

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

Minutes of the State Panel Meeting
Held on January 24, 2006

I. OPENING OF MEETING 11:00 A.M.—160 North LaSalle Street, Suite S-400, Chicago, IL

II. PRESENT

Jackie Gallagher, Chairman; Charles Hernandez, Member of the Board; Michael Hade, Member of the Board; Rex Piper, Member of the Board; Letitia Taylor, Member of the Board; John Brosnan, Executive Director; Jacalyn J. Zimmerman, General Counsel; staff members; and members of the public.

III. APPROVAL OF MINUTES OF REGULAR MEETING HELD NOVEMBER 22, 2005

Chairman Gallagher called for approval of the minutes of the November 22, 2005 meeting. Member Piper made a motion for approval of the minutes. Member Taylor seconded. The motion passed unanimously. Chairman Gallagher reminded the Board that henceforth, the minutes will be posted on the agency's website in compliance with the recent amendments to the Open Meetings Act.

IV. ADMINISTRATIVE MATTERS

Chairman Gallagher asked Executive Director Brosnan to present the administrative actions for November 1 to December 31, 2005. The Executive Director noted that during that time, there were two representation elections and twenty-three units certified through majority interest petitions. Chair Gallagher asked if the reports could include the number of employees in the certified unit, and the Executive Director responded that such information would be included in future reports. He noted that most of the units certified under the majority interest procedure have few employees, primarily resulting from the recent amendment expanding the Board's jurisdiction to units of local government with less than five public employees. Member Taylor commented that it appeared that many older cases had been resolved. The Executive Director continued his report, noting that there were nineteen certifications and two Administrative Law Judge Recommended Decision and Orders issued in representation cases. Member Taylor questioned whether the revocation of certification listed in the report was related to any of the elections conducted. Executive Director Brosnan replied no, explaining that in that particular case, Local 150 itself filed the petition seeking to revoke its certification. He concluded his report, surveying the unfair labor practice case activity, noting that there were thirty-nine withdrawals over the two month period.

V. BOARD ACTIONS

1. **S-RC-05-110**

City of Fairview Heights and Illinois Fraternal Order of Police Labor Council

General Counsel Zimmerman stated that in this case, no exceptions were filed and asked whether the Board members wished to review it on their own motion. The Board declined to do so.

2. **S-CB-05-005**
Lawrence G. Coleman and Teamsters, Local 705

General Counsel Zimmerman began by summarizing the case. Herein, Charging Party requested that the hearing dates set in this matter, by the Administrative Law Judge (ALJ), be changed to accommodate his schedule. Thereafter, neither Charging Party, nor his attorney, appeared on the scheduled hearing date. The documentation in the file supports that the notice of hearing was properly served by certified mail, and received by an employee of Charging Party's attorney's firm. The ALJ correctly dismissed the case based on these facts, and the General Counsel recommended that the Board uphold the ALJ's recommendation. The Board discussed the case, and at the end of the discussion, Member Taylor made a motion to adopt the General Counsel's recommendation. Member Hade seconded the motion. The Board passed the motion unanimously, by a voice vote.

3. **S-CA-05-077**
Brenda Anderson and County of Winnebago, Department of Public Health

General Counsel Zimmerman began by summarizing the case. In this matter, she noted that the Executive Director dismissed the charge because Charging Party failed to demonstrate that she engaged in union activity. Moreover, her appeal contained no substantive information in support of her charge. The General Counsel recommended that the Board uphold the Executive Director's dismissal. The Board discussed the case generally. At the end of the Board's discussion, Member Hade made a motion to adopt the recommendation of the General Counsel. Member Piper seconded the motion. The Board passed the motion unanimously, by a voice vote.

4. **S-CA-05-172**
Sally Cheatem and State of Illinois, Central Management Services (Human Services)

General Counsel Zimmerman began by summarizing the case. She explained that she brought this matter to the Board's attention to discuss the Act's statutory timelines. Charging Party asked the Board to reconsider its dismissal of her appeal of an Executive Director's dismissal. After the appeal period had expired, Charging Party filed an appeal, arguing that she was unaware that the determination of the appeal period included days that fell on the weekend. The Board engaged in a general discussion regarding possible modifications of the existing policies so as to clarify the Board's Rules and Regulations (Rules), 80 Ill. Admin. Code §§1200-1240, in this area, to prevent the type of confusion presented in this matter. At the end of that discussion, the Board agreed to add to the existing appeal language in such dismissals, that the ten-day appeal period was ten calendar days, and it directed the General Counsel to notify Charging Party that the Board was not going to reconsider her appeal. Member Piper made a motion, summarizing the Board's agreement. Member Taylor seconded the motion. The Board passed the motion unanimously, by a voice vote.

