved, explaining the need for the case to be heard on April 8, 2010, Mr. Speegle seconded the motion, the motion passed and the vote was:

Mr. Gooch – aye Mr. Speegle – aye Chairman Barlow – aye

The Board took up agenda item IV., discussion and possible action on granting of extension of time.

Ms. Harris explained that the PERB Rules provide that the Board grants extensions of time and that it can become a problem when the Board only meets every month or so. She explained that the solution would be to change the rule to allow the Chairman or possibly the Administrator under advisement from the Chairman to grant extensions. She added that instead of ignoring the

rule, the Board could decide to suspend that portion of the rule which provides the Board must grant extension of time and, instead, permit the Chairman to grant agreed motions for extensions of time.

Chairman Barlow moved to suspend the rules when parties have agreed to the motion for extensions and the motion has been timely filed: the Administrator will bring the motion to the Chairman for an issue or denial of the extension, Mr. Gooch seconded the motion, the motion passed and the vote was:

Mr. Gooch – aye Mr. Speegle – aye Chairman Barlow – aye

The Board took up agenda item VI., PERB Case No. 00479 concerning City's Motion for Summary Judgment.

The Board called for appearances: Ms. Paulson for the City, Mr. Moore for the Union.

After lengthy oral argument and questions from the Board, Chairman Barlow moved to enter into executive session, Mr. Gooch seconded the motion, the motion passed and the vote was:

Mr. Gooch – aye Mr. Speegle – aye Chairman Barlow – aye

(Executive session)

Chairman Barlow moved to reconvene into open session, Mr. Gooch seconded the motion, the motion passed and the vote was:

Mr. Gooch – aye Mr. Speegle – aye Chairman Barlow – aye

Back in open session, Chairman Barlow called for a 5 minute break.

Upon return from the break, Mr. Speegle moved that the Board find no relevant facts in dispute in this case and that the Board has the jurisdiction to make a ruling and that the City's Motion for Summary Judgment be granted: there is no unfair labor practice here as the City has provided for two opportunities for leave above the minimum, so the City is in compliance with Fire Chief Sipe's answer to grievance as to Station 35, Shift A; Chairman Barlow seconded the motion, the motion passed and the vote was:

Mr. Gooch – aye Mr. Speegle – aye Chairman Barlow – aye

The Board took up agenda items VII. and VIII. concerning the issuance of complaints of new unfair labor practice charges filed recently, Case No. 2010-ULPC-489 (filed 1-26-10) and Case No. 2010-ULPC-490 (filed 1-22-10).

Ms. Harris explained that in the Fire and Police Arbitration Act, O.S.11-51-104b(B), the statute provides that the *Board shall have the power to issue and cause to be served upon such person a complaint stating the charges in that respect*. She added that there had been a legal question raised by Chairman Barlow and Mr. Moore regarding the Board's authority to delegate such procedures to the Administrator for more expeditious processing.

The Board asked if the attorneys in attendance had any legal analysis on this matter.

Mr. Doug Vernier contended that the file stamp is the issuance of the complaint and that it is consistent with the statute.

Mr. Moore's position on the matter was the question as to whether issuance of the complaint was a ministerial or discretionary act. He added that there are no standards in the act for denying a charge.

Chairman Barlow moved to issue the complaint in Case No. 2010-ULPC-489, City of Coweta v. Fraternal Order of Police, Lodge 192, Mr. Gooch seconded the motion, the motion passed and the vote was:

Mr. Gooch – aye Mr. Speegle – aye Chairman Barlow – aye

Mr. Gooch moved to issue the complaint in Case No. 2010-ULPC-490, Fraternal Order of Police, Lodge 93 v City of Tulsa & Dewey Bartlett, Mr. Speegle seconded the motion, the motion passed and the vote was:

Mr. Gooch – aye Mr. Speegle – aye Chairman Barlow – aye

The Board took up item agenda item IX., Certification Petition of the Berryhill Fire Fighters in the Berryhill Rural Fire District, Case No. 2010-RC-12427RFD.

Ms. Tiehen was directed to go forth and conduct the secret ballot election as no Board Action was necessary.

The Board discussed item X. on the agenda, Case No. 00444, the unfair labor practice charge filed in 2007 by the International Union of Police Associations, Local 3 against the City of Shawnee, William Mathis and James Collard concerning the Board to enter a Consent Order.

Having been approved by the parties, Chairman Barlow moved to be authorized to sign the Consent Order, Mr. Gooch seconded the motion, the motion passed and the vote was:

Mr. Gooch – aye Mr. Speegle – aye Chairman Barlow – aye

Mr. Barlow then signed the Consent Order.

Ms. Tiehen explained the budget for PERB had been cut 15% for the rest of the FY2010 and that PERB's allocation was initially \$51,802 from the Legislature.

Mr. Gooch asked about travel reimbursement for travel to elections.

Ms. Tiehen explained that she must take a State Car and that DCS would absorb the mileage cost.

Ms. Harris explained that there had been a line item of \$40,000 in FY2001 to provide an Assistant Attorney General to the PERB; the money disappeared after that year and the Attorney General's Office continued to provide service to the Board without funding.

Mr. Barlow asked how the Board could go about asking for added funding.

Ms. Harris proposed a meeting with Randy Ross from the Department of Central Services (DCS) who gives fiscal information to the Legislature regarding all departments within agency.

Mr. Gooch moved that Mr. Barlow take further steps to address the budget issue with Mr. Ross and other parties who impact the budget, Mr. Speegle seconded the motion, the motion passed and the vote was:

Mr. Gooch – aye Mr. Speegle – aye Chairman Barlow – aye

Ms. Tiehen reported on the status of HB2554, a house bill relating to amending language in the Municipal Employee Collective Bargaining Act to remove the card-check certification procedure.

Chairman Barlow requested Ms. Tiehen mail a copy of the house bill introduced last year that proposed an increase in board members and how they are appointed to all the board members.

Ms. Tiehen reported she attended the OCU Public Interest Law Career Fair and collected seven emails from law students who expressed interest in serving the PERB as interns.

Ms. Tiehen reported recent case activity; Supreme Court Case denied Petition for Certiorari (City of Norman v FOP, Lodge 122) and Comanche District Court affirmed the PERB Decision (City of Lawton v. PERB and AFSCME).

Mr. Gooch moved to approve the Board Minutes of January 21, 2010, Mr. Speegle seconded the motion, the motion passed and the vote was:

Mr. Gooch – aye Mr. Speegle – aye Chairman Barlow – aye

Mr. Gooch moved the meeting be adjourned, Mr. Speegle seconded the motion, the motion passed and the vote was:

Mr. Gooch – aye Mr. Speegle – aye Chairman Barlow – aye

The meeting adjourned at 11:15 a.m.