

ALASKA LABOR RELATIONS AGENCY
Minutes of Business Meeting
Wednesday, May 21, 2014

1. Call to Order.

Board Chair Gary Bader called the meeting to order at 9:13 a.m. Chair Bader, Vice Chair Lynne Curry, and Board Members Will Askren, Daniel Repasky, and Tyler Andrews attended in person. Board Member Matthew McSorley attended the meeting by teleconference.

Staff members Kathleen Duncan, Margie Yadlosky, Jean Ward, and Mark Torgerson attended in person.

Retired Board Member Aaron Isaacs, Jr. was teleconferenced into the meeting for public recognition of his service on the Board.

Present for parts of the meeting were Dianne Blumer, Commissioner of the Department of Labor and Workforce Development; Beth Leschper, Communications Coordinator for the Department of Labor and Workforce Development; Elizabeth Giardina, Director of Boards and Commissions; and Sarah Heath, Boards and Commissions Assistant.

2. Presentation for retired Board Member Aaron Isaacs, Jr.

Commissioner Diane Blumer presented retired ALRA Board Member, Aaron Isaacs, Jr. with a plaque to recognize his dedication and work as the longest serving member on the ALRA Board. Board Members thanked Aaron for serving on the Board. Board Members and staff members told Aaron they will miss him.

3. Approval of Minutes from October 24, 2012, business meeting.

Member Repasky moved to approve the minutes from the October 24, 2012, meeting. Vice Chair Curry seconded the motion. Without objection, the motion carried.

4. Old Business.

A.1. Status of pending cases.

Jean noted that there are 20 open cases currently. She described some of the pending cases, including an election tally involving the City of Seldovia and the International Brotherhood of Electrical Workers, an unfair labor practice charge by the Correctional Officers Association alleging an unlawful shift change by the State, and a unit clarification petition and unfair labor practice charge, both involving a marine highway unit. The parties in the marine highway cases are negotiating new contracts and hoping to resolve both of these cases through negotiations. Jean noted that section A.1 of the binder shows the raw numbers on the pending cases and types of

ALASKA LABOR RELATIONS AGENCY
Minutes of Business Meeting
Wednesday, May 21, 2014

cases. Among other cases, Jean is working on a space standards case. Jean added that there are some cases heading to hearing, including a case involving the marine highway unions, scheduled in Juneau for July. Mark complimented Jean on working with parties to resolve some cases, thus saving hearing time and cost.

Mark noted that there is one four-day hearing in Juneau starting July 22, involving the marine highway unions. Jean and Mark described other cases that may go to hearing, including a University of Alaska case, and a case involving catastrophic leave.

A.2. Summary of recent Board decisions.

Mark summarized the decision and orders (see written summary in Board binder section 4A.2) issued in 2013. One of those decision and orders, involving the University of Alaska and the two full-time faculty unions, was issued in December 2013. The hearing record was massive, the hearing took three weeks, and the issues were complex. Staff estimates the case was the equivalent of 10-15 average decision and orders. The case was appealed to the Alaska Superior Court in January. It is still pending.

B. Budget.

Mark and Margie provided an overview of the budget. Agency staff currently estimate the Agency should end the year with a \$9.15 surplus in the personnel line, with possibly \$2,000 left in other lines. There was no travel during the past fiscal year. The Agency should have adequate funding in fiscal year 2014, which ends June 30, to meet agency costs. Work on fiscal year (FY) 2015 is finished. The 2015 budget is about the same as 2014's except for increases in health insurance. Chair Bader expressed concern about the 2015 budget, noting that the travel budget apparently decreased and that we would "chew that up in July" with the hearing scheduled in Juneau.

Chair Bader inquired about what happened with training. Margie said that Member Andrews had requested, at one time to attend training at the National Judicial College. Also, member Andrews expressed initial interest in attending the national conference of the Association of Labor Relations Agencies to be held in Seattle in late June 2014, and he was even willing to pay half his expenses. Chair Bader said it seems like "déjà vu all over again." The budget is decreasing, the Agency needs to keep current in labor law, and we are not doing that. Member Askren expressed concern that there was also inadequate funding for staff training. The Board relies on the staff

ALASKA LABOR RELATIONS AGENCY
Minutes of Business Meeting
Wednesday, May 21, 2014

and they need to be well-trained. Member Askren described the situation as "ridiculous." Member Andrews said that "here we are again," expressing the same concerns we've expressed for the last three or four years. Without adequate funding, how are we going to transfer the knowledge of Jean and Mark as we transition to new folks?

