

City and Borough of Juneau Personnel Board
Wednesday, October 17, 2012, 12:00p.m.
City Hall Conference Room 224
Minutes

I. Call to Order: Chair Nicki Neal called the meeting to order at 12:00 p.m.

II. Roll Call / Introductions

Board Present: Brett Allio (joined meeting following motion adopting minutes), Max Mielke, Nicki Neal, and Judy Porter.

Board Absent: Donna Pierce.

Others Present: Amy Mead, Counsel to Personnel Board; Jake Metcalf, Executive Director, PSEA (telephonic); Stephen Sorenson, General Counsel, PSEA; Chris Gifford, JPD, PSEA President; Lee Phelps, JPD, PSEA Vice President; Mila Cosgrove, Human Resources and Risk Management Director; Greg Browning, Police Chief; Cindee Brown Mills, Administrative Manager; Kelly Mercer, HR Consultant II; Laurie Sica, Municipal Clerk.

III. Approval of Minutes

1. April 20, 2012 Personnel Board Meeting Minutes

MOTION, by Mielke, to approve the minutes. Seconded by Porter. Hearing no objection, the minutes of April 20, 2012 were approved.

IV. Public Safety Employees Association Unfair Labor Practice Complaint – Involuntary Transfer to Communication Center of Community Service Officers.

Ms. Neal said this was an investigatory meeting to learn more about the complaint, determine if there is a way to resolve the complaint, and if the parties are not able to come to an agreement, the Board would make a determination to move the issue to a hearing or to dismiss. The Board was not at the point of making any decision at this time. Ms. Mead said that the Board should determine whether the parties should be directed to meet separately from the Board to resolve the issue or after a certain period of time, the parties could not resolve, to set a hearing date.

Ms. Neal asked the parties to explain their positions. The Board had been provided with the PSEA letter dated October 9, 2012.

Mr. Sorenson said the ULP arose because of the desire of the Communication Center Supervisor to put in sufficient staff to properly cover shifts and reduce

overtime. PSEA does not oppose that, but it was a top down management decision to bring in Community Service Officers to cover those shifts without approaching PSEA and determining if this could happen. Despite best efforts of union to resolve this short of filing the ULP, we could not get there. Since the ULP has been filed, the management has backed off a bit and the bids for the various dispatch positions have now been opened to bid and have been bid, and it is no longer a mandatory situation but a voluntary situation, based on seniority, which is what we thought it should have been from the beginning. Mr. Sorenson said that due to this action, there is a way to resolve this short of the Board doing a full investigation. Given that the rules allow a 30-day window to reach an agreement, he proposed to take that time to sit with management and develop a memorandum of agreement, similar to the one developed when the management wanted to put police officers in the communications center, to cover the community service officers, which are another group of our members but not certified and not covered by the agreement. If the city was willing to sit down and negotiate that agreement with PSEA, they would welcome the opportunity.

Ms. Cosgrove distributed comments and said that CBJ did not believe an Unfair Labor Practice had occurred. CBJ was always happy to sit down and talk and had never refused to talk, so they were puzzled for the reason for taking board time for this matter. CBJ Ordinance 44.10.140 provided the grounds for an Unfair Labor Practice charge. She was not sure what PSEA's concern was, perhaps it was failure to bargain, but they did not cite that provision.

Ms. Neal said she had the same question.

Mr. Sorenson said he was citing section a., 1, 2 & 3. It was PSEA's intent that they thought that the city was "restraining or coercing an employee in the exercise of rights guaranteed by the chapter," and was discriminating on the employees based upon their membership in the organization and refused to bargain collectively regarding the issues raised.

Ms. Cosgrove said she adamantly denied that any of those things have occurred and had not discriminated against anyone – she was curious to know the substantive basis. She said that PSEA believes CBJ has a bargaining obligation and on page 3 of the charging document asserted that CBJ violated the National Labor Relations Act as well as the Public Employment Relations Act and she wanted to state in the record that neither of those two laws applied to CBJ. CBJ had a bargaining ordinance that applied to the city and although CBJ may look to those act's decisions, there was no way CBJ could have violated those acts as they did not apply. CBJ 44.10 defined the parameters of labor management relations and gave broad rights to management. Specifically with regards to the merit system, management had rights to determine the method, means and the personnel by which it conducts operations. This was essentially what happened and CBJ did not decline to discuss the issue with PSEA at any time or to bargain over required subjects if that became necessary. CBJ recognized the need to discuss impacts on employees

and had made a good faith effort to do that with PSEA but they had declined to follow up on the conversation that they have had to date. CBJ believed it had a right to assign any human resources within a bargaining unit relative to the work that exists. CBJ recognized that impacted rights under the contract that needed to be addressed, and CBJ also had an obligation to discuss with employees what impact there might be on their personal lives and she thought this had happened. Reassignment of staff resources was not taken lightly and not for any arbitrary or capricious reason. She said the dispatch center had been severely short staffed and it had an adverse spiraling effect on staffing because people were working 60-hour shifts and then when bringing new people on, they did not want to work 60 hours. Management was attempting to bring in people who had been dispatchers into the center temporarily to relieve some of the pressure. Specific to this issue there were two employees that received a temporary assignment that were unhappy with that. The third employee volunteered to take over a significant portion of the time. Ms. Cosgrove said that the employees that were unhappy brought their issues forward and management had tried to do its best to work with them to make it work. We are happy to talk but wanted to clarify that there was no requirement to bargain.

Mr. Sorenson said the issue was that the supervisor of the Communications Center said to the CSO's that there were shifts to fill and they would fill them, and did not ask if they were willing and if a schedule could be worked out, without membership or executive committee input.

Mr. Gifford said that was correct and the CSO's effected were told to fill the dates and not asked if they could work in a different job classification.

Mr. Sorenson said he communicated with Ms. Cosgrove, who told him after she investigated it that it had been resolved, but he found from members that it had not been resolved. PSEA felt that filing of a grievance and a ULP would be appropriate under the rules and the contract. The grievance was not filed due to a discussion between Jake Metcalf and Chief Browning. The ULP was filed and then some of the CSO's talked with the Chief. Mr. Gifford said the schedule was remedied. Mr. Sorenson said with the help of the Chief the immediate concern was resolved of the mandatory reassignment without discussion. The concern now was that this was the second time that the Communications Supervisor has made unilateral decisions without talking to the union or to the local executive committee about those changes. The first time the supervisor ignored a leave bid and put an intern into an open spot because a dispatcher had left, and nothing was filed at that time but it was a clear violation of seniority positions within the contract. He said it was incumbent upon the parties to discuss issues, in good faith and negotiate, and we think the ULP is valid and we also believe we can sit down and come up with an agreement in 30 days.

Ms. Cosgrove asked to clarify that the union believes that pieces of this discussion are mandatory subjects of bargaining, and the city distinctly differs on that. Fundamentally the CBJ maintains the right to assign and direct the workforce, and

CBJ will not bargain that issue as she was prohibited from doing so. She was happy to talk about the impact to employees of work assignment changes, but she did not believe if the contract was violated it was a ULP, it would be a grievance, and she was concerned that terms were being mixed.

Mr. Sorenson said that any time management made a unilateral decision that effected shifts, days of work, leave and seniority; those were issues that PSEA would respond to.

Ms. Neal asked about the 30-day timeline. Ms. Mead said that the Board could dismiss the ULP at this point if the Board determined that there was no failure to discuss, or the Board could extend the time for preliminary investigation to 30 days from the filing of the complaint to give the parties time to discuss, and then the Board could make a determination that there was a failure to discuss or dismiss at that point.

Ms. Neal said it appeared that Ms. Cosgrove offered to continue to talk on this issue but did not hear back from PSEA. Mr. Sorenson said that was correct, he was directed to draft a grievance and the ULP which was filed, then he left town.

Mr. Sorenson suggested the Board not make a decision regarding the ULP at this point but allow the parties 30 days to discuss and he believed an agreement could be reached and PSEA would file a motion to dismiss the ULP at that point.

Mr. Mielke said he was in favor of giving the parties 30 days for the parties to discuss the matter.

Ms. Porter agreed with Mr. Mielke's approach.

Ms. Neal agreed with this approach.

MOTION, by Mielke, to extend the preliminary investigation to November 12. Seconded by Porter. Hearing no objection, it was so ordered.

Ms. Mead said at that time the Board would need to make a determination on the preliminary investigation, regarding whether it should be dismissed or go to a hearing.

V. Agenda Items and Schedule for Next Meeting – No meeting set.

VI. Adjournment: 12:34 p.m.

Submitted by Laurie Sica, Municipal Clerk