

ALASKA LABOR RELATIONS AGENCY
Minutes of Business Meeting
Tuesday, May 11, 2010

1. Call to order: Chair Gary Bader called the meeting to order at 9:00 a.m. Vice Chair Aaron Isaacs, Jr., and Board Members Tyler Andrews, Matthew McSorley, Will Askren, and Dan Repasky all attended in person.

Staff members Colin Milstead, Margie Yadlosky, Jean Ward, and Mark Torgerson attended, and Assistant Attorney General Erin Pohland attended at the agency's request. Nobody from the public attended.

2. Approval of minutes from September 25, 2008 business meeting: Chair Bader suggested that the agency provide a copy of draft minutes within 30 days of the business meeting, while the meeting is still 'fresh' in everyone's minds, and then hold until the next meeting. Board member Andrews said it is a great suggestion. Mark agreed the Chair's suggestion is a great idea. Board Member Isaacs moved to approve the minutes, and Board Member Andrews seconded the motion. By unanimous vote, the motion carried.

Executive Session. At this time, Assistant Attorney General Erin Pohland asked that the Board move to go into Executive session because of certain matters the immediate knowledge of which would clearly have an adverse effect on the finances of the agency. Board Member McSorley moved to go into executive session, and Board Member Andrews seconded. Motion carried by unanimous vote.

The Board reconvened the public business meeting at 10:03 a.m.

(In order to accommodate Assistant Attorney General Pohland, the Chair moved the agenda to discuss regulatory changes, item 3.C.5.)

3. Old Business.

C.5. Regulatory changes. Mark noted that there were copies of regulation drafting procedures contained in the board members' packets, including a chart that summarized the process. Assistant Attorney General Pohland explained the whole regulatory process, from drafting to adoption. She said that the Board generally has one year, from date of public notice to adoption of the regulations, to complete the project, although this time may be extended. Chair Bader asked whether the Board is required to notify interested parties that they may suggest regulatory changes (assuming the Board decides to proceed with a regulations project). Assistant Attorney General Pohland said there is no such requirement. Chair Bader asked Mark if the agency was considering a project. Mark said staff were lukewarm about initiating a project. With no further questions on this subject, the staff and Board then thanked Assistant Attorney General Pohland for her assistance.

3.A. Status of Pending Cases.

1. Case Flow Chart. Mark, Jean, and Margie agreed that the caseload has been relatively stable, though Margie noted that there had been a rise in unfair labor practice activity. Margie further noted that staff had spent considerable time in recent months working on election-related activity. There are 16 pending cases, with six in abeyance. Chair Bader asked whether there were any unusual cases, or whether they were "run-of-the-mill." Jean said the cases are not at the same level as the recent University of Alaska case that the Board heard, but two of the four cases she has been actively working on are somewhat intensive and have taken a substantial amount of time to investigate and process.

2. Update on Unit Clarification Petitions and Unfair Labor Practice Charges. Jean reported that the agency has three active unit clarification petitions pending in the education sector. The petitioner has completed and filed the required questionnaires. Investigation of the petitions is pending. Regarding the unfair labor practice cases, Jean said some investigations take considerable time. Jean is expecting to get word imminently regarding a case from Petersburg in which she has worked with the parties to resolve informally. The "MatSu classified" matter is the case she is currently spending considerable time on now. There is also a case between Public Safety Employees Association and the City of Fairbanks. Chair Bader asked how many of these cases may go to hearing, and Jean said two of the unfair labor practice cases may require hearing. It is currently unknown whether the unit clarification cases will require hearing.

Chair Bader asked whether he needs to appoint any hearing panels. Mark said none is required at this time. There are two hearings scheduled for July. One will occur in Anchorage on July 13 and 14, and the panel includes Vice Chair Isaacs and members Askren and Repasky. The second is scheduled for July 29 and 30 and will be heard by Vice Chair Isaacs and members McSorley and Askren.

3. Update on Election Petitions. Jean reported there are two election petitions pending. One is relatively straightforward; it's a petition by the Fairbanks Fire Fighters to represent a 10-person unit at the University of Alaska. A second petition involves a potentially large unit at the University that staff are working on now. The petition was filed on April 13, 2010. Mark said that if the petition goes to election, it would be the largest election the agency has ever held. Jean said it would probably take the better part of a day to count ballots. There was also one election since the last business meeting involving a school district, and the employees voted in favor of representation.