Mark said that agency staff have expressed funding concerns to "those above us." He said that the Commissioner's Office and administrative folks have stated that if the Agency would enter a job-sharing situation in which office assistant Kathleen would work for another division, the Agency would be reimbursed for her work. The job sharing and reimbursement has been expressed as a means of getting the Agency money for travel and training. Mark said he has asserted his belief that the Agency needs four full-time staff. However, the staff have been discussing job sharing with the Alaska Workers' Compensation Appeals Commission to help them since they have not been allowed to fill a position after an employee resigned last fall. The Agency has been asked to try to have Kathleen assist at the Commission for approximately 20 percent of her time. There is a dual purpose to help the other agency and to help our budget.

Member Andrews asked if the sharing would be handled through an RSA, or reimbursable services agreement. Mark said yes. The Agency would be reimbursed for actual time helping the Appeals Commission. Chair Bader asked if our workload allows this. Mark said that sometimes it does, but the past winter has been pretty busy. For example, Margie has spent extra time on the budget, working with new projects and new spreadsheets. Kathleen was busy copying the University case for the appeal. Chair Bader asked if the summer intern would help. Mark said that both he and Jean have some projects lined up for the intern.

Member Repasky expressed concern that the State was not adequately funding the Agency, which is statutorily required to foster cooperative relations throughout Alaska. Member Repasky believes the Agency needs four staff. Chair Bader agreed.

Member Askren asked how agency appeals are paid for in the budget process: where does the money come from to pay for appeals? Mark said that there is usually no cost other than time and copying costs to get the appeal to court, but if the Attorney General's Office gets involved, for example because there is an allegation of board bias, then there could be a cost to the Agency, according to the department's budget staff in Juneau. Chair Bader asked what, if any, action the Board would like to take regarding budget concerns. Mark interjected that Commissioner's Office does support labor relations, but there is going to be pressure on state budgets as funds

ALASKA LABOR RELATIONS AGENCY
Minutes of Business Meeting
Wednesday, May 21, 2014

become less available. Chair Bader responded that budget pressures are common but this goes beyond the pale. Chair Bader inquired about another aspect of the travel budget: He recalled that a previous Commissioner told the Agency not to worry, that if the Agency needed travel money, they would find it. Chair Bader asked if we still have that understanding. Mark did not know the answer. There are new people in charge. The new Assistant Commissioner is Dallas Hargrave, and Mark will ask if Dallas can attend the next business meeting. Chair Bader responded that we need to meet with somebody before the next meeting.

Chair Bader proposed that the Board send a delegation, with Mark, to the Commissioner or whomever necessary, to see if the Agency still has that understanding. Chair Bader said that the July Juneau hearing could chew up the travel budget; then if there is a hearing in Fairbanks, we would have to deny the hearing because we cannot afford it. Member Andrews said that the current Commissioner and Assistant Commissioner understand labor relations and its importance, and the delegation should be able to have a productive conversation with them about resources and other issues. Mark will work on arranging the meeting.

Member Repasky suggests looking into a budgeting alternative: financing the ALRA travel budget out of the general department budget because the agency's travel costs are so unpredictable. This will be a topic of discussion. Chair Bader asked about the hierarchy and with whom in the Commissioner's Office we work. Mark said it is usually the Assistant Commissioner but the Commissioner had not finalized the division responsibilities for the new Deputy Commissioner and Assistant Commissioner, and Assistant Commissioner Hargrave has only been on the job a short time. Board Member McSorley expressed frustration about the inability to resolve the travel budget issue. He agreed with Chair Bader's earlier comment that it felt like "déjà vu all over again." After further discussion, it was agreed that Chair Bader and Members Repasky and Andrews, along with Mark, would meet with Assistant Commissioner Hargrave sometime this summer, preferably in the next couple of months. Member Andrews agreed to report back to the Board on the results of discussions with Assistant Commissioner Hargrave and the Commissioner's Office. Upon inquiry from Chair Bader, Margie noted that the travel budget has been reduced in the past to pay for personnel costs. If cases don't settle, this will likely happen again in the future. The Board hopes to meet with Assistant Commissioner Hargrave as soon as possible since the FY 2016 budget process has already begun.

ALASKA LABOR RELATIONS AGENCY
Minutes of Business Meeting
Wednesday, May 21, 2014

C. ACTION ITEMS.

C.1. Electronic Filing Process.

Member Andrews noted that with budget limitations and lack of resources, getting an electronic filing system does not seem feasible. He would like to see, though, a way to decrease Kathleen's workload and for the Board panels to receive documents electronically, to avoid having to work with paper copies of hearing records. This could be less expensive. The question would be if it reduces the workload because documents would need to be scanned. The goal would be to reduce the work to prepare a hearing and make it more convenient and efficient for the Board to prepare for and decide cases. After further discussion, it was agreed that as a starting point, documents for the Juneau hearing will be provided electronically to the board panel on a thumb drive. Vice Chair Curry said she would do whatever is easy, and that at this time, she is a paper person. The majority of board members indicated they prefer receiving electronic documents; however, some expressed a preference for a paper copy. Chair Bader said let's give it a try, and if it becomes too difficult with too many roadblocks, go back to paper and get it done.