5. **S-CA-06-107**
Amalgamated Transit Union, Local 1028 and PACE, Northwest Division

General Counsel Zimmerman began by summarizing the case. The case involves an issue parallel to that presented by the federal court lawsuit filed by the Amalgamated Transit Union (ATU), concerning the Teamsters' attempt to represent a unit currently represented by ATU. The ATU is attempting to enforce an historic, no-raid agreement that was in effect before the Teamsters inclusion in the AFL-CIO. The federal judge cancelled the scheduled oral argument and promised to issue a decision on this case at noon, January 24, 2006. In the instant matter, the incumbent union, ATU, is attempting to block the election due to the enforcement by the Employer, PACE, Northwest Division, of an overbroad "no solicitation" rule. The General Counsel recommended that the case be remanded, given the response received from the Employer. The Board received ATU's reply to the response filed by the Employer, on January 20, 2006. However, the Board's Rules do not provide for replies to responses and in the absence of a request for leave to file such a reply, she recommended that the Board decline to accept ATU's reply. The General

Counsel stated PACE's no-solicitation rule appeared to be invalid based on its response, given that NLRB case-law clearly holds that employers cannot restrain employees from engaging in campaigning in non-work areas, during non-work time, on employer property. The General Counsel recommended that the Board direct the issuance of a complaint, but find insufficient grounds that it block the election. The Board engaged in a general discussion, agreeing overall that the General Counsel's recommendation was the best course of action. At that point, PACE employee Michael Lacy, accompanied by several of his co-workers, requested to make a short statement. The Chair, without objection from the Board, allowed Lacy to present his comments. Lacy stated that PACE allowed the ATU to freely campaign on the premises while employees who supported the Teamsters were not accorded the same privileges. The Chair assured Lacy that based on the discussion that just occurred among the Board members, the Board was not going to block the election unless the federal court ordered it to do so. Member Hade made a motion to adopt the recommendation of the General Counsel. Member Piper seconded the motion. The Board passed the motion unanimously, by a voice vote.

6. **S-CA-05-217**
Ursula Panikowski and PACE, Northwest Division

General Counsel Zimmerman began by summarizing the case. She explained that she also brought this matter to the Board's attention to discuss the timelines. In this matter, Charging Party stated that she failed to receive the Board agent's letter requesting information, a circumstance which greatly contributed to her case being dismissed. The General Counsel discussed the matter with the Board agent involved, who stated that such letters are sent by regular U.S. mail and that it would be cost-prohibitive to send out such letters certified. The General Counsel recommended that the Board remand the case to the Board agent, giving Charging Party a final opportunity to provide the information originally requested by the Board agent. Chair Gallagher asked about the procedure to deal with Charging Party's request for counsel. Executive Director Brosnan responded by noting that a complaint would first need to issue and then, Charging Party would need to provide an affidavit attesting to her inability to pay, pursuant to Section 1220.105 of the Board's Rules. The Board engaged in a general discussion regarding the procedure for granting such requests and who bore the financial responsibility for such attorney's fees. Member Hade made a motion to adopt the recommendation of the General Counsel. Member Piper seconded the motion. The Board passed the motion unanimously, by a voice vote.

VI. OTHER BOARD MATTERS

General Counsel Zimmerman briefed the Board on the status of its current litigation. The Board had a general discussion regarding procedures to follow when presented during public meetings, with requests to address the Board, occasioned by the earlier situation with Mr. Lacy. Member Piper stated that he thought that determination should be made by the General Counsel. The Board continued the discussion, entertaining the suggestion of limiting audience comment to the items on the posted meeting agenda. Ultimately, the Chair agreed with Member Piper's suggestion that in general, the Board would defer to the General Counsel's opinion regarding audience comment in particular cases. The Executive Director distributed an updated "checkbox-style" fiscal report to the Board, prepared by Board Fiscal Officer Nicole Hildebrand. The Chair distributed the legislative calendar to the Board and summarized new legislation which might have an impact on Board operations.

VII. ADJOURNMENT

Member Piper made a motion to adjourn the meeting. Member Taylor seconded the motion. The motion passed unanimously and the meeting was adjourned.