



Amalgamated Transit Union

Local #1576 Newsletter

February 2009

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Website: www.atu1576.org

President's Report by Kathleen Custer, President/B.A.

NEGOTIATIONS UPDATE FOR *THREE OF FOUR* PROPERTIES

Community Transit:

I'd like to update you on the latest information regarding Community Transit contract

- Since our last meeting in January the negotiating team has prepared another proposal for CT relating to the infamous sick leave issue. We plan to meet again at the end of February to
- discuss this

proposal and to determine what the next step is. We are hopeful that CT will see the value in our proposal and that it is something they will find will benefit both parties. In that regard, I look forward to a productive meeting at the end of this month.

We have completed the list for arbitration issues which has been sent to PERC (Public Employees Relations Commission) who will be setting a date for arbitration. This date will be several months out but we are always optimistic that we will resolve our disputes prior to this. As I've said, it is

always progress that fact that we are meeting to negotiate the issues, so we remain hopeful.

Senior Services:

We continue to meet with the company and have finalized all but a couple outstanding issues, primarily economic in nature. Special thanks goes to Randy Ekstrand and Pat Fitzgerald for their hard work and dedication during these negotiations. We hope to have a proposal to present to our members soon. Stay tuned.

Tacoma First Transit:

The negotiating team will be meeting with First Transit, Tacoma in the next few weeks to present our proposal and to start the negotiations for a new Labor Agreement. We are hopeful that with the transition to new management we will see some positive changes and are looking forward to working towards making this happen.

Needless to say, being in negotiations with three of the four properties **in addition** to the daily effort's of 'putting out the fires', and keeping up with our ever growing membership, it's been a busier New Year already and promises to only get busier. I hope to have some good news to share soon in regards to all of these negotiations. Some good news would sure be welcomed about now.

Take care and be safe.

Kathleen



Vice President's Report by Rick Jurkovic, Vice President

Recently, while investigating a termination at First Transit in Tacoma, I discovered that our member's Weingarten rights had been violated more than once. In the first instance he had been his own worst enemy because he waived his right to representation. The employer then disciplined with a written warning rather than a verbal warning. Because this discipline was not grieved the employee had a progressive step of discipline on his record which should not have been there. Later as these progressive disciplines led to termination he was denied Union representation when he requested it. Fortunately all this was sorted out before he was terminated and his job was spared. I found a well written explanation of the Weingarten Rights on the internet and rather than re-invent the wheel I copied and pasted it here for you to read. Thank you to the Communication Workers of America Local 3603 of Charlotte, NC for posting this on their website.

Your Rights during Investigatory Interviews with the Company ...otherwise known as - - -" Weingarten Rights"

The National Labor Relations Act (NLRA) gives employees the right to assistance from union representation during investigatory interviews. Although not explicit in the Act, the right was declared by the US Supreme Court in 1975 in NLRB vs. J. Weingarten, Inc. The rules the court announced are known as Weingarten rights.

Employees sometime confuse the Weingarten rights with the Miranda rights. However, there is a big difference. Under Miranda rights, police who question criminal suspects MUST notify them of their rights to remain silent and to have an attorney present during questioning. Under Weingarten, employers have NO obligation to inform the employees of their right to Union representation. The employee must ask for Union representation.

An investigatory interview occurs when:

1. Management questions an employee to obtain information and
2. The employee has a *reasonable belief* that discipline or other adverse consequence may result from what he or she says.

Investigatory interviews relate to such subjects as: **absenteeism; accidents; compliance with work rules; damage to company property; drinking; drugs; falsification of records; lateness, poor attitude; poor work performance; sabotage; slowdowns; theft; violations of safety rules.**

Not every discussion with Management is an investigatory interview. For example, a Supervisor may speak to an Employee about the proper way to do a job. Even if the Supervisor asks the employee questions, this is not an investigatory interview as the use or possibility of discipline is remote.

However a routine conversation changes character if a Supervisor becomes dissatisfied with an Employee's answers and takes a hostile attitude. If this happens, the meeting becomes an investigatory interview and Weingarten rules apply.

When a Supervisor calls and employee to the office to announce a warning or other discipline that has already been decided it is not an investigatory meeting since the Supervisor is just informing the Employee of a previously arrived-at decision. Such a meeting becomes an investigatory interview, however, if the Supervisor asks questions that are related to the subject matter of the discipline.

Having a Steward present can help in many ways. The Steward can: serve as a witness to prevent Supervisors from giving a false account of the conversation; object to intimidating tactics or confusing questions; advise (when appropriate) an Employee against blindly denying everything thereby giving the appearance of dishonesty and guilt; help an Employee to avoid making fatal admissions; warn an Employee against losing his or her temper; raise extenuating factors.

