



Oklahoma Public Employees Relations Board
Minutes of
August 11, 2011
2800 N. Lincoln, Agriculture Bldg, First Floor Board Room
9:00 a.m.
Regular Meeting

Approved 10-13-2011

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 announced that the meeting was in compliance with the Open Meeting Act.

Members present were Chairman Barlow, Members Larry Gooch and Max Speegle, Debbie Tiehen, PERB Administrator, and Bryan Neal, Assistant Attorney General. Also present were Union Attorneys Sue Wycoff and Steve Hickman; attorneys for the Cities included Larry Simmons, Charles Plumb and David Perryman. Others in attendance were members of the IAFF, FOP and Town of Dibble.

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

Mr. Gooch moved to approve the Minutes of the July 14, 2011 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 Case No. 2011-ULPC-504, Fraternal Order of Police (FOP), Lodge 102 v. City of Stillwater concerning the approval of the written order denying FOP's Motion to Compel

Mr. Gooch moved to approve the order as written, 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 item V, PERB Case No. 2011-ULPC-504, FOP, Lodge 102 v. the City of Stillwater concerning the FOP's Motion for Summary Judgment and the City's Motion for Summary Judgment.

The Board called for appearances; Sue Wycoff for the FOP, and Larry Simmons for the City of Stillwater.

After oral argument and questions from the board, Mr. Gooch moved to enter into 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)

Back in open session by unanimous vote, Mr. Gooch moved to rule in favor of the Union on its motion for summary judgment based on the "fact that when the workers had returned to their bargaining representative, the employer must bargain in good faith with that representative and by sending the proposals to the Union Membership around the Union, even though they are the exact same proposals, I think it puts a chill on the process of collective bargaining." Mr. Speegle seconded the motion, the motion did not pass:

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

Mr. Speegle moved that the City's Motion for Summary Judgment be GRANTED and that the City may communicate its position to the Union Membership as long as it continues to bargain collectively in good faith; this email communication does not violate Title 11, section 51-102 (6a)(5). Chairman Barlow seconded the motion, the motion passed and the vote was:

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

The Board called for a five minute break.

Back from the break, the Board took up PERB Case No. 2011-ULPC-506, the International Association of Fire Fighters (IAFF), Local 2284 v. the City of McAlester concerning the evidentiary hearing on the unfair labor practice charge.

Chairman Barlow reminded the parties of the ground rules for the allotted time during the hearing; twenty minutes total for opening/closing statements and one hour for presentation; this includes questions from the Board, but does not count cross-examination by the parties.

The Board called for appearances; Steve Hickman for the Union, Charles Plumb for the City of McAlester.

Mr. Hickman began by requesting the Board withdraw the current ULP that is pending without prejudice and that the Union is getting ready to file another ULP on the refusal to go to arbitration. He explained that the Union had filed two more (ULPS) that relate to the 2011 Contract Year which is reflected on this current agenda under item no. IX. He further explained that the last two ULPS filed related to the matter of the City refusing to go to arbitration; he requested that the Board allow the Union to withdraw without prejudice the case to be heard on the agenda today so they may file the last ULP and refile the current ULP so that all four cases could be heard together as they all relate to City's refusal to go to arbitration.

Mr. Plumb requested the Board not permit the Union to withdraw its current case and dismiss without prejudice. He directed their attention to the Final Pre-hearing Order dated August 4, 2011 and explained that it laid out the reason the parties are here today. He stated it shouldn't be "lumped in" with the other three ULPS that are totally unrelated and that it is a very discredet, specific issue entirely different from the others. He asked that the Board hear this unfair labor practice charge today.

Mr. Speegle moved to allow the Union to withdraw this ULP without prejudice. There was no second nor vote at this time.

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)

Back in open session by unanimous vote, Mr. Speegle withdrew his previous motion.

Mr. Gooch moved to continue this case until a future date, Mr. Speegle seconded the motion, the motion passed and the vote was:

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

Chairman Barlow directed the parties to contact the Administrator to reschedule this hearing.

The Board took up Case No. 2011-RC-12432PD, the certification petition of the FOP, Lodge 208 in the Town of Dibble concerning City's Objection to the Petition and City's Request the Board Reconsider It's Kiefer Decision that recognizes single-person bargaining units.

The Board called for appearances; David Perryman for the Town of Dibble, Gavin Littlejohn for the FOP.

Mr. Perryman began his presentation by arguing his position for not recognizing a single-person unit and introducing his argument for recognizing that Dibble's Police Department has an administrative assistant that is ineligible to vote in a certification election.

Mr. Littlejohn asked that the Board hear evidence regarding the issue of an administrative assistant and also that the Board recognize a single-person unit.

Argument continued between the parties concerning City's list indicating that one of the officers, Billy Scott, was an administrative assistant.

Mr. Perryman introduced his witnesses, Lucinda McGaha, Town Clerk, Robert Seaman and Ken Ross, Town Trustees, and Mayor Gilwreath; after testimony from each, questions from the Board, exhibit #1 (Dibble Police Department's Proposed Policies and Procedures Manual) and exhibit #2 (Billy Scott, Assistant Chief of Police's business card) were admitted and cross-examination by Mr. Littlejohn, the Town rested its case.

The Board took a five minute break.

Back from the break, Mr. Littlejohn introduced his witnesses, Walt Thompson, Dibble Police Chief and Billy Scott, Assistant Chief of Police; after testimony from each, questions from the Board, cross examination by Mr. Perryman, the Union rested its case.

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)

Back in open session by unanimous vote, Mr. Gooch moved that once faced with a certification petition, the Town of Dibble is allowed but not required to exclude a Chief and administrative assistant from the unit to be petitioned for and further, for all intents and purposes, an administrative assistant has been designated in this particular case. He also moved that the Board reaffirms its Kiefer Decision and recognizes a single-employee unit because that employee is prohibited from striking under statute and should be protected from concerted activities. He added that an election in Dibble shall be had. Chairman Barlow seconded the motion, the motion passed and the vote was:

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

Chairman Barlow informed the parties that an order will be written and approved next board meeting, October 13, 2011.

The Board took up agenda item VIII, announcement of next board meeting to be held October 13, 2011.

The Administrator reported on her attendance at the ALRA 2011 Annual Conference in New York/New Jersey.

The Administrator reported the status of recent cases.

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

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

Meeting adjourned at 12:58