

ALASKA LABOR RELATIONS AGENCY
Minutes of Business Meeting
Wednesday, May 13, 2015

1. Call to Order.

Board Chair Gary Bader called the meeting to order at 9:07 a.m. Chair Bader and board members Dan Repasky, Will Askren, Tyler Andrews, and Lon Needles attended in person for the entire meeting. Vice Chair Lynne Curry was absent due to a prior business obligation.

Staff members Mark Torgerson, Margie Yadlosky, Tiffany Thomas, and Jean Ward attended in person. Mark introduced new hearing officer Tiffany Thomas, who started at the Agency on May 11.

Mark introduced staff from the Commissioner's office who also attended the meeting, including Department of Labor and Workforce Development Deputy Commissioner Joe Thomas and Heather Beaty, Director of the Alaska Workforce Investment Board.

2. Presentation for retired ALRA staff member Jean Ward.

Director Beaty presented retired ALRA Hearing Officer Jean Ward with a letter of appreciation from Commissioner Heidi Drygas, who was unable to attend due to a prior commitment. Chair Bader presented Jean with an Alaska state flag that had been flown over the Capitol on her birthday. Board members and staff expressed their appreciation for all the decades of work Jean dedicated, almost 24 years to the Agency and 38 years to the State of Alaska. A brief recess was taken so everyone could give Jean well wishes.

3. Approval of Minutes from May 21, 2014, business meeting.

Member Repasky moved to approve the minutes from the May 21, 2014, business meeting. Member Andrews seconded the motion. By unanimous vote of the five members present, the motion carried.

4. Old Business.

A.1. Status of pending cases.

Jean provided a summary of pending cases and case actions. The Agency conducted an election of the Kashunimiut School District. The election had an unusual twist involving receipt of a low number of mail ballots. The speculation was that

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storms had prevented receipt of some ballots. The bargaining unit had 37 employees but the Agency received only 3 ballots, all in favor or representation.

Member Andrews commented that if the Agency upgraded to a non-paper system, we would not have this problem. He gave the example of Chugach Electric which has a phone ballot system. He believes it would not cost a significant amount to implement such a system. Jean said it would probably require a regulatory change.

Jean summarized other pending cases. There were 8 cases related to the legislative process (including appropriating funding) that has not yet concluded. Other than these cases, there is only one current case that requires an investigation. It is a duty of fair representation case.

Upon inquiry from the Board, Deputy Commissioner Thomas described the current status of the legislative process and alternative scenarios that may unfold.

Jean concluded that there may be a case in Fairbanks that could require a hearing, and also a representation case that may require hearing. Jean estimated there could be four of the legislatively-related cases that could go to hearing.

There was further discussion about the status of the legislative process and budgeting for salaries and budgets for FY 16. Member Andrews described the collective bargaining process, negotiations, and the potential for disputes that may ultimately get filed with the Agency, given the state of the budget and the negotiating process.

A.2. Summary of recent Board decisions.

Mark summarized two decision and orders issued since the last meeting. One of those decision and orders involved the Alaska State Employees Association and the State of Alaska. The dispute concerned the attempted use of business leave by the union for catastrophic leave. The State filed an unfair labor practice against the union. The parties agreed to have the issue decided based on the written record. The Board concluded that there was no unfair labor practice violation and dismissed the case.

In the second decision, the three state ferry unions (Masters, Mates, and Pilots; Marine Engineers; and Inlandboatmen's Union) filed an unfair labor practice against the State, alleging the State stopped a nine-year practice of providing free meals and beverages to fast vehicle ferry employees, without bargaining to impasse. The State denied the allegations and argued that there was no change in its policy. The Board concluded that access to the food courts on board the fast vehicle ferries was a condition of employment, and a practice developed of providing drinks and light

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snacks. The Board ordered the State to pay \$7.94 per employee per day from the date of the decision forward. The Board also ordered the parties to return to the bargaining table within 30 days and negotiate on the meals and beverages issue.

B. Budget.

Mark noted the continuing challenge of balancing the Agency's lean budget, and in particular, having sufficient funding for training and travel, as mentioned by Chair Bader. Fortunately, there are not a significant number of cases that will require travel to conduct hearings. In addition, there was some extra money in the FY 2015 budget due to Jean's retirement in October 2014, and then delaying the hire of that position for a few months.