The *Employee Rights* under Weingarten rules are as follows:

1. The employee may request union representation before or during the interview. Remember the company does not have to offer union representation.
2. After the request, the employer must choose from among three options.
 - Grant the request and **delay** questioning until the union representative arrives.
 - Deny the request and end the interview immediately.
 - Give the employee a choice of:
 1. Having the interview without representation (usually a mistake or the wrong choice) or
 2. Ending the interview (best choice if no union steward is coming) If the employer denies the request for union representation and questions the employee, it commits an unfair labor practice and THEN the employee may refuse to answer.

Although some supervisors sometimes try to assert that the only function of a steward at an investigatory interview is to observe the discussion in other words be a SILENT witness this is WRONG. The steward has the right to counsel the employee during the interview and to assist the employee to present the facts. Legal cases have established the following rights and obligations of the steward. When the steward arrives, the supervisor must inform the employee and the steward of the subject matter of the interview: for example, the type of misconduct, which is being investigated. (The supervisor does not, however, have to reveal management's entire case.)

(cont. on Back Page)



Snohomish County Labor Council Report**by Chris Brydges, ATU 1576 Representative to the SCLC**

On Wednesday, January 28th at 6:00 PM the Snohomish County Labor Council's first meeting of 2009 got under way with Lou Province from the Washington State labor Council explaining to us the differences between the Workers' Privacy Act and the Employee Free Choice Act. The Workers' Privacy Act will prohibit employers from compelling workers to attend **mandatory** meetings on matters of conscience: politics, religion, unionization and charitable giving. The Employee Free Choice Act would increase penalties for companies that violate workers' freedom while trying to form a Union and lets employees, not corporations, decide how a Union is formed, whether through majority sign-up or an election process. Both of these bills were to be heard on February 2nd in Olympia. For more information call 202-637-5018.

Representative Mike Sells talked about the state budget and the struggle to balance everything and told us it's expected to be this tight for the next three years. Are we surprised? NO!, so be prepared!!

Speaking of being prepared, did you know you can get free tax preparation and e-filing through the United Way of Snohomish County? That's right, **FREE**. Gotta love that. Call **2 1 1** for the site and dates nearest you or go to uwsc.org.

Rick Jurkovic gave an update on our lingering negotiations with CT and the informational picketing we put on to keep the council informed.

Suzanne Moreau from the Puget Sound Labor Agency, in Snohomish County, told us that their Operation Shortfall program helped twice as many families this January compared to January 2008 with utility bills and thanked everyone who helped and contributed to their year-round fundraising activities. She also informed us of the Volunteer Expo, Saturday, April 18th at the Everett Mall, 10 AM to 5 PM. The Letter Carriers Food Drive will be Saturday May 9th this year, so stock up.

If motorcycle riding is your thing, there is a charity ride on June 11th called the Route 66 Ride beginning at the Machinists' 751 Hall in Seattle. Their goal is to raise \$66,000. Call Suzanne at 425-252-1112 for more information on these and other events.

A little food for thought from F. Scott Fitzgerald: "It's not a slam at you when people are rude, it's a slam at the people they've met before".

There you go.
Until next time, take it easy.
Chris Brydges



I found this quote. A little something to think about the next time you have a difficult decision to make.
"Courage and perseverance have a magical talisman, before which difficulties disappear and obstacles vanish into air."

Another thought: "Trust yourself; you know more than you think!!"

Have a good one.
John.



Know Your By-Laws by Patrick Fitzgerald, ATU 1576 Executive Board Officer, Senior Services

Union members need to understand the governing documents which bring order to their working world. The first, and most commonly referenced, is the individual Collective Bargaining Agreement (CBA). The CBA is the agreement between the Union (you) and your employer. It lays out working hours, working conditions, vacations, leave, rights, benefits, pay, and punishment. Another document is the ATU International Constitution and General Laws. It is less well known among the general membership, but lays the groundwork for the third document which will be discussed herein. The third important Union document is the local chapter By-Laws and Rules of Order. This document explains the rules and relationships within the respective chapter. All the documents mentioned are “living documents”. They are revised on a regularly scheduled basis, or amended as circumstances dictate. They are Democratic documents in that all changes must be voted on and approved by the membership.

The By-Laws and Rules of Order of ATU Local 1576 should be read by every member. Article 1 establishes the local and its relationship to both ATU international and the AFL-CIO. Article 2 states the objectives of the By-Laws: legality, independence, Democracy. Article 3 discusses the manner of changing the By-Laws. Article 4 is extremely important to read, understand and abide. It discusses the union’s Code of Conduct.

A Code of Conduct is a daunting and perilous thing. It lays down the ethical foundation for interpersonal relationships within the Union and external relations with the employer and public at large. Number one rule: solidarity! This is not a simple catch phrase to use on the picket line. It means standing united with a solid front. No discrimination, no profiting from Union position or title, no reporting on fellow members unless required to by job description, no griping about the Union outside of membership meetings (especially not in front of the Employer!), paying your dues, attending membership meetings, and generally staying informed about what’s going on!

Article 5 lists the local officers and committees. Experience has shown that each of these positions is critical to the effective functioning of the local. Some of the committee positions are appointed. Running for, and assuming the duties of one of these positions is the best way to have an impact on the direction and functioning of the Union. The local is chronically short of members willing to step up and “put their money where their mouth is”! Your current Officers have done a great job in keeping this Union in effective functioning order despite this. Article 7 lists the duties and responsibilities of the individual elected positions. Article 8 discusses responsibilities, attendance and resignation procedures. Article 9 reviews grievances. Article 10 talks of initiation fees and membership. Article 11 covers dues. Articles 12, 13 and 14 cover the duties of members, meetings, and rules of order. Article 15 reviews election procedures and Article 16 the process of amending the by-laws. Article 15 has special significance.

The United States prides itself on being the “birthplace” of Democracy; however, there is only one institution in the American working world which is truly Democratic, and that is your Union. Union members vote to organize a union, to elect their officers, and to accept their contract. How many workers get to select their CEO’s or Supervisors? The Union only works with your participation, and acts with your approval. Understanding the Local By-laws and getting involved in Union functions can only serve to enhance your Local’s effectiveness and improve your quality of life. **Please know your By-laws!**



Commentary by John Sainz, Recording Secretary

The **Family and Medical Leave Act (FMLA)** was created to help employees balance their work and family obligations by taking **reasonable** leave for certain family and medical reasons. Covered employers must grant an eligible employee up to a total of 12 work weeks of leave during any 12 month period for one or more of the following reasons: 1) to take medical leave when the employee is unable to work because of a serious health condition; 2) to care for an immediate family member (spouse, child or parent) with a serious health condition; 3) for the birth and care of the newborn child of the employee; 4) or for the placement with the employee of a son or daughter for adoption or foster care. To qualify for FMLA, you must have worked 1250 hours in the preceding 12 months. **The leave may be continuous, intermittent or both.**

FMLA requires that group health benefits be maintained during the leave. There is FMLA paperwork for your doctor to fill out, which you can obtain from HR. **Do not just give this paperwork to your doctor.** In the past, doctors have left off, inadvertently, information that is necessary to qualify. I strongly recommend you **READ** and **DISCUSS** the paperwork with your doctor.

An important amendment was made to the Family and Medical Leave Act on January 28, 2008. This amendment now permits a spouse, son, daughter, parent or next of kin to take up to 26 work weeks of leave to care for a member of the Armed Forces. It is also important to note that some employees may also be entitled to protections provided by the Americans with Disabilities Act (ADA) or, in our case, the Washington law Against Discrimination (WLAD).

Please note, the Family and Medical Leave Act **DOES NOT** protect you if it can be determined you are abusing it. The act was created to prevent employers from firing employees for having to take care of family members or while the employee is temporarily unable to perform his/ her job. This is a long and hard fought victory for workers. Let's not provide employers with the ammunition to work to have this law severely amended or, worse, repealed.

Without FMLA, I wouldn't have been able to take some time off to help my mom care for my dad in the first few days after his stroke before my sister could arrive to take over without fear of losing my job. The act also prevented CT from taking action when my wife had an intermittent medical problem until she was able to have it corrected.



Financial Secretary/Treasurer's Report by Patty Ceis

"Union" Dental Plan

Sunrise Dental approached us recently and after several meetings and some discussions, they wrote a newsletter article which we published in the December issue. In it they claimed they would "take our dental insurance as full payment." Then I got a call last week that has prompted reconsideration of promoting their business through our Local.

So, after doing further research, and discovery of a couple other items of interest I received from the Carpenters' Union here in our building, we officers have decided that we will choose **not** to affiliate our Local with Sunrise Dental, Union or not.

If you have already been to Sunrise Dental because of reading the article put out in our Local newsletter, please be sure you understand exactly what their charges will be before you proceed. If you would like any more details, please feel free to contact me.

Patty Ceis
Financial Secretary/Treasurer



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WEINGARTEN RIGHTS

“If this discussion could in any way lead to my being disciplined or terminated, or affect my personal working conditions, I respectfully request that my Union Representative, Officer, or Steward be present at this meeting. Without representation present, I choose not to participate in this discussion.”

Upcoming Charter Meetings

**Sunday March 15, 2009 @ 1:00 P.M.
(2810 Lombard, Everett)**

**Sunday March 15, 2009 @ 5:30 P.M.
(IBEW Hall, 3049 S. 36th, Tacoma)**

**Tuesday March 17, 2009 @ 10:00 A.M.
(2810 Lombard, Everett)**

Vice President’s Report (cont.)

The steward can take the employee aside for a private pre-interview conference before the questioning begins. Also, the steward can speak during the interview. (But, the steward has no right to bargain over the purpose of the interview or to obstruct the interview). When the questioning ends, the steward can provide information to justify the employee’s conduct.

Please read the words above this article and know your rights!!!!



Amalgamated Transit Union

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