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DEPARTMENT OF BUSINESS AND INDUSTRY
**GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD**

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March 3, 2020

**MINUTES OF THE MEETING OF THE GOVERNMENT
EMPLOYEE-MANAGEMENT RELATIONS BOARD**
(Meeting No. 20-05)

A consolidated meeting of the Board sitting *en banc*, as well as that of Panel A, Panel C, Panel D and Panel E, of the Government Employee-Management Relations Board, properly noticed and posted pursuant to the Nevada Open Meeting Law, was held on Tuesday, February 25, 2020, at the hour of 8:15 a.m., and continued on Wednesday, February 26, 2020, at the Nevada State Business Center, 3300 West Sahara Avenue, Fourth Floor, Nevada Room, Las Vegas, Nevada 89102. The meeting was video-conferenced to the Department of Business & Industry's Director's Office Conference Room, 1830 College Parkway, Suite 100, Carson City, Nevada 89706.

The following Board members were present:

Brent C. Eckersley, Esq., Chair
Sandra Masters, Vice-Chair (attended in Carson City)
Cam Walker, Board Member
Gary Cottino, Board Member
Brett Harris, Esq., Board Member

Also present:

Bruce K. Snyder, Commissioner
Christopher Roske, Administrative Assistant II
Donald Bordelove, Esq., Attorney General's Office

Members of the Public Present:¹

Attending in Las Vegas:
John Westmoreland, AFSCME
Harlesica Peabody, AFSCME
Varvara Vorobieva, AFSCME
Irina Ghosh, AFSCME
Chris Ezell, AFSCME
Bien Metcalfe

¹ Not including the attorneys of record and witnesses for the hearing pursuant to agenda item 5.

Minutes of Open Meeting

February 25-26, 2020 (*En Banc, Panel A, Panel C, Panel D, Panel E*)

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Jesse Addison, LVMPD
Mike Snyder, PPACE
Fernando Colon, AFSCME
Pearison Woods, AFSCME
Ashley Jenkins, AFSCME
Devon Martin, IUOE Local 501
Richard Lile, IUOE Local 501
Steve Crouch, IUOE Local 39
Jason Besun, LVPPACE
Shane Sayles, LVPPACE
Kelly Richter, LVPPACE
Tom O'Mahar, IUOE Local 501
Derek Donley, IUOE
Garett Grant, IUOE
Richard Anderson, IUOE
Jennifer Garcia, AFSCME
Kevin Million, IUOE
Felix Huerta, OE3
Scott Fullerton, OE3
Roa Soto, AFSCME
Mahmood Haidar, AFSCME
Precious Davis, AFSCME
Linda Minian, LVMPD
Talon Cleveland, AFSCME
Amber Cooley, AFSCME
John Dean Harpa, PPACE
Nick DiFranco, IUOE #12
Ray Coort, IUOE #12
Hady Schwartz, IUOE #12
Carl Sierra, IUOE #12
Lalo Macias, AFSCME
Cyndy Hernandez, AFSCME
Hywel G. Davis, AFSCME
Henry Shiffman, AFSCME
Kenneth Edmonds, AFSCME
Walter B, AFSCME
Fernando Bribiesca, AFSCME
Kyra Exterovich-Rubin, AFSCME
Michael Silvia, IUOE
James Cook, AFSCME
Victor Avena, AFSCME
Shamond Price, AFSCME
Amanda Stys, AFSCME
Zillah Yvette Covelli, AFSCME
Sonja Whitten, AFSCME
Loren Warner, AFSCME
Randy Wallinford, AFSCME
Walter Blair, AFSCME
Stephanie Kantor, AFSCME
Harry Schiffman, AFSCME

Victor Vina, AFSCME
Attending in Carson City:
Matthew Jordan, AFSCME
Frank Richardson, DHRM
Ralph Handel, OE3
Richard Zemke, AFSCME
Autumn Zemke, AFSCME
James Navarro, Pres. Corrections North
Barry Baker, Operating Engineers
Josh Jauer, OE3
Christian Gallegos, AFSCME
Phillis Larson, former Board Member

The Agenda:

The Board Sitting *En Banc*
Presiding Officer Brent C. Eckersley, Esq.

