



Oklahoma Public Employees Relations Board

Minutes of
August 12, 2010
9:00 a.m.
Regular Meeting

Approved 9-16-10

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.; he 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, Penny Oleson, OCU Law Clerk, City Attorneys Sharolyn Whiting-Ralston, Charles Plumb, Chanda Graham and Union Attorneys Steven Hickman and Jarrod Leaman.

Board Members and staff introduced themselves and Chairman Barlow stated the agenda for the day's meeting. Chairman Barlow announced that this would be Ms. Harris' last meeting with the PERB as she is retiring from the Attorney General's Office this month. He thanked her for her service to the PERB. He also thanked Penny Oleson and Reid McCain for their summer law clerk service to the PERB.

Mr. Gooch moved to approve the Minutes of the July 8, 2010 Board Meeting, 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., Case No. 2010-ULPC-484, International Association of Fire Fighters, Local 2929 v. City of McAlester concerning City's Unopposed Motion To Defer the unfair labor practice charge pending arbitration.

Charles Plumb appeared as legal counsel for the City, Steven Hickman for the Union.

After a brief explanation of the motion by Mr. Plumb, Mr. Speegle moved to stay the unfair labor practice charge during the pendency of the parties' grievance arbitration, Mr. Gooch seconded the motion, the motion passed and the vote was:

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

Chairman Barlow signed the order staying the unfair labor practice charge.

The Board took up agenda item V., PERB Case No. 2010-ULPC-490, Fraternal Order of Police, Lodge 93 v. City of Tulsa concerning Union's Motion to Compel.

Appearing for the Union was Jarrod Leaman who stated that the City's Representative, Gerald Bender, could not be present at the meeting. He added that he and Mr. Bender had discussed the matter and requested the Board pass today's hearing on this matter to the September 16, 2010 docket and that Mr. Bender will produce the Union's requested discovery within ten (10) days.

Chairman Barlow asked that if the City produced the discovery documents, would the case be rendered moot?

Mr. Leaman replied that there remained the issue of sanctions in the form of attorney fees and other costs the Union would like to recover.

Ms. Harris asked the parties' to discuss a possible amended scheduling order with the Board Administrator for the discovery deadline, but still keep the hearing on track for December 9, 2010.

Mr. Gooch moved to reschedule this agenda item to the next docket, September 16, 2010, and allow Ms. Tiehen to amend the scheduling order. 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 item VI., PERB Case No. 2009-PPC-016, the International Brotherhood of Electrical Workers, Local 1002 v. City of Stillwater concerning City's Motion for Summary Judgment.

The Board called for appearances; Chanda Graham appeared for the City and Jarrod Leaman for the Union. Neither party had any further response.

Having heard oral argument between the parties on June 10th, 2010 and having read the legal research provided by law clerk Reid McCain, 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)

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

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

Back in open session, Mr. Speegle moved that the City of Stillwater's Motion for Summary Judgment be granted; the contract had expired, and there is no statutory authority to continue after expiration under the Municipal Employees Collective Bargaining Act. Chairman Barlow seconded the motion, the motion passed and the vote was:

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

Chairman Barlow asked Ms. Graham to prepare the order citing proper authority and have it ready in ten (10) days. Ms. Harris asked that she send it to her for review by August 26th.

Ms. Graham told the Board she would prepare the order and have it ready within that time frame.

The Board took a five minute break.

Back from the break, the Board took up agenda item VII., PERB Case No. 2009-ULPC-481, the International Association of Fire Fighters (IAFF), Local 2551 v. the City of Broken Arrow concerning the IAFF's unfair labor practice charge.

The Board called for appearances; Mr. Steven Hickman for the Union, Mr. Charles Plumb for the City.

Mr. Hickman made his opening statement and gave the Board a background on the alleged charge.

Mr. Plumb made his opening statement and addressed the allegations.

The Board admitted Union's Exhibits Nos. 1 through 9.

Mr. Hickman called his witness, Mr. Tim Heaps, Vice President of the IAFF, Local 2551. Mr. Speegle administered the oath and Mr. Heaps began testimony.

After Mr. Heaps gave testimony, was cross-examined by Mr. Plumb and answered questions from the Board, he was dismissed.

The Board took a five minute break.

After the break, Mr. Plumb gave his opening statement and requested the Board to admit his exhibits.

The Board admitted City's Exhibits Nos. 1 through 12.

Mr. Plumb called his witness, Steve Jarrett, Acting Fire Chief for the City of Broken Arrow. Mr. Speegle administered the oath and Chief Jarrett began testimony.

After Chief Jarrett gave testimony, was cross-examined by Mr. Plumb and answered questions from the Board, he was dismissed.

Mr. Hickman and Mr. Plumb gave closing statements.

Ms. Harris called the Board's attention to PERB Rule 2-5-14(8), concerning deadlines for cases decided with disputed facts that states..." within fifteen (15) days after the hearing, each party shall refile its statement of disputed facts with citations to the record added for each disputed fact. If a party briefs a legal issue not previous briefed by the opposing party, within fifteen (15) days after the hearing, the opposing party may also file a response brief not to exceed five (5) pages in length". She asked the Board if there was an additional filing required, would the Board like to have the filing before the executive session.

Mr. Plumb stated that he was not opposed to waiving the right to refile disputed statements and having the Board decide the case today. Mr. Hickman was in agreement.

Mr. Gooch moved for executive session, Mr. Speegle 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 return to open session, Mr. Gooch seconded the motion, the motion passed and the vote was:

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

Mr. Speegle made a motion that "The Findings of Fact are as follows: as to the meeting alleged in the ULP, the City was authorized to direct the following of the contract in the rules on both sides, as to the investigations, the City was authorized to conduct those investigations and as to the discipline, the Union failed to show these matters were in retaliation for Union Activity. As a Conclusion of Law, the Union has failed to meet the burden of proof of the ULP." Mr. Gooch seconded the motion, the motion passed and the vote was:

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

The Board asked Mr. Plumb to write the order including citations and send to Ms. Harris for review within ten (10) days.

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Mr. Plumb agreed to write the order.

The Board took up agenda item VIII., Administrator's Report of recent case activity.

Ms. Tiehen reported one new case for the Board to issue a complaint, new Case No. 2010-PPC-018, AFSCME, Local 2875 v. City of Norman and John Bowman filed 7-13-10.

Mr. Gooch moved to issue the complaint in Case No. 2010-PPC-018, Chairman Barlow seconded the motion, the motion passed and the vote was:

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

The Board discussed agenda item IX., the disposition of cases dismissed.

Ms. Tiehen distributed the Informal Disposition of (Unfair Labor Practice Or Prohibited Practice Charge) Form to the Board Members.

Mr. Gooch moved to adopt the new form for administrative disposition of cases. Chairman Barlow seconded the motion, the motion passed and the vote was:

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

Chairman Barlow announced the docket for the September 16th Board Meeting; Case No. 2010-ULPC-494, FOP, Lodge 93 v. City of Tulsa, Dewey Bartlett and Terry Simonson and Case No. 2010-ULPC-490, FOP, Lodge 93 v. City of Tulsa.

Chairman Barlow moved to adjourn the meeting, Mr. Gooch seconded the motion, the motion passed and the vote was:

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

Meeting adjourned at 1:04 p.m.