Margie discussed the FY 2015 budget, including travel projections. Margie said that the Agency would soon be asking for replacement computers because the IT staff communicated that current agency computers do not meet State standards.

Mark said the Agency is losing a part of the office assistant position, a reduction to half time. Margie explained that the position is a part-time position. The Agency's office assistant position will be reduced from full-time to half-time due to the 8% budget reduction in fiscal year 2016. The Commissioner's office has pledged to assist ALRA if we need help on duties performed by the office assistant. Margie noted that agency staff have always pitched in to help each other on various office duties. In response to board members' questions, Margie said that she is performing the office assistant's duties, which include not only filing but other duties such as setting up cases on the agency database, setting up files, travel arrangement, and other duties. Mark said the Agency recently received approval to hire for the half-time position, but the the Agency is hesitant to hire right away, given the lean budget situation.

Margie responded to a question from Chair Bader regarding travel and training. Margie said the Agency currently has a projected balance of \$3,500 for fiscal year 2015, but Member Needles' travel still needs to come out of this amount, as well as others' travel costs for the board meeting. If there was a hearing in Fairbanks, for example, it would consume most of the remainder of the budget. Mark discussed the costs of traveling to a recent hearing in Juneau. There was also discussion of the pros and cons of traveling to attend hearings and also other options such as video-conferencing. Member Andrews said it was "miserable" to listen to the three-day hearing by phone.

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Chair Bader noted that ALRA has a statutory requirement to hear cases. Deputy Commissioner Thomas added that part of ALRA's problem is that it is 100% general funds, with no federal funding. He added that 50 % of the Department of Labor's budget is federal funding. Member Askren asked what we do if we run out of money for travel. Mark said it would not be a good situation. Member Askren said we may have to have Mark travel to conduct the hearings and then board members listen to the hearing tapes, which is not a good way to conduct a hearing or any type of investigation. Do we postpone hearings? Mark said that agency regulations grant the Board panel authority to decide how the hearing will be conducted. He added that it's important that board members be able to attend hearings because they are the ultimate decision-makers under our law. Chair Bader summarized the discussion by stating that this budget situation is déjà vu all over again.

C. ACTION ITEMS.

C.1. Electronic Filing Process.

Mark said the subject of this item is the feasibility of agency staff members scanning documents into the agency's 'bizhub' machine and then emailing the documents to the board panels. Member Andrews said this is his perennial issue: getting information to board members electronically as opposed to providing substantial, bulky paper files. Chair Bader pointed out the large size of the University professors case file. Member Andrews would still like to push for electronic case files, as other agencies and courts are doing that. However, he noted that we just do not have the project money or staff to address this change, which would be beneficial for the agency and the public. He said the NLRB had gone to electronic filing.

Chair Bader asked if there was a next step. Mark said some Board members have a preference to get paper copies, and others prefer electronic. It's more work for declining numbers of staff to try to do that work. Until others get on board with the electronic filing process, Mark prefers waiting. He said he contacted the Alaska court system last week and they have not yet finalized and implemented electronic filing, but they are getting closer to implementation. The court person Mark spoke to said that once implemented, the court will be virtually paperless. For example, if someone files a document by paper, the court will scan it in and return the paper to the party. Mark suggested waiting until the court implements its process. We could piggy-back on what the court has done. Within the Department, workers' compensation has implemented an electronic filing process. However, Deputy Commissioner Thomas

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said the workers' compensation process is not yet working. And now they don't have the money to fix it. There are multiple electronic filing systems that cannot "talk" to each other. He believes that it's advisable to wait until there is a tried and true system to copy.

Chair Bader said that the Deputy Commissioner's advice is sound, and let's keep it as an action item and see where we are at the fall meeting.

C.2. Training Update.

Chair Bader said there is not an update at this time. Jean suggested that training, especially mediation training be made available for Tiffany. The Board's workload is dependent on the hearing officer's ability to mediate and resolve parties' disputes. Jean said that over the history of the Agency, only 10% of cases have gone to hearing. The remainder were resolved. Jean found formal mediation training very valuable. Chair Bader said let's find the training first and see what it costs. He added that Member Needles may need training, too, and Member Needles agreed. Member Andrews said there may be some low cost options, but there would be travel costs involved. Chair Bader said to keep this item as an action item for the next meeting.

Deputy Commissioner Thomas said that many travel requests he receives are for travel to Washington, D.C. He suggests looking for training closer to home to reduce travel time and costs.