4. Summary of Recent Board Decisions. Board members were provided with a copy of this summary, prepared by Mark. There were three decisions since the last board meeting. Mark pointed the Board to action item C.1. The Board had asked to include panel information and any appeal information, and the summaries

now include this information. Mark proposed to send summaries of decision and orders within 30 days of the decision and order to keep all board members abreast of decision and order activity. Chair Bader indicated the proposal is appropriate.

Chair Bader asked why the Board had not had a meeting since September 2008. Mark said a meeting had been tentatively scheduled for last September, which would have been approximately one year since the prior meeting, but for some reason, the meeting was canceled. Board Member McSorley recalled it may have related to budget concerns. Mark said he believes it is important to have at least one in-person meeting every year. Chair Bader agreed and said if it can be combined with hearings, it would minimize travel costs. Chair Bader added that meetings should be held more often if staff decides that there is sufficient new business or there are items of importance that need to be addressed.

Regarding a meeting for possible regulation amendments, Mark suggested a telephone meeting could occur to poll the Board members on whether they wish to proceed with a project. Chair Bader suggested the Board target approximately this time next year for a meeting. Board members agreed, after some discussion, that staff target sometime during the first two weeks of May 2011 for a meeting. Board Member Andrews suggested the Board members think about holding a fall business meeting regarding budget issues if such issues arise. He noted that if the Board waits until later than the fall, it could be too late in the state budgeting process to make changes.

3.B. Budget.

Mark pointed the Board to a chart on "budget overview." Mark noted this also relates to action item C.3, "budget spreadsheet." At the last meeting, former board member Ken Peltier had suggested some type of three-year budget spreadsheet. This spreadsheet, which the agency currently uses, does contain a three-year view of the budget. Staff responded to board member questions about aspects of the spreadsheet. Margie noted that there was a 10% across-the-board (all executive branch agencies) reduction in travel. Mark reported that the travel budget has been reduce approximately 50 percent the past year because money was required to transfer from the travel line to the personal services line to pay for and have adequate money to pay salaries through the entire budget year.

Chair Bader asked if there was money available for training in the budget. Staff replied that it was in the travel budget. Mark noted there was \$300 in the budget for training. Chair Bader noted this was not much money for training. Board members discussed the travel budget and expressed concern about the low amount allocated for travel. Chair Bader asked for an explanation on getting a supplemental budget. Mark explained that agencies request a supplemental budget if they overspend in the prior fiscal year. This usually occurs when an agency incurs unforeseen costs. Board Member Andrews explained that supplemental budget requests are a backward-looking process. Board member Andrews suggested the agency request an increase if needed for travel or training. Mark suggested the agency request a budget increase to cover the

costs related to traveling to the training conference put on by the Association of Labor Relations Agencies. Mark asked whether the Board wants the agency to request any increases for the next fiscal year. Board Member Repasky said it would be reasonable for the Agency to budget for two business meetings per year. Chair Bader summarized the Board discussion by stating that 6.2 for travel is not enough, but we need to justify an increase back to 12.3, based on costs related to board meetings, hearings, and training. Vice Chair Isaacs noted that in his experience with the State, if you don't use money in a budget item in one year, you lose it the next year.

The next items discussed were action items that had not already been included in previous item discussions. The next item was 3.C.2. Action items 3.C.1, 3, and 5 were previously included in discussions.

Action Item 3.C. 2.

2. Meeting with Administrative Services Director. Mark noted he has discussed the budget numerous times with Assistant Commissioner Guy Bell. The Assistant Commissioner said the Agency needs to request what it believes it needs in order to carry on business. Mark summarized the budget process. The Agency first requests budget approval from the Department, then the Department requests budget approval through the governor's Office of Management and Budget. Chair Bader said that if the agency runs out of money, it will then ask the Department for assistance. Board Member Askren said it is not a good idea to cancel hearings because we run out of money. He said that it's arguable that we may be in violation of our own statute if we cancel a hearing due to budget constraints. Justice delayed is justice denied.

4. Annual report format changes. These changes had been requested previously. The changes were made to the last annual report to board members' specifications.

