



Local 562

**TRANSPORT WORKERS UNION OF AMERICA
AFL /CIO**

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Dear Brothers and Sisters of Local 562;

December 9, 2009

On Monday the NMB conducted hearings related to its proposal to correct the long standing practice whereby the NMB counts all votes that were not cast as NO votes in representational elections. Often the NMB included dead people, furloughed people, management and even people who never even worked for the company as part of the pool of possible voters. They worked off lists provided by the carriers. This "higher standard" as the pro-management people called it, has helped stifle organizing in this industry for decades. Under the proposal only votes that were cast would be counted. Since it still takes 50% plus one to get an election (of what the company claims makes up the class and craft) representation elections would still be very challenging for unions but the counting of only cast votes makes it much more Democratic than it is now.

Approximately 30 individuals, some as representatives of organizations, some who claimed to be acting of their own accord and some who most likely were, each were given approximately 10 minutes to speak. It was pretty much one against for one in favor. There was no debate, just statements from each person.

The first speaker was a lawyer from the airline lobbying group the ATA, his name is Robert Siegal. Mr Siegal challenged the boards right to make such changes, that they gave inadequate notice and that they should stay with the process that has worked so well (for the carriers) for the last 75 years.

The next speaker was Ed Wytkind from the Transportation Trades Division of the AFL-CIO. His comments are available at the TTD website. He argued that the system currently in place under the NMBs rules are unfair and onerous to workers who want representation. He was in favor of the proposal

Wytkind was followed by Joanna Moorhead from a railroad Lobbying organization. She laughably spoke of the NMBs reputation for "Neutrality". Hmmm, let's see, when carriers are in a position to bust unions and slash wages the NMB releases them right away (Continental, EAL, NWA 2005) but when workers are in a position to make gains they tell the workers "lower your demands or we will never release you"(NWA 2000). Does that sound like they've been neutral? She claimed that the change could destabilize the industry and could increase the frequency of election campaigns.

That's pretty much how it went. Most of the statements were pretty similar. Here is a list of the organizations who were represented and where they stood;

Against making Representational Elections Democratic

Air Transport Association of America (airline PAC)
National Labor Railway Labor Conference(Corporate Association)
AirCon (Airline union busting firm)
Delta Airlines
US Chamber of Commerce (anti union division of the government)
Ford & Harrison LLC (a legal firm that specializes in screwing workers)
Regional Airline Association (regional airline PAC)

American Short Line and Regional Railroad Association
Airline Services Council of Nat'l ATA
Littler Mendelson P.C. (another union busting legal firm)
National Right to Work Legal Foundation.

For Making Representational Elections Democratic

TTD AFL-CIO
ALPA
IAM
AFA-CWA
TCIU-IAM
TWU
Cornell University
IBT
David Bohem-Skywest Pilot
Samuel Berry-NWA/Delta FA

I didn't list those who testified against the change who listed their affiliation as "Self" because it was pretty clear that their employer sent them. The pro-democracy individuals said they were there on their own dime, none of the anti-democracy "self" affiliated speakers made that claim.

The majority of the observers were Delta/NWA Flight Attendants. There were more than what was expected so they had the overflow sit in two other rooms and observe though closed circuit TVs. This change would directly affect the Delta/NWA Flight Attendants as they are waiting till the rule takes effect before they file. With all the turmoil between the merger, the economy and furloughs it's likely that a large number of potential voters would never even receive ballots, but, they all would be counted as NO votes under the current system, making it nearly impossible to win an election.

The anti-democracy argument centered around a few key points, some were repeated over and over again while others were only brought up by one or two speakers. Here are the main points that the anti-democracy brought forward;

- Current rules have been in effect for 75 years (so, that makes it right?)
- Inadequate Notice (they didn't specify what they felt would have been adequate)
- NMB overstepping its authority (the law says majority, it allows the NMB to determine the process)
- Change will create Instability (change only covers representational elections, the RLA remains the same)
- Change will destroy Board Reputation for Neutrality (proposed rule is similar to current NLRB rules)
- Change does not include rules for Decertification like NLRB rules