C.2. Training Update.

Chair Bader noted that there is no training. Member Askren noted there is no money available. Mark pointed the Board to a handout in packet regarding a comparison between ALRA's statutes and similar laws in the National Labor Relations Act. Mark also said that staff would be glad to provide one-on-one training for board members about the hearing process or evidence issues. Chair Bader said there is currently no money available to attend conferences but this will be discussed in the meeting with the Assistant Commissioner.

C.3. Regulation Update.

a. Forgery

b. Contract Negotiations

Mark discussed revisions to the regulation process and procedures through the Governor's Office. Administrative Order No. 266 outlines procedures for proposed regulations. The Governor's Office is included in the review. The current process is more comprehensive than the process in place years ago. Unlike in previous years, the current process requires a review by the Governor's Office and a legislative committee. The packet also contains a copy of House Bill 140, which affects the regulations process. It is not yet signed by the Governor.

ALASKA LABOR RELATIONS AGENCY
Minutes of Business Meeting
Wednesday, May 21, 2014

Regarding a possible regulations project, Mark said, "if it ain't broke, don't fix it." Regulations can always be tweaked, but he recommended putting any regulations project on hold for now. He noted that Member Andrews and Jean had expressed interest in proposing a forgery regulation. Chair Bader said that if there is a regulations project, we don't want to get hung up in the minutia of all the regulations. He supports proposing a regulation to see how the process works. One that is important to Chair Bader is a regulation that requires the parties to return to the bargaining table if the employer fails to fund a labor agreement. Member Andrews added that if we have a regulations project, it should be tight and focused. Chair Bader proposed that Mark look at the possibility of drafting a forgery regulation, and a requirement to bargain as discussed. Member McSorley said that he would like to see a regulation change that would enable a bargaining unit to seek other representation if it is not satisfied with its current representation. Sometimes the window period prevents parties from seeking more appropriate representation. He believes that there are overly burdensome qualifiers that prevent a bargaining unit from seeking better representation.

Chair Bader asked Mark to take a look at the three regulations, see which ones he wants to go forward with, and apply the new process. Administrative Order 266 requires that agencies notify the governor by September 15 of each year of any regulations that should be repealed or amended and of any regulatory actions. This is the deadline to shoot for. If it does not get done by September 15, however, it just rolls over into the next year's process. Member Askren added that the narrower the regulations process, the better. It appears to him that AO 266 is primarily focused on cutting costs. Chair Bader asked Mark to let the Board know by September 1 if there will be any proposals.

5. New Business.

A. ALRA Conference 2014. This year's ALRA Conference will be at the end of this fiscal year, June 25-29 in Seattle Washington.

B. Board member update.

1. Boards and Commissions approved the appointment of Dr. Lynne Curry to the Board for a term from March 2014 through March 1, 2017. Member Askren was reappointed for another three-year term. Other Board members expressed

ALASKA LABOR RELATIONS AGENCY
Minutes of Business Meeting
Wednesday, May 21, 2014

interest in continuing on the Board when they are up for reappointment. Mark thanked the Board for all its dedication to ALRA.

2. **Board Member calendars.** Chair Gary Bader provided his availability at the close of the meeting. Many other members have since provided a calendar of their availability to Kathleen by email. Chair Bader noted that calendars change. He suggested that staff check with Board Members again in two months.

C. **Approval of 2013 Annual Report to Governor (pending review).** Mark said the annual report is finished and Margie will give the Board Members a copy for their review, before they leave the meeting. Chair Bader asked that Board Member pictures be included in future annual reports.

D. **Update on State of Alaska vs. Pohland.** Mark provided a background and an update of the **Official Misconduct Case, 3AN-12-01066CR**. He also provided a history of the forgery case. Chair Bader commended the staff for spotting the discrepancies in the interest cards. It's an example of the staff's (Margie and Jean) expertise. The next Status Hearing is scheduled for June 11, 2014.

E. **Board Responsibilities v. Staff and legal.** Chair Gary Bader will present these topics at the next board meeting. He said it should be Board duties versus staff responsibilities. He said that when one member of the team changes, the whole team and its dynamics change. He would like to leave this topic on the agenda for the next board meeting. It boils down to Board and staff dynamics. Board members and staff members agreed that the Board has final authority in the decision-making process.

F. **Scheduling of next board meeting.** After discussion, the Board Members agreed to schedule the next business meeting sometime in December 2014.

6. **Executive session.** There was no executive session during this meeting.

7. **Public Comment.** There were no public comments at the meeting.

8. **Adjournment.** Member Andrews moved to adjourn the meeting, and Vice Chair Curry seconded the motion. The meeting adjourned at 10:58 a.m.

ALASKA LABOR RELATIONS AGENCY
Minutes of Business Meeting
Wednesday, May 21, 2014

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