5. New Business:

A. Board Member Update.

Mark noted it is good to have a full six-member board at this time. Each year, the terms of two members expire. Board members whose terms expire March 1, 2011 are Vice Chair Isaacs and Board Member Askren. Also, as of June 12 this year, Vice Chair Isaacs will have been on the Board for ten years. This is the longest term of any single member in agency history. Mark also reported that Vice Chair Isaacs was awarded Trooper of the Year for the 325th Infantry Division of the 82nd Airborne Brigade. Board members and staff congratulated the Vice Chair on these accomplishments.

B. Alaska Public Offices Commission filing requirements update.

All board members filed timely reports this year. Mark emphasized that all

filings with the APOC are public; so do not include account numbers and confidential information in the reporting because this information is public and is available on the internet. Board Member Andrews noted that some years back, detailed information was required. The report is due each March 15.

C. Quarterly Ethics reporting.

There were no ethics issues to report.

D. Regulations project – whether to proceed.

The Board followed up on the earlier discussion of this issue and decided to not proceed with a project at this time.

E. Training.

1. Summary of ALRA 2009 Conference in Oakland, CA. Board Member Andrews reported on his experience at the 2009 Conference. He said that folks worked hard and put on a good conference. They tried to provide many, various training opportunities. Board Member Andrews attended both the training academy and the general conference. He believes that our agency has more in common with New Mexico's board than with other boards because, like our agency, New Mexico's board members are volunteers. Each agency is a little different. The laws are a real fabric of differences. He also noted some differences in law and procedures in the Canadian labor law agencies, and the U.S. federal agencies who are member agencies. Board Member Andrews felt that other agencies are better funded than this agency, and this agency could better accomplish its mission with additional funding.

2. ALRA 2010 Conference in Ottawa, Ontario, Canada, in 2010; and Jersey City, New Jersey, 2011. Mark spoke with Assistant Commissioner Bell about sending a board member to Ottawa. Chair Bader recommended that if Board Member Repasky wants to go to the conference, we should send him. Board Member Repasky expressed interest. Mark noted it would take a significant amount of the travel budget, but the training is worthwhile.

3. Other training needs and requests. Mark expressed interest in attending the Advanced Evidence training at the National Judicial College in October. Board Member Andrews stressed the importance of Mark having the appropriate training because he is the Board's expert on legal issues.

F. Succession planning.

Chair Bader asked what needs to be done to insure that there is a smooth transition when staff retire or move on. Mark noted that there is a procedural manual available for new staff. Chair Bader is concerned about new staff who are hired that come in who do not have the experience of current staff, such as Jean and Margie.

Board Member Andrews suggested that if funding were available, someone could be hired to assist Jean with a manual she is working on that summarizes cases, because Jean said she has been unable to finish the manual due to caseload priorities. Jean said it would be difficult for someone to come in and work on this project.

G. Travel Procedures.

Chair Bader asked if there was a change in travel procedures, because he was approved to travel from out-of-state for a hearing in April, whereas his requests to travel from out-of-state to Anchorage had been previously denied. Mark did not believe there was but it is probably a change in interpretation of the same travel regulations.

H. Effects of extended hearings on panel members and decision making.

Chair Bader discussed the recent three-week hearing and, among other things, the frustration of listening by phone and the frustrations of hearing the complexities of the case. Board Member Repasky expressed frustration of state board members not getting adequate training to do the job. Regarding the recent three-week University of Alaska hearing, Board Member Andrews agreed that listening by phone was undesirable. He also said it was unfortunate that Mark had to prevail upon the parties to get a transcript, because they should have provided one anyway. Chair Bader expressed frustration about the length of the hearing. Mark discussed the possibility of making changes in the positioning of the microphones to make it clearer to hear testimony by phone. Chair Bader did not think a change in the microphone system is necessary because of the experiences of one hearing. Regarding the length of the hearing, Mark noted that the Board could appoint the hearing examiner to conduct the hearing alone and then submit a proposed decision for their review, so they would not need to attend the hearing. Mark also offered to meet and discuss anytime with board panel members the issues or procedures in pending cases. Chair Bader said it could be helpful to provide a summary or analysis of the testimony, and to make sure the panel is focusing on the appropriate issues. Mark said that in the University case that was the subject of discussion, it is a complex case with many issues, and it is a somewhat unique case in the history of the board.

6. Public Comment.

There was nobody from the public in attendance.

7. Adjournment of Public Meeting.

Vice Chair Isaacs moved to adjourn the meeting, and Board Member Andrews seconded the motion. Hearing no objections, the meeting was adjourned at 11:53 a.m..