

ALASKA LABOR RELATIONS AGENCY
Minutes of Business Meeting
Thursday, September 25, 2008

1. **Call to order:** Chair Gary Bader, called the meeting to order at 10:15 a.m. Vice Chair Aaron Isaacs, Jr., Board Members Tyler Andrews, Matthew McSorley, and Ken Peltier attended in person; Board Member Will Askren attended by phone.

Staff members Cindy Teter, Margie Yadlosky, Jean Ward, and Mark Torgerson also attended. There were two members of the public in attendance.

2. **Approval of minutes from June 1, 2007, business meeting:** Board Member Isaacs moved to approve the minutes, and Board Member Peltier seconded the motion. By unanimous vote, the motion carried.

3. **Commissioner Click Bishop Remarks:** Commissioner Click Bishop presented Cindy Teter with a 10-year service pin and Jean Ward with a 30-year service pin.

4. **Old business:**

A. **Status of Pending Cases** - Mark noted that the agency caseload, including case filings, remains low compared to prior years. Chair Bader inquired as to factors that contributed to the decrease. Mark noted that there is an ebb and flow to the way things happen in the labor relations world. Mark described cases that could be set for prehearing conferences soon. One complex case deals with the University of Alaska and the appropriate bargaining unit for its professors. The other cases are Alaska Railroad unfair labor practice cases.

Chair Bader inquired about the timing and location of these cases. Mark responded that for the University cases the location could be in Fairbanks, although since it is a statewide case it is possible it could be in Anchorage. Mark explained that if the board decided they wanted to have in Anchorage, they could due to the venue regulation being liberal. The railroad case would be in Anchorage. Board Chair inquired about the hearing location and what would be the best for the case. Mark and Jean explain that some witness and representatives are both in Anchorage and Fairbanks, and a law firm would be traveling from Seattle. Member Peltier commented that reviewing the budget it seemed a little tight, and having a hearing in Anchorage would be less expensive. Jean explained the complexity of these cases and her timeline for completion of investigations. Board member Isaacs asked who would be making the determination for the location of the hearing. Mark responded that he works with the parties to decide but if there is a dispute, the Board could make the final decision. Board members agreed that due to the length and cost of the hearing, Anchorage would be the logical place to hold the hearing. Chair Bader stated that as one member of the Board, and the one who appoints the panel, he was a little hesitant to appoint a panel now for a hearing that we don't even know for sure were going to have a hearing. His

preference is to hold off until Mark has a little more information. Board Chair opened up the discussion to other members. Board members agreed.

1. Case Flow Chart. Margie reported that Mark has gone over the chart, and reiterated that case filings remains low.

2. Update on Unit Clarification Petitions and Unfair Labor Practice Charges. Jean updated the Board on the status of these cases. Jean reiterated that the one Unit Clarification petition mentioned previously, filed by the University of Alaska is not a run of the mill case, it involves the parameters of two units - one that has been agreed to by the University and the Union and a stipulated agreement and one that has been certified by the Agency. Jean noted that as the University has evolved after the 1987 merger, perhaps unit lines need to be looked at again. She noted that unless the parties resolve this issue, there will definitely be a hearing on the unit clarification issue.

Jean noted there are 8 open ULPs; two are Alaska Railroad, and other cases include the City of Unalaska, ASEA and the State, and ACOA and the State. Jean explained we have completed all old cases. Oldest case on file now was filed July 30, 2007.

3. Update on Election Petitions. Mark reported that there was an increased amount of election activity. There were five elections. A major part of that was a result of the City of Wasilla opting back into jurisdiction under PERA. There was also a consent election at the Denali Borough School District, and a pending election in the Kashunamiut School District at the Chevak School. Mark reported that this has been the busiest election activity in many years.

4. Summary of Recent Board Decisions. Board members were provided with a copy of this summary, prepared by Mark. Mark explained that there have been four decisions since June of last year. Mark briefly described each case. Board Chair asked if any of these cases were appealed to the courts. Mark reported that there was one case in which the union appealed to the Alaska Superior Court but then withdrew. Chair Bader asked that in the summary of recent board decisions, add the court issue as a piece of the summary if it is appealed. He also requested the panel members assigned on each case be listed. Board member Andrews commented that this information would be helpful to him as well.

