

ALASKA LABOR RELATIONS AGENCY
Minutes of Business Meeting
Friday, Dec. 4, 2015

1. Call to Order.

Board Chair Gary Bader called the meeting to order at 9:06 a.m. Chair Bader, Vice Chair Lynn Curry, and board members Lon Needles, and Tyler Andrews attended the entire meeting in person. Will Askren attended the entire meeting via telephone.

Staff members Mark Torgerson, Tiffany Thomas, and Margie Yadlosky attended in person.

2. Approval of Minutes of May 13, 2014 Business Meeting.

Member Needles moved to approve the minutes, Member Curry seconded the motion. By unanimous vote of the members present, the motion carried.

3. Introduction of Commissioner's Office Staff.

Deputy Commissioner Joe Thomas was present, but had stepped out of the meeting at this time and was not introduced. Deputy Commissioner Cashen was present for most of the meeting.

4. Old Business.

A.1. Status of Pending Cases.

Tiffany provided a summary of pending cases and case actions. There are currently 17 open cases. Five are in the investigative stage; one is pending an election; four are awaiting sufficiency findings; five are in abeyance while parties negotiate; and two have been through a hearing but are not yet closed out.

Chair Bader requested clarification on the number of cases reported and Tiffany clarified that an additional case had come in after staff had prepared the report and that case is in abeyance while the parties exhaust remedies.

Mark added that he has two cases awaiting deliberations: 1) City of Bethel and 2) NEA and Anchorage Education Association on appeal from dismissal.

Tiffany continued that 12 cases are unfair labor practice-related cases, two are unit clarification cases, one is a petition for representation, one is a petition for representation/decertification. There was board discussion about the source of the cases and staff informed the board that most of the cases involve political subdivisions, not the State.

A.2. Summary of Recent Board Decisions.

Mark gave a summary of two recent board decisions. First, there was a motion for clarification in the ferry union case. There, the Board had awarded \$7.94 a day per employee per shift for food and beverage on the fast vehicle ferries and the parties disagreed whether that value was retail or wholesale. Settling their dispute, the Board

concluded it was based on the retail value, and the money was owed to all employees from the day of the decision forward. There was more board discussion and Mark added that there are five cases open regarding the ferry case and at least one is an unfair labor practice.

Second, Public Safety Employees Association and City of Fairbanks had reached a tentative agreement on a three-year contract and the employees ratified the agreement. Then the mayor presented it to the city council for approval. After a public meeting, the city council approved the contract. A couple of days later a city council member asked for reconsideration of the vote, but the mayor said reconsideration rules require such a vote to take place within 24 hours; thus it was too late. Two weeks later, at the request of a city council member, the city council suspended their rules to take up reconsideration of the contract approval. A few months later the city council held another public meeting, then voted to reject the contract. Public Safety Employees Association filed an unfair labor practice, the Board heard it on the written record and found an unfair labor practice had been committed and that the parties had a ratified contract as of the first vote of the city council; everything after that was invalid. The City would have to renegotiate if it wanted to change the contract. The Board ordered the city to execute the contract; Member Askren dissented stating that the board didn't have jurisdiction to decide whether a legislative body had broken its rules and that in the alternative Public Safety Employees Association had failed to prove its case. Mark acknowledged Deputy Commission Cashen enter the room.

The Decision and Order was issued last week and was reported in the Fairbanks papers Tuesday. Discussion ensued about Member Askrens dissent.

B. Budget.

Margie discussed the FY16 budget and reported that there were some additional funds from personal services that were moved into other budget areas. Margie discussed the move by the State to new accounting software called IRIS and the problems of obtaining current expenditure reports. She stated that the FY17 budget process is beginning and the agency is presenting its management plan to the legislature. Margie explained that the agency anticipates some possible reversals of money from personal services that had been granted in FY16.

Chair Bader asked Margie for clarification on the FY17 budget and she confirmed that additional amendments would be possible.

C. Action Items.

C.1. Electronic Filing Process.

Mark shared that Member Andrews had asked whether ALRA could move to electronic filing at the last meeting. At that time staff shared with the board that the court system was transitioning into this process. Staff is communicating with them to see how it goes before ALRA makes any changes. Based on problems that workers compensation had in attempting to make such a move, ALRA would wait until something successful is implemented to model its process after.