Basically the anti-democracy speakers, lead by lawyers and lobbyists for the air and rail industries said that dead people, people who never worked for the company, laid off workers who could not be tracked down should all continue to be counted as NO votes because the purpose of the RLA is to give the airlines a stable workforce. They said that the current rules have worked very well for the last 75 years (well for the carriers that is). Some claimed that the board didn't have the authority to change the rules regarding elections even after several examples were given where the courts stated that the board does have that right. The anti-democracy forces also stated that it would be unfair for workers to be represented by a union unless the majority of those whom the NMB declares as eligible (dead people, furloughed people, management, etc) actually voted in favor of a union, that in order for a union vote to pass the majority of those eligible to vote must vote yes or it should be assumed they voted NO. The anti-democracy camp argument overall was very weak, The only point that held validity was the lack of decertification language, similar to the NLRB rules. If we are to adopt the more Democratic election process for bringing in representation the workers should also have the right to remove them under the

same standards. That argument however is not grounds to reject the proposal, maybe they should seek to amend it.

The pro-democracy speakers led by the unions, made up of officers and rank and file airline workers, instead of lawyers, made a much more convincing argument against counting non-cast ballots as No votes. Flight attendants from Delta/NWA testified as to how the carrier would interfere with representational elections. One thing Delta does is it makes sure the seniority list is not made available to workers. They could view the list where they were stationed but could not have a copy. A former Delta Flight Attendant Supervisor who became an AFA organizer testified how Delta hired "union avoidance firms" and how these firms would teach supervisors how to intimidate workers. Corporate interference coupled with the high threshold to determine a majority and the company's ability to inflate those numbers has made organizing at Delta very difficult. The NMB rules are the only place where such a bias toward NO exists. We don't hold local politicians to such standards. In every other industry they don't have such a standard. The rules were never fair, and after 75 years its about time they were corrected.

What makes this critical to us is the way the rule will affect the elections at Delta. It's in our best interest that Delta workers get organized or at least come very close to getting organized. Delta has a long history of keeping unions off the property through intimidation, misrepresentation or giving raises that bring their workers to the top of the industry. Right now Delta is one of the few carriers that makes less than we do. If Delta feels that they could once again defeat an organizing drive by giving raises it helps us, if not, the union will go for them, that also helps us. However they get their wages up, either through collective bargaining or as a bribe to keep the union out, it puts us in a better bargaining position when yet another carrier that went Bankrupt pays their workers better than American..

Attached is the official list of the speakers. I had to leave so I was not present after the 1500 break. I wrote brief notes for all the speakers that I witnessed if anyone has any specific questions on what any of them said.

Fraternally:



Bob Owens
President Local 562

NMB Open Meeting Speakers List

Start	Name	Affiliation
9:10	Robert Siegel	Air Transport Association of America
9:20	Edward Wytkind	Transportation Trades Department, AFL-CIO
9:30	Joanna Moorhead	National Railway Labor Conference
9:40	John Prater	Air Line Pilots Association International
9:50	Robert DeLucia	Airline Industrial Relations Conference
10:00	Robert Roach	Int'l Association of Machinists and Aerospace Workers
10:10	Jack Gallagher	Delta Air Lines
10:20	Carmen Parcelli	Transportation Trades Department, AFL-CIO
BREAK		
10:40	Randel Johnson	US Chamber of Commerce
10:50	Marianne Bicksler	Association of Flight Attendants - CWA
11:00	Sandy Gordon	Delta Air Lines
11:10	Joel Parker	Transportation Communication International Union / IAM
11:20	Candace Bruton	Self
11:30	John Conley	Transport Workers Union
11:40	Edward Bahmer	Self
11:50	David Bourne	International Brotherhood of Teamsters
LUNCH		
13:00	Claude Sullivan	Ford & Harrison LLC
13:10	Janette Rook	Association of Flight Attendants
13:20	Douglas Hall	Regional Airline Association
13:30	Kate Brofenbrenner	Cornell University
13:40	Keith Borman	American Short Line and Regional Railroad Association
13:50	John Murphy	International Brotherhood of Teamsters
14:00	Roger Briton	Airline Services Council of Nat'l Air Transportation Assc.
14:10	David Boehm	Self
14:20	Donald Maliniak	Littler Mendelson P.C.
14:30	Sandra Josephson	Communication Workers of America, Local 6001
14:40	David Livingston	Self
14:50	Samuel Berry	Self
BREAK		
15:10	Beth Graham	Self
15:20	Russel Rego	International Brotherhood of Teamsters
15:30	Raymond LaJeunesse	National Right to Work Legal Defense Foundation, Inc.
15:40	Reginald Robinson	International Brotherhood of Teamsters
15:50	James Dolezal	International Brotherhood of Teamsters