The following 5 items were for consideration by the full Board:

1. Call to Order & Roll Call

The meeting was called to order by Chair Brent C. Eckersley, Esq., on Tuesday, February 25, 2020, at 8:15 a.m. On roll call, all members were marked present except for Board Member Harris, who arrived at the conclusion of public comment (item 2).

2. Public Comment

Fernando Colon, AFSCME, Associate General Counsel, stated that Section 30 of the act provides for designation as the exclusive representative without an election and that AFSCME has satisfied Section 30 of the act and thus the Board shall designate AFSCME. He further stated that another labor organization has tried to collaterally attack the designation, although he does not believe the other labor organization has filed its own representation petition.

Ashley Jenkins, AFSCME, stated that this is an attempt much like FOP did last month. She also stated that the other labor organization does not have 30% signed up. She also mentioned that the AFL-CIO rules provide that if one organization files for representation then another labor organization shall not also undertake a campaign to organize the same unit.

Fernando Colon added that the letter Trumpka sent is not relevant in this instance.

Ashley Jenkins added that statements put out by AFSCME were with respect to the other units.

Scott Fullerton, Operating Engineers Local 3, stated that the AFL-CIO letter does not apply to the Board and thus he agreed it is irrelevant. He added that he has letters and statements from employees who signed cards and now want to revoke their

authorization cards in that they felt bullied into signing the cards. He also stated that dates do not match on the cards and thus that AFSCME does not have 50% and thus the issue should either be taken to a vote or else postponed at this point in time.

3. Approval of the Minutes

The Board approved the minutes as presented for the *en banc* meeting held January 14, 2020.

4. Case 2020-006

In re: Petition to be Designated as the Exclusive Representative of a Bargaining Unit Pursuant to Senate Bill 135 of the 80th Session of the Nevada Legislature

Commissioner Snyder presented the petition filed by AFSCME, Local 4041 for Unit A: Labor, Maintenance, Custodial and Institutional Employees; followed by the presentation of the audit report conducted by EMRB staff. The Board then opened the floor for public comment, at which time the following comments were received:

Fernanda Colon, Associate General Counsel, AFSCME, stated AFSCME has satisfied Section 30 of SB 135 and thus should be recognized without an election. He added this should be uncontroversial but that IUOE has attempted to disrupt the process but the Board should reject this attempt. He further stated that IUOE has no standing in that it has not filed a representation petition. IUOE has attempted a collateral attack because it does not have sufficient numbers for it to file its own representation petition. He further stated that this is an administrative matter and thus it is not subject to attack by any other organizations. He also stated that the petition to vacate, filed yesterday by IUOE, was untimely, and thus the Board should follow its own rules and dismiss that petition. In addition, Mr. Colon stated that the petition to vacate is without merit based upon the text of the petition itself.

Ashley Jenkins, AFSCME, stated IUOE is trying to use the same tactics used by FOP only a month prior. She then gave information about some of the employees who claim they were pressured into signing up for AFSCME to counter the claims made in the petition to vacate. She then discussed her affidavit, which is an exhibit to the audit report. She then added that IUOE has no standing in that they are not yet at the 30% level and that they did not intervene.

James Navarro, President of Corrections North, stated he has been inquiring of the wardens and Culinary about IUOE, and that no one knows about IUOE and thus he requests that AFSCME be certified today.

Scott Fullerton, Operating Engineers Local 3, stated everyone needs to focus today on AFSCME's petition and IUOE's argument is that AFSCME does not have a majority because IUOE knows of multiple people that can testify that they were told that AFSCME was the only choice and thus by discounting these individuals results in AFSCME not having 50%, and thus they should not be awarded the unit outright but instead should stand for an election.

Barry Baker, Operating Engineers, stated he knows of other workers who felt pressured to sign authorization cards just to get AFSCME off the property and that they would rather have IUOE. He added that AFSCME roams the work areas and parking lots and that employees are signing cards under duress. He then stated at Great Basin College that IUOE did not get the room they wanted but instead were only given a table outdoors during the winter.