Deputy Commissioner Thomas shared that all the agencies that are making such a transition are having problems with it. Waiting until the bugs are worked out will ensure success.

Mark discussed his concerns over implementing a change at this time.

C.2. Training Update.

Mark shared that the Board continues to worry that there are insufficient funds to train staff and the board members. An upcoming mediation training for Tiffany in Idaho might happen. It is a less expensive option and it would be very beneficial to her. Mark is looking into getting some grant money to cover the cost.

Chair Bader asked how much it would cost and upon learning it was between \$2500-\$3500, he directed questions at Deputy Commissioner Thomas. Discussion continued about other departments of the State having difficulty finding funds to train their attorneys and employees. Member Askren shared that training is critical in labor relations because it is a niche area and Mark will eventually retire.

C.3. Regulation Update.

C.3.a. Forgery Procedure.

Mark explained that previously the board and staff had talked about regulation changes. Regulations do not need to go up to the governor's office, just the commissioner's office. The Board has permission from the commissioner to consider the following two proposals. One would deal with the forgery procedure and the other would require the parties to go back to the bargaining table if a legislative body rejects any of the terms of a tentative agreement or collective bargaining agreement.

Mark asked whether staff should draft language and have a phone meeting to approve at a later date. Chair Bader asked if there is a window of approval for regulations and Mark shared that there is a one year time period from when the regulations are put out on public notice to get the Lieutenant Governor's signature. If the year passes then the regulations die. Mark said the best time to get started is right after the legislative session because the attorneys are less busy then. Mark's advice is to draft it and have it available at the next meeting for approval then out for public notice immediately.

Member Askren asked if the board can order parties back to the bargaining table. There is nothing in the regulations that authorizes that. More discussion followed. Member Askren moved to move forward with the language of the regulations. Member Curry seconded. By unanimous vote of the members, the motion carried.

Mark stated that this discussion also takes care of agenda item 4, AO No. 266. By September each year an agency must submit whether there will be any regulations that can be made more effective or efficient. The agency submitted these two potential regulations already; there are no others at this time that the agency would recommend altering.

5. New Business.

B. Board Member Update.

Chair Bader mentioned that Member McSorley has been reappointed and this is good news. Chair Bader's term is expiring and he will not be reapplying for appointment. He is the longest serving board member at 12 years. The Board took a moment to acknowledge him for his commitment.

A. ALRA Conference 2016.

Mark shared that the conference will be in Nova Scotia in July and he doesn't think the travel will be approved. Chair Bader shared that at least for this year, the training for Tiffany seems more important.

B.2. Calendars.

Margie requested the board members' availability for business ASAP. Mark shared that there are no hearings scheduled at this time. There was some discussion about there being only two cases that have panels appointed right now.

C. APOC.

Mark shared that the agency will soon be asking members to fill out and file the required APOC forms.

D. Update on State v. Pohland.

Mark informed the Board that there was a criminal conviction in the Pohland case and Clint Campion has done an excellent job prosecuting it. The case has been appealed to the Alaska Court of Appeals. Chair Bader inquired as to the rationale for the appeal. Mark explained that one of the jury instructions, and one of the judge's orders denying a motion to suppress a search warrant are being appealed, but he had no other details at this time. The appeal will take at least a year.

E. ALRA Office Move.

Mark shared that the boxes are almost all packed and the office will soon relocate back to Eagle Street where it was 10 years ago. This is the first time in history that ALRA will not have its own hearing room. Mark shared that Deputy Commissioner Thomas would be inquiring about ALRA possibly continuing to use the downtown hearing room, or sharing a hearing room with workers compensation.

Deputy Commissioner Thomas explained that the current building will remain a state rental for another department. There was discussion about other state office space including the Ship Creek offices. Deputy Commissioner Thomas had to leave the meeting at 11:23 AM.

F. Scheduling Next Board Meeting.

Member Curry asked if the next meeting should take place in May. Member Curry asked Margie to poll the members via email or otherwise to determine the best day in May for the next meeting.

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

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

8. **Adjournment**. Members congratulated and thanked Chair Bader for his service and leadership. Member Andrews moved to adjourn and Member Needles seconded. The meeting was adjourned at 11:28 AM.