

Employee Relations Board
Hearing Meeting
June 26, 2006 11:30 A.M.
Harrigan Centennial Building - Maksoutoff Room

A. CALL TO ORDER

Nancy Cavanaugh, Chairperson, called the meeting to order at 11:34 A.M.

B. ROLL CALL

Members Present: Nancy Cavanaugh, Mo McBride, and Gary Paxton

Staff Support: Legal Counsel, Linda Johnson (teleconference) and Acting Secretary, Tracie Laczynski

C. WELCOME OF GUESTS

Cavanaugh welcomed the guests on teleconference and in person.

D. ADDITIONS/DELETIONS TO THE AGENDA

MOTION: by McBride that the 15 contested positions between the City and Borough of Sitka (CBS) and the Alaska State Employees Association (ASEA) be discussed in new business.

Voice vote PASSED.

E. OLD BUSINESS

1. LEGAL DEFINITION OF CONFIDENTIAL

Sarah Josephson, Attorney with ASEA, talked about the definition of confidential and that CBS argued that the additional language, with regards to labor relations, cannot be added to the ordinance. She continued that a confidential employee is an employee that sits and acts in a confidential capacity that formulates, determines, and effectuates management policies. She stated that the purpose of the ordinance is that policies are to be effectuated by recognizing the right of employees to organize for the purpose of collective bargaining. She said that the contended positions are not confidential employees. She continued to discuss definitions, the intent of the ordinance, the duties of employees, and the meaning of effectuate in job duties.

There was more discussion about intent, using federal and state ordinances and examples for information, and the will of the employees.

Rob Johnson, outside counsel for CBS, stated that CBS is asking the board to conclude that the ordinance is to be interpreted as it is written. He continued with discussions about labor nexus, the omission of words in the ordinance, the relevance of using the Public Employees Relation Act (PERA) as a guide, and the definition of confidentiality in the ordinance.

There was more discussion about local control with the ordinance.

L. Johnson asked that there be more discussion about the type of employee involved with, and the depth of, management policies.

There was further discussion about what is considered public or confidential management policies, including the people who are a part of them and their specific management duties.

Discussion continued with the consequences of keeping an employee out of their right to collective bargain, how the definition of confidential was not necessary until collective bargaining became an issue, and employees whose duties are confidential on a regular basis.

The ERB concluded they would not define confidentiality or do anything that could change the language

of the ordinance.

Cavanaugh stated the decision of the ERB is that the ordinance should be read as written. They encouraged the parties to not look at the language narrowly or broadly. She continued to ask that the parties look at the contested positions which have duties that effectuate management policy and whether or not that position has actual authority over management policies.

Cavanaugh and McBride mentioned that there is a definition of management in the ordinance.

2. LEGAL DEFINITION OF EXEMPT

Cavanaugh commented that the personnel policy handbook copied in the CBS brief, exhibit A, discussed exempt and to refer to that brief.

Hillhouse stated that partially exempt is now in the category of exempt and all positions are listed in the policy handbook.

3. LEGAL DEFINITION OF NONEXEMPT

The ERB agreed that it was not necessary to discuss.

F. NEW BUSINESS

1. Discussion of ERB decision of where to place two positions IBEW OR ASEA

A. Electric Materials Specialist

ASEA discussed why they thought this position should be part of the general government bargaining unit.

Charlie Walls, Utility Director, commented why he believed this position should be part of the Electric Department bargaining unit.

Kim Svenson, Electric Materials Specialist, agreed with Walls.

MOTION: by Paxton that the Electric Materials Specialist position be part of the Electric Department bargaining unit.

Motion PASSED by voice vote.

B. Electric Department Administrative Assistant

ASEA discussed why they thought this position should be part of the general government bargaining unit.

G. EXECUTIVE SESSION

MOTION: by McBride to go into executive session to verify IBEW's cards.

Motion PASSED by voice vote.

B. Electric Department Administrative Assistant

Discussion resumed after executive session about the bargaining unit for the Electric Department Administrative Assistant position.

MOTION: by Paxton that the Electric Department Administrative Assistant position should go to the bargaining unit of the general government.

Jeff Wheeler, System Manager, stated that he believed this employee should be in the Electric Department bargaining unit.

Motion FAILED, Paxton and McBride opposed.

MOTION: by McBride that the Electric Department Administrative Assistant position be part of the Electric Department bargaining unit.

Motion PASSED by voice vote, Cavanaugh opposed.

MOTION: by McBride to postpone discussion of the contested positions to the next meeting.

Motion PASSED by voice vote.

Cavanaugh certified that IBEW has more than 50% of recent cards and CBS can enter into mutual consent with IBEW.

H. NEXT MEETING: JULY 18, 2006

Hillhouse mentioned that any employee who is the subject of a confidential position may appear and it will not be charged against them.

I. ADJOURNMENT: 2:30 P.M.

Respectfully submitted by
Tracie Laczynski, Acting Secretary