John Westmoreland, AFSCME, stated he was finishing the statement of Fernando Colon. IUOE does not have a statutory right to intervene in this case, adding that the allegations of IUOE are not true and should be excluded under the rules of evidence. IUOE also attacks the affidavit of Ashley Jenkins, which has been accepted in prior petitions. He finally stated that there should not be a moving target in that it is contrary to the provisions of SB 135.

Richard Zemke, AFSCME Regional Vice-President, stated AFSCME has been there for him and his family during his career with the State. He then asked were OE3 has been in trying to get the law passed.

Devon Martin, Local 501, stated that a number of individuals who signed cards told him that they were told that AFSCME was the exclusive representative and that there were no alternatives.

Autumn Zemke, AFSCME organizer, stated, it is confusing to her that anyone would say she is intimidating in her interactions with others.

Harry Schiffman, AFSCME Local 4041 President, stated he is an electrician at UNLV and is a member of this bargaining unit. I talked to a majority of the workers out there and he never once told them AFSCME was the exclusive representative. He stated that AFSCME plays by the rules. He added that they took road trips to Carson City over the years to get legislation passed and to end the furloughs imposed during the Great Recession. During this entire time he stated that the Operating Engineers were nowhere to be found and that they did not even know that NSHE was part of the bargaining unit.

Josh Jauer, Operating Engineers Local 3, stated he was out this past Saturday trying to sign employees up and that the employees were unaware there was an option to AFSCME.

Carl Sierra, Operating Engineers Local 12, stated he has been travelling throughout southern Nevada and that the employees he has been in contact with believe they were misinformed by AFSCME and that he has 21 cards and declarations of people who signed with AFSCME and who now want to be represented by IUOE.

Victor Vina, AFSCME member and carpenter, stated AFSCME has been fighting for decades for State workers. He added that DOT workers want to be represented by

AFSCME as they have been there the whole time while Operating Engineers just recently showed up.

Kevin Million, Operating Engineers Local 501 business representative and organizer, stated on February 19th at UNLV they were told to leave as they were slowing the process down.

Shamond Price, mechanic at NDOT and AFSCME member, stated he is from Detroit and thus knows what unions can do. He stated he was there when the bill was signed and that AFSCME has been there for years for the employees. He then asked why IUOE was here as he has not seen them prior to now.

Varvara Zorobieva, AFSCME organizer, read the text of Section 30 and Section 31. She then emphasized that Section 31 says "at least" and not "almost".

Derek Donley, Operating Engineers regional director, stated IUOE feels the issue is not that they are trying to raid anyone but to take a look at the audit report again. He then mentioned the NLRB standard on dual cards and that anyone who has signed cards with both AFSCME and IUOE should not count and thus there is not majority support for AFSCME.

Pearison Woods, AFSCME, stated IUOE is here asking AFSCME to do their job by letting employees know of another option. He then made the point that almost 30% should negate AFSCME's 50%. He added that IUOE is hoping to delay the process so they can sign up more employees to get to 30%. Finally, IUOE has been telling employees that IUOE is a better fit because they have a school to train employees.

Garett Grant, Operating Engineers, stated IUOE is asking for the Board to audit the cards as there are irregularities.

A letter was read from Stephanie Dube, which stated she is a State employee and that she has never encountered an organizer from IUOE. The letter asked where they have been over previous years and now they only show up. The letter reader then stated she has never pressured anyone to sign a card.

Richard Lile, Operating Engineers Local 501, stated he been involved with the state units for a while now. He added that there are fundamental issues with the process and that something should be done with the scope of the bargaining units and that a number of members in the unit do not typically fall within their typical type of employees. He then stated more direction should have been given and that there should be a check of the audit and representation cards. He stated some employees attempted to rescind their dues authorizations but could not do so and thus he asked for a stay.

Talon Cleveland, AFSCME, stated a majority of employees have chosen AFSCME and that there has been no intimidation, but that people are passionate about AFSCME.

Richard Anderson, Operating Engineers staff and organizer, stated AFSCME has had cards with incorrect dates and that the affidavit is self-serving and that there should have been affidavits from the employees themselves. He further stated that IUOE is not asking for an election but that there should be a further check of the cards.

Lalo Macias, AFSCME, stated the Board has already audited the cards and that the report shows AFSCME has majority support. He stated once again there is a challenge to a petition and that the only difference is this time there is an objection filed. He also stated that the other labor organization started too late and does not have sufficient support. He finished by saying that based on the law, established facts and precedent AFSCME should be designated as the exclusive representative for unit A.

Tom O'Mahar, Operating Engineers Local 501, stated the key date for representation is October 31st and not today and thus there is time to deliberate further and not make a decision now as there is time to do so.

Amber Cooley, AFSCME organizer, stated that IUOE is lost and that the Board knows the process, that IUOE does not know the process and is late to the game. She also stated that the rules should not be changed.

Christian Gallegos, AFSCME, stated this is about building a union and not a unit and that the other labor organization should have learned the process.

Stephanie Kantor, AFSCME Local 4041 Treasurer, stated the bargaining units were established a long time ago and that AFSCME is set to represent employees in those units.

Loren Warner, AFSCME, stated he works at Medicaid and that he also spoke back in January. He stated he has knocked on doors and collected cards and that there is no intimidation. He then described the card and how he would talk with employees.

Matthew Jordan, AFSCME staffer, stated he wanted to reconfirm about the cards used and they had just come into the office in January of 2019.

Walter Blair, AFSCME Regional Director, asked that the unit be certified. He then stated that he found it deplorable that Janus would be mentioned by IUOE, which is anti-labor.

The Board then deliberated on the petition, and upon motion, designated AFSCME, Local 4041 as the exclusive representative for Unit A.

5. **Case 2018-031**
Teamsters Local 14 v. Las Vegas Police Protective Association Civilian Employees, Inc. (PPACE)

The Board held the hearing, which was a continuation of a prior hearing. Upon conclusion of the hearing, the Board stated it would deliberate on the case during its March meeting.

Panel A

The following 2 items were for consideration by Panel A:

6. **Case 2019-007**
Nye County Management Employees Association et al. v. Nye County
Upon motion, the Board granted the Stipulation and Order to Amend Complaint.
7. **Case 2019-018**
Annette Shaw v. Nye County Employees Association
Upon motion, the Board granted the Motion to Dismiss Amended Complaint.

Panel C

Presiding Officer Cam Walker.

The following 1 item was for consideration by Panel C:

8. **Approval of the Minutes**
Panel C approved the minutes as presented for the panel meeting held January 29, 2020.

Panel D

Presiding Officer Brent C. Eckersley, Esq.

The following 2 items were for consideration by Panel D:

9. **Approval of the Minutes**
Panel D approved the minutes as presented for the panel meeting held January 14-15, 2020.

10. Case 2019-012

Luquisha McCray v. Clark County

Upon motion, the Panel granted the Motion for Leave to File Third Amended Complaint and thus rendered as moot Clark County's Motion to Dismiss Second Amended Complaint.

Panel E

Presiding Officer Brent C. Eckersley, Esq.

The following 1 item was for consideration by Panel E:

11. Approval of the Minutes

Panel E approved the minutes as presented for the panel meeting held January 28, 2020.

The Board Sitting *En Banc*

Presiding Officer Brent C. Eckersley, Esq.

The following 4 items were for consideration by the full Board:

12. Report of the Deputy Attorney General

Deputy Attorney General Donald Bordelove gave an oral report as to the status of cases on judicial review or at the Nevada Supreme Court, and other matters related thereto.

13. Report of the Commissioner

The Commissioner provided a status report on the implementation of state collective bargaining. He then explained that the budget process for the next biennium (July 1, 2021 to June 30, 2023) is beginning and asked for any comments or recommendations for items to request for the budget. There appeared to be a consensus to resubmit the request for a Board raise.

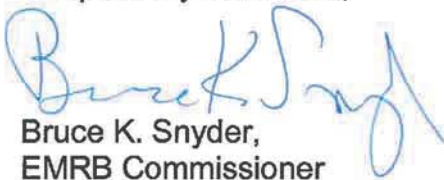
14. Additional Period of Public Comment

No public comment was offered.

15. Adjournment

There being no additional business to conduct, Chair Eckersley adjourned the meeting.

Respectfully submitted,


Bruce K. Snyder,
EMRB Commissioner