

MINUTES OF SPECIAL MEETING  
NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION  
April 10, 2014  
10:30 a.m.  
495 West State Street  
Trenton, New Jersey

The meeting was called to order by Chair P. Kelly Hatfield.

Present were:

Commissioners:

John Bonanni  
Paul Boudreau  
John H. Eskilson  
Paula B. Voos  
Richard Wall

Also present were:

David Gambert, Deputy General Counsel  
Mary E. Hennessy-Shotter, Deputy General Counsel  
Christine Lucarelli-Carneiro, Deputy General Counsel  
Martin R. Pachman, General Counsel  
Kellie Hullfish, who acted as Stenographer

At the commencement of the meeting, Chair Hatfield, pursuant to section 5 of the Open Public Meetings Act, entered this announcement into the minutes of the meeting:

Adequate notice has been provided by the dissemination of a written "Notice of Special Meeting."

On April 3, 2014 a copy of such notice was:

- (a) prominently posted in a public place at the offices of the Public Employment Relations Commission;
- (b) sent to the business offices of the Trenton Times, the Bergen Record, and the Camden Courier Post, as well as to the State House press room addresses of 25 media outlets;
- (c) mailed to the Secretary of State for filing; and
- (d) posted on the agency's web site.

A roll call was initiated to confirm the Commissioners that were present and participated via the telephone conference call. Commissioner Jones did not call in and was not present.

The first case for consideration was the draft decision in County of Morris, Morris County Sheriff's Office and PBA Local 298, Docket No. IA-2012-035. Commissioner Voos moved the draft decision and Commissioner Boudreau seconded the motion.

Chair Hatfield stated the Doctrine of Necessity would have to be invoked for this decision. Chair Hatfield read the Doctrine of Necessity.

Chair Hatfield asked each Commissioner to state why they are recused and to take a vote on that.

Commissioner Eskilson stated he is recused because Council to Morris County, a member of the firm Trimboli & Prusinowski, and also serves as labor council to Sussex County.

Commissioner Bonanni stated the matter is a correctional officers contract and the Morris County Corrections Officers report to the Freeholder Board and I am the County Administrator which would typically be a conflict.

Commissioner Boudreau stated he is a member of the Morris County Economic Development Corporation which is a private public partnership between the Chamber of Commerce and the Freeholders in Morris County and the Freeholders fund a portion of the

Economic Development Corporation which is part of the Chamber and I am President of the Chamber.

Commissioner Wall stated that the recusal he has is two really, the first one being that its a PBA matter as a union representative of a PBA I should be recused for that and the second is that as the Undersheriff of Morris County Sheriff's Office I am the second in charge, so this is a direct effect on me.

The motion to vote on the Doctrine of Necessity. Commissioner Bonanni moved and Commissioner Boudreau seconded. The motion to adopt the Doctrine of Necessity was approved by a vote of six in favor (Chair Hatfield, Commissioners Bonanni, Boudreau, Eskilson, Voos and Wall). Commissioner Jones was not present.

Commissioner Voos moved the draft decision and Commissioner Boudreau seconded the motion.

Commissioner Bonanni stated he is voting no on this for those three specific reasons. Honestly my takes a little different than what I am reading. The Appellate Division affirms the arbitrator's salary increases for 2012 and 2013 and concluded that they met the non-statutory criteria but clearly that the 2011 award from the Mason award did not. As it pertains to the cap law, I think that I believe the way it is laid out that we are skirting the whole cap law. The contract concluded before

the cap law takes effect and now this is taking it beyond the cap law so clearly its exceeding and the law never intended that to happen. Lastly, the mathematical calculations with all due respect to Arbitrator Osborn are erroneous. You can't just take a step movement that she looked and extrapolate that the way the arbitrator did. In addition when she referred to recent settlements in the PBA Sheriff's Office, Sheriff's Corrections and Correction Superiors, Sheriff's Superiors and Correction Superiors she notes that they were over 2%. I get that point but what she fails to do is understand that they were over the 2% because the bargaining units gave up life time health care prospectively for new employees so she is awarding what, she's using that as a basis for awarding it but she's not taking away lifetime health care for new employees. So for those reasons I really want to strongly disagree with the award as its written and my vote will be no.

Commissioner Eskilson stated he is also going to vote no on this for similar reasons but let me just lay them out. One, I think the Court remand decision is about 13 pages long, four of those as I count them have to specifically with the 2011 increment. It is pretty clear the remanding deals with that. It seems to me that our dealing with that says, well we can't because intuitively we know it will effect everything else and we kind of leave it there. I don't really think that's developing

the record in the way the Court may have envisioned so I think we kind of punted on that and I think there's more work to be done there. On the internal comp, I clearly think the 2% cap calculation doesn't apply in this case as per the statute but where it does apply, the 2% always was used as a calculation in the other bargaining units as I understand it. So that sets the standard for the internal comp so it can be used and should be used as an internal comp methodology to compare against the other bargaining units settlement. The arbitrator appears to say that the 2011 increment exceeds 4% and those other bargaining agreements were under 2% math, I think it clearly applies in applying the internal comp standard. And lastly on the four year provision, I think there is a lack of critical evidence. The arbitrator seems to opine that this should be a four year contract because it makes sense with the other bargaining units terminating at the same time. That isn't the case in a lot of places including here where contracts expire annually. So I don't find that a credible argument and I don't agree so for these reasons I'm going to be voting no on this matter.

Commissioner Voos stated she would be voting yes because she doesn't think that we can act as an arbitrator. This has already been sent back. We have already done a different arbitrator. I think we have to give arbitrators some capacity to weigh in, in

their judgment with appropriate explanation under the law and I believe this arbitrator did do that.

Commissioner Wall stated he will be voting yes on very much the same reasons that Paula said, that this case has been asked and answered several times. I think this decision is accurate in what it's saying so I think I'm going to be voting yes.

Commissioner Boudreau stated he will be voting yes.

The motion to adopt the draft decision was approved by a vote of four in favor (Chair Hatfield, Commissioners Boudreau, Voos and Wall) and two opposed (Commissioners Eskilson and Bonanni).

The last case for consideration was the draft decision in Newark Housing Authority and Skilled Trades Association Inc. and Newark Housing Authority Layoff - 2010, OAL Docket No. PRC 02872-11 & PERC Docket No. CO-2010-487; OAL Docket No. CSV 09080-10 & Agency Docket No. 2010-4005. Commissioner Voos moved the draft decision and Commissioner Eskilson seconded the motion.

The motion to adopt the draft decision was approved by a vote of six in favor (Chair Hatfield, Commissioners Bonanni, Boudreau, Eskilson Voos and Wall). Commissioner Jones was not present.

Commissioner Eskilson made a motion to adjourn the meeting and Commissioner Bonanni seconded the motion. The motion was unanimously approved. The meeting was then adjourned.

The next regular meeting is scheduled to be held on  
Thursday, April 24, 2014.