

MINUTES OF MEETING
NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION
May 29, 2008
10:00 a.m.
495 West State Street
Trenton, New Jersey

The meeting was called to order by Chairman Lawrence Henderson.

Present were:

Chairman: Lawrence Henderson

Commissioners:

Kirsten S. Branigan
Cheryl G. Fuller
Pierre D. Joanis
Matthew U. Watkins

Also present were:

Mary Beth Hennessy-Shotter, Deputy General Counsel
Don Horowitz, Deputy General Counsel
Ira Mintz, General Counsel
Annette Thompson, who acted as Stenographer

At the commencement of the meeting, the Chairman, 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 "Annual Notice of Meeting."
On December 20, 2007 a copy of such notice was:

(a) prominently posted in a public place at the offices of the Public Employment Relations Commission;

(b) mailed to the business offices of the Trenton Times, the Bergen Record, and the Camden Courier Post, as well as to the State House press row addresses of 25 media outlets; and

(c) mailed to the Secretary of State for filing.

Furthermore on April 22, 2008, copies of an additional written "Notice of Meeting" were posted and mailed in a similar manner.

Chairman Henderson called the meeting to order. The first item for consideration was the minutes of the April 24, 2008 meeting. A motion to adopt the minutes was made by Commissioner Watkins and seconded by Commissioner Branigan. The motion was unanimously approved (Chairman Henderson, Commissioners Branigan, Fuller and Watkins). Commissioner Joanis abstained.

Chairman Henderson noted a packet of materials that had been distributed to the Commissioners. This information was supplied to the Assembly Budget Committee, per their request, following the testimony before them in early May. Chairman Henderson stated that the committee appeared to be particularly interested in mediation and interest arbitration. A detailed discussion ensued.

The General Counsel distributed his monthly and supplemental reports. He reported on the Appellate Division's affirmance of the Commission decision in State of NJ (Department of Corrections) and PBA Local 105. This case involved whether employees who worked during the State shutdown in July of 2006 were entitled to compensatory time. The regulation said no, the Commission said no and the court affirmed. In another case, Somerset Cty. Sheriff's Office and FOP Lodge No. 39, the Appellate Division reversed and remanded. This decision was not part of the litigation we were involved in. This case involved the appeal of an order denying counsel fees. The Commission did

affirm the interest arbitration award. The County did not implement the award. The Court ruled that counsel fees and interest would have to be paid. The Court stated that the obligation to implement is on the employer after an award issues and is affirmed by the Commission.

The first case for consideration was North Hudson Regional Fire and Rescue and North Hudson Fire Officers' Association, Docket No. CO-2008-242. Commissioner Fuller moved the draft decision and Commissioner Watkins seconded the motion. Commissioner Branigan recused herself because she has considered litigation with North Hudson. The motion was unanimously approved (Chairman Henderson, Commissioners Fuller, Joanis and Watkins).

The next case for consideration was Rutgers, The State University and Rutgers Council of AAUP Chapters, AAUP-AFT, Docket No. SN-2007-055. Commissioner Watkins moved the draft decision and Commissioner Fuller seconded the motion. Commissioner Branigan asked whether allowing this to go to arbitration would limit the University's ability to distribute materials if there was a complaint of harassment or discrimination. Chairman Henderson responded that the decision would not stop the University from coming back to us to challenge restriction on their ability to distribute in a particular case. We would apply the balancing act in each individual case. Chairman Henderson

noted that one of the issues involved is the applicability of the contract provision to the dispute. The union says it does apply and the University says it does not, and we are saying that an arbitrator should make that call to interpret their contract. The motion was unanimously approved (Chairman Henderson, Commissioners Branigan, Fuller, Joanis and Watkins).

The next case for consideration was County of Passaic (Preakness Healthcare Center) and AFSCME, Council 52, Local 2273, Docket No. SN-2008-010. Commissioner Fuller moved the draft decision and Commissioner Watkins seconded the motion. The motion was unanimously approved (Chairman Henderson, Commissioners Branigan, Fuller, Joanis and Watkins).

The next case for consideration was Monmouth County Sheriff's Office and Monmouth County Sheriff's Officers, P.B.A. Local 314, Docket No. SN-2008-052. Commissioner Watkins moved the draft decision and Commissioner Joanis seconded the motion. Commissioner Branigan recused herself because the NJ Women Lawyer's Association had sent an endorsement letter on behalf of the Monmouth County Sheriff. Commissioner Branigan serves as the President of that Association. The motion was unanimously approved (Chairman Henderson, Commissioners Fuller, Joanis and Watkins).

The next case for consideration was South Plainfield Board of Education and South Plainfield Education Association, Docket No. SN-2008-057. This case has been withdrawn.

The last case for consideration was Atlantic County Prosecutor's Office and Atlantic County Prosecutor's Superior Officers, P.B.A. Local #77, Docket No. SN-2008-062. Commissioner Watkins moved the draft decision and Commissioner Branigan seconded the motion. The motion was unanimously approved (Chairman Henderson, Commissioners Branigan, Fuller, Joanis and Watkins).

The next item for discussion was the Consideration of Appointment of Joseph Licata to the Special Panel of Interest Arbitrators. Commissioner Fuller moved for discussion and Commissioner Watkins seconded. Commissioner Fuller asked about the basis of the recommendation. Chairman Henderson responded that he had applied and he has been in practice for a number of years. Also, in order to be placed on the panel, a certain level of experience is required as a neutral. General Counsel Mintz stated there is a packet that was submitted for consideration which contains his writings and awards that is submitted to satisfy the standards in the application process which is set by the rules. Commissioner Branigan stated she has had some personal experience with Joe Licata. Commissioner Fuller mentioned that when she worked for Englewood she believes Mr.

Licata handled a grievance. She was not absolutely sure if it was the same gentlemen. She asked if that would be a basis for her to recuse herself. Commissioner Branigan stated that she was involved in an arbitration with him also. Commissioner Fuller asked if he was considered a staff member. Chairman Henderson responded that he was not but this could be considered a personnel matter. Commissioner Fuller made a motion to go into Executive Session and Commissioner Watkins seconded the motion. The motion was unanimously approved.

Commissioner Watkins made a motion to table consideration of the appointment of Joe Licata to the Special Panel of Interest Arbitrators until the June 26, 2008 meeting so that the Commissioners could review his entire application background materials. Commissioner Fuller seconded the motion. The motion was unanimously approved (Chairman Henderson, Commissioners Branigan, Joanis, Fuller and Watkins).

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

The next meeting is scheduled to be held on Thursday, June 26, 2008 at 10:00 a.m.