

MINUTES OF MEETING
NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION
April 30, 2009
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:

Donald J. Buchanan
Patrick V. Colligan
Cheryl G. Fuller
Pierre D. Joanis
Matthew U. Watkins

Also present were:

Don Horowitz, Deputy General Counsel
Christine Lucarelli-Carneiro, 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 18, 2008 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; and

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

Furthermore on April 23, 2009, copies of an additional written "Notice of Meeting" were posted and sent in a similar manner.

Chairman Henderson called the meeting to order. The first item for consideration was the minutes of the March 26, 2009 meeting. A motion to adopt the minutes was made by Commissioner Buchanan and seconded by Commissioner Fuller. The motion was unanimously approved (Chairman Henderson, Commissioners Buchanan, Colligan, Fuller and Joanis). Commissioner Watkins abstained.

The Chairman thanked the Commissioners for their attendance at the PERC conference and the staff for a job well done.

The General Counsel distributed his monthly and supplemental reports. He reported on a case involving Linden Bd. of Ed., which was a review of a grievance arbitration award. The arbitrator found just cause for the termination, but then found that the penalty was too great and thus reduced the penalty. Noting the absence of a progressive discipline clause, the Court said this could not be done. Finding "just cause" for a termination meant the penalty could not be reduced.

He continued by reporting on a case involving City of Vallegjo where a California bankruptcy court, for the first time, held that a municipality that goes bankrupt can abrogate a labor agreement. This case will likely go up to the Court of Appeals.

The next case reported on was Nini v. Mercer County Community College, a Law Against Discrimination ("LAD") case. The LAD exempts individuals over 70 from coverage for hiring and promotion, but not for termination. This case involves a non-

renewal and the Court held that if a non-renewal is based on age, it is the same thing as a termination under the LAD.

He concluded by reporting on the case involving an emergency temporary layoff rule where the Appellate Division, in a preliminary decision, enjoined a portion of the implementation of the Civil Service Commission's emergency rules on staggered furloughs. The Court allowed the emergency rule on complete shutdown layoffs to go forward and transferred to this Commission the question of whether staggered layoffs are negotiable or not.

The first case for consideration was Sussex County Community College and Sussex County Community College Adjunct Faculty Federation and Joan Stephenson, Docket No. CI-2009-001.

Commissioner Watkins moved the draft decision and Commissioner Joanis seconded the motion. The motion was unanimously approved (Chairman Henderson, Commissioners