Member Repasky said he attended a LERA (Labor and Employment Relations Association) conference in Seattle. It was an excellent two-day program with many breakouts. It is not expensive and is in Seattle.

C.3 Regulations Update.

Chair Bader asked if Administrative Order 266 is still in effect. Mark provided a background and said it may not still be in place. Mark was told the governor's office may no longer review initial requests for regulation amendments, but he will research and find out. Chair Bader said to keep this as an action item and report at the next meeting.

Regarding the two proposed regulations, Mark asked whether the Board wants to proceed with the regulation drafting process on the two proposals, now that they have been approved by the Commissioner's office. Mark explained the two proposals, and Jean provided information. She said she is passionate about getting approval on the forgery proposal. Member Needles asked for background information and Mark

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and Jean explained the forgery case that occurred at the Agency. Member Andrews also provided background and asked about the effect of this particular proposal. Jean said it allows an avenue to contact law enforcement. Jean pointed out that the forgery case cost the Agency significant money and time.

Mark then provided background on the second proposal, which would require the parties to return to the bargaining table if a legislative body rejects the monetary terms of a tentative agreement. Chair Bader had requested this proposal several years ago. Chair Bader said let's find out about the effect of Administrative Order 266 and we will then go from there. Action item for the fall meeting.

5. New Business.

A. ALRA Conference 2015. This year's ALRA (Association of Labor Relations Agencies) Conference will occur in Minneapolis from July 18 to the 21st. Mark provided background information for Member Needles and Deputy Commissioner Thomas, including the benefits of the conference. Member Andrews asked if ALRA still offers the pre-conference training. He said this is good training. Margie noted that it costs \$400 to belong to the Association, and the budget is getting to the point that we question if it is valuable. Member Andrews noted that the pre-conference training is very helpful for new members.

Member Repasky asked whether we could reach out to private industry or other sources to get funds or grants to send someone to training. Member Andrews said that perhaps we could get a training trust created. Mark said that in the early 2000's, the Agency proposed requiring a filing fee for filing petitions, etc., with the Agency, but it did not go anywhere. Chair Bader questioned whether that is a good option. Member Andrews said if the Deputy Commissioner would be willing to review the old information with him and Mark, he would be happy to pitch in. Deputy Commissioner Thomas said to dig up what we have and bring it up at the next meeting. Then we can supplement it with conversation about what is reasonable to do.

B.1. Board member update.

Mark noted that new Board Member Needles was appointed by Governor Walker in March for a three-year term. In addition, Member Andrews was re-appointed for a new three-year term. In other news, Member Repasky has resigned effective May 31 because he took a new position with the Department of Labor's AVTEC (Alaska

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Vocational Technical Center) division in Seward. He is retiring from IBEW after 38 years. Members congratulated Member Repasky. Mark noted that former Member Matthew McSorley had filed an application for Member Repasky's position. Chair Bader suggested providing support to get Matt back on the Board. Deputy Commissioner Thomas said we can inform the Commissioner of the Board's support, and he believes she supports his appointment. Deputy Commissioner Thomas said he will relay the Board's wishes. Chair Bader noted that his term is up in March 2016.

B.2. Board Member calendars.

Margie requested that Board Members submit the dates you are available for board business. Whatever you can provide would be great, up to six months ahead.

C. Financial Disclosure Reporting reminder.

This was actually an item for the previous meeting, but Mark said that staff hoped the Board did not mind staff 'bugging' them until they get the disclosures filed, because staff members want to avoid late filings at all costs. Board members said that is fine. There was discussion about the filing requirements for new, current, and resigning board members.

D. Update on Skye McRoberts restitution.

Mark provided an update of the Skye McRoberts criminal case. McRoberts pled guilty to felony falsification of business documents. She was ordered to pay more than \$24,000 in restitution. McRoberts paid the remainder of her restitution, and it is paid in full. Unfortunately for ALRA, the entire amount goes into the state's general fund.

E. Update on State of Alaska vs. Pohland.

The case is scheduled for trial on July 13, 2015. Jean will be one of the star witnesses in the trial.

F. Operating in Today's Budget Environment.

Chair Bader said this item was previously covered.

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G. Scheduling of next board meeting .

There was discussion about meeting dates. The Board agreed to hold the hearing on Friday, December 4, 2015.

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 Member Repasky seconded the motion. The meeting adjourned at 10:57 a.m.