B. Budget.

Mark reported that an area of concern in the 2009 budget is a potential deficit. He explained the budget process and the vacancy factor. When the State sets budgets it does not budget the full amount because in theory, there will be staff turnover which reduces personnel costs during the vacancy. Margie explained that this "vacancy factor" percentage is based on the number of employees in the agency. The maximum vacancy factor for our size agency is 3%. Mark reported that due to a change in the law, two staff members received merit increases earlier than expected, but the legislature did not appropriate money for the increases. In addition, the Administrative Clerk III was hired

at a higher step than was budgeted for that position. In summary, personal services (PS) were budgeted for \$426,600 but the actual cost is projected to be \$439, 800, a shortfall of \$13.2 in PS, which we will need to find in other budget categories.

Board members and staff discussed options, including requesting a supplemental budget to cover the personal services deficit. Mark explained that he was hopeful that if we are not fully funded for personal services by the end of the fiscal year, additional funding may be found either in other categories of our budget or from the Department. Board members continued to discuss the budget process and the upcoming budget for FY2010. Some discussion focused around the lack of training / travel funds available for board members. Board member Peltier requested the travel budget be increased to allow board members to travel for training. Vice Chair Isaacs inquired about the increased cost of airfares and the impact to the travel budget. All agreed they have seen airfare costs increases up to 40%.

Chair Bader requested that Mark schedule a meeting with Guy Bell, and if the board did not disagree, he wanted to sit in on the meeting to discuss budget concerns. He would like to bring up the issues of increased airfares, issue of unfunded liability of vacancy factor, and the impact of inflation on the budget. Board member Askren commented that being in public sector he understands the problems Mark faces and acknowledges that a lot of times the budget numbers come down and your asked to drastically cut. But if you don't ask the question the answer is automatically no. That he feels it's a good idea to ask the question but wouldn't get hopes to high. Board member Andrews added that training of board members is also critical and thinks board should seek funding. If the answer is "no," then they should tell us no. Board member Andrews thinks this is a time where the State can invest in training of a board like this.

If it gets lean in two years, then you spent when you should have. Board chair and Mark agreed. Mark pointed out that the year before he started with the Agency, in 1997, the travel budget was \$29,500. Since then, the amount was reduced in lean budget years. Board member Peltier stated that the commissioner supports training and if approached as a training need for the board vs. travel costs we would have a lot better success for additional funds. Chair Bader asked about the current non-personal service expenditures, noting of \$69,200 authorized, \$64,500 has already been spent in the 1st quarter. Margie explained the authorized non-personal services amount contained charges which are encumbered, and not yet reconciled, such as the Department of Administration's charges to departments for cost of maintaining the State data processing system.

C. Action Items.

1. Travel and Training - Draft letter requesting approval to travel for hearing when outside Alaska. Mark explained that this issue was discussed before and after the last board meeting . He submitted a draft letter to Guy Bell and did speak with him. Guy Bell stated he has checked on this previously with the Department of Administration and the request for approval was denied. Chair Bader acknowledged his

frustration in participating in hearings by teleconference. Chair Bader stated that teleconference participation should be avoided. Members were asked to supply calendars showing dates they were available.

2. Training funds availability - (\$300 earmarked for FY09). The Board agreed that this item should be discussed with Guy Bell in addition to travel funds.

3. Contact list update - Chair Bader requested that the board members review the updated contact list and make sure it was accurate.

4. Board Member availability - Board members were asked to complete calendars showing availability and send to Cindy. Mark noted that in the past the Agency reserved one week each quarter for hearings, and Board members set aside that week just in case had hearings. In the last year and a half Mark coordinated with the board members to check availability on specific hearing dates. Mark asked the board members their preference. Chair Bader didn't believe blocking out a week worked all that well and asked the Board for comments. Member Andrews thought having a full board should make someone available every time. Members agreed that blocking out a week for hearings was not preferred. Mark will communicate directly with board members when setting hearing dates.

5. **New Business:**

A. **Board Member Update.**

Mark reported that with Will Askren and Tyler Andrews on board now, we have a full board. Mark also reported that each year, two positions expire. Matt McSorley's and Tyler Andrews' terms will expire on March 1, 2009.

B. **Alaska Public Offices Commission filing requirements update.**

Mark explained that this action item resulted from the previous public board meeting when Assistant Attorney General Judy Bockman trained on APOC requirements. Mark told the board members that we would make sure and notify the board members ahead of time just to give a reminder to fill that form out. Mark stated that board members will get filing information directly from APOC. Chair Bader stated you do if you are in the State of Alaska, but if you are somewhere else you don't get it. Chair Bader stated he was fined. Board members Matthew McSorley and Ken Peltier stated they were also fined. Board member Peltier stated he thought the APOC commission deadline of March 15 was not adequate because taxes are not even due until April and he had self-employment records to report. Mark explained that the legislature passed a law that now requires APOC filing of every conceivable board in the State. Chair Bader reminded the board members that filings are due by March 15th. Mark stated the forms are available on line. Chair Bader requested a paper copy be sent to him by February 15. Other members will be sent a paper copy as well.

C. Quarterly Ethics reporting.

Chair Bader inquired about the filing dates for the quarterly ethics reporting. Mark acknowledged the report goes out once a quarter and that the current report is due at the end of September. Chair Bader inquired if all board members have had ethics training. Board member Will Askren noted that although he hadn't recently had State ethics training as a board member, he has had ethics training when at the Municipality of Anchorage, and was very much involved with their ethics regulations. Mark explained that if board members needed to file a disclosure such as a gift, then a disclosure form is available.

Mark noted that during the last board meeting, someone asked whether he needed to report a recusal each quarter, such as recusing yourself from a board hearing. Judy Bockman stated that this need not be reported on the ethics disclosure form. Board discussed the options available for board members to review the ethics training program, such as the online power point presentation or other options. Chair Bader polled board members who indicated they would review online on their own. Chair Bader asked whether anyone needed to disclose a potential conflict of interest, gifts, or other ethics reporting. None was stated.

D. Board disqualification from hearing discussion.

Mark stated this agenda item had to do with the prior discussion of board member disclosure. The Board had no further discussion on this subject.

E. Training.

1. Summary of ALRA 2008 Conference in Burlington, VT . Margie reported on attending the ALRA conference. She stated the conference was wonderful, the trainers were very knowledgeable, and the break-out workgroups were right on task for our agency. She found that other state agencies are facing some of the same problems as we are, such as budget shortfalls and attracting new attorneys into labor relations. Some agencies were considering adding apprenticeship programs. Other discussions focused on card check for representation petitions, the aging of the NLRB, and upcoming changes to the NLRB. There was also discussion about aging of employees of state agencies and the effect of experienced employees leaving state service. Margie reported that training for board members at the ALRA Academy was available and very beneficial.

2. ALRA 2009 Conference in Oakland, CA - July 18-22, 2009. Mark reported that the next conference would be in Oakland, CA. The Board discussed future attendance for board members, funds available for training, and benefits of attending conferences. Board Chair Bader asked if there is training available that is more board-member specific. Mark reported that the ALRA Conference and Academy is the best training available for board members. Chair Bader suggested that if anyone is interested in attending the 2009 conference to let Mark know.

F. Performance Measures.

Mark reported that the information provided was for the board members information only. Performance measure information has been provided and is available on the website of the Office of Management and Budget. There was no discussion or questions.

G. Annual Report Format.

The Board discussed proposed format changes to the annual report. Chair Bader noted that some information in the report seemed to be redundant and thought it was more educational versus reporting. Mark noted that the ALRA statute requires the board to prepare and submit to the governor an annual report on labor relations problems it has encountered during the previous year including recommendations for legislative action. The agency must also notify the legislature that the report is available.

Mark explained the agency sends a copy of the report to the Governor, Speaker of the House, President of the Senate, all the committee heads, all the labor committee members. Chair Bader asked if the Agency has received any questions as a result of sending out the annual report. Mark said none that he was aware of. Chair Bader stated he would like to reduce the size of the report and make it more concise. Board member Isaacs inquired about the cost of preparing the report. Mark explained there was no cost to prepare the report, other than the cost of paper, as it was prepared by staff in house. He also explained that there is no deadline in the statute to submit to the Gov although we try to get it to the board between March and May. Mark agreed there were good suggestions for changes and the agency would incorporate them into the next report.

Chair Bader requested that we make the report a little more informative, less educational and see it summarized with fewer charts and graphs. Board member Askren stated that there are probably not too many people that read the annual report. Mark said he would be glad to discuss changes with the Chair and other board members. Chair Bader told board members to send suggestions to Mark. The annual report is also available on the ALRA website.

H. Regulations project - whether to proceed.

Mark explained that the notion of a regulations project was raised when he and Jean discussed an issue with Board Member McSorley. The regulations would first need to be drafted and then posted for public comment. Staff pointed out that now in order to provide the public notice that is required by law it costs us \$800.00 which is costly under the current budget.

Chair Bader inquired about the last round of recommendations to regulations. Mark explained that those were approved and adopted. Mark stated the discussion with Member McSorley had to do with the Mallinckrodt factors. Board Member McSorley

agreed and gave some background on the regulation. He stated his feeling on this is that it stems from Labor having a hard time in this country because it isn't keeping up with the times. He has seen the regulation being used by some of our larger conglomerate unions in the state that are representing large different groups of employees of all different trades. He feels that our regulations are so burdensome that it is hard for some employee groups to actually leave a large conglomerate union even though all the members want to do it. Member McSorley stated he would like to make it a little bit easier for employee groups that don't feel like they're getting proper representation to leave one union and go to another union.

There was some discussion with staff and board members on the regulation process and the time limits, from drafting to adoption. Mark explained the process and said the whole process can take a year. Chair Bader inquired if we had to take the whole year. Mark indicated no. Chair Bader asked if the process could start now. Mark explained that the process includes drafting regulations, a board meeting to review the draft regulations and decides which regulations, if any, to send out for public comment. After public comment, the Board meets again to review the comments and decide whether to amend the proposed language. The Attorney General's office then reviews before final adoption.

Chair Bader asked for Board member preferences. Member Andrews asked if the electronic filing would include electronic voting for representation. Jean Ward indicated that this issue has arisen in the past, especially when remote sites are involved. Chair Bader indicated the board should not deal with any specific recommendations now. He requested that the agency report back on the time lines for the regulation process. Mark agreed to research the time lines and report back to the Board.

This raised the question the date of the next board business meeting. Chair Bader asked if there was a need for two board meetings a year? Mark stated it was up to the Board. Chair Bader recommended that the next board meeting be held in conjunction with a hearing since three panel members will already be present. Mark agreed that this is the ideal and the Agency always tries to coordinate the meeting with hearings, but is not always possible due to scheduling issues. There was discussion on scheduling of the next board meeting in May or June 2009, or whether to delay meeting if there is not enough to justify a meeting. There was no firm date set.

6. Public Comment.

There were two individuals present. There was no public comment.

7. Adjournment of Public Meeting.

Chair Bader moved to adjourn the meeting. Hearing no objections, the meeting was adjourned at 12:40 p.m.

Action Items:

1. **Summary of Recent Board Decisions:** Chair Bader asked that in the summary of recent board decisions, add the court issue as a piece of the summary if it has gone to court. If it has not been appealed, it can be silent on that. He also requested that the summary list the panel members assigned to each case.

2. **Budget:** Chair Bader requested that Mark schedule a meeting with Guy Bell, and if the board did not disagree, he wanted to sit in on the meeting to discuss budget concerns. He would like to bring up the issues of travel funds, increased airfares, issue of unfunded liability of vacancy factor, training funds availability and the impact of inflation on the budget.

3. **Three year budget overview:** Board member Peltier requested a three-year budget overview for the next board meeting showing budget expenditures for past two years and current year.

4. **Annual Report:** Request made to change format of report.

5. **Regulatory Changes:** Chair Bader requested Mark provide a timeline for the board on what actions are required to put regulations out to public comment and deadlines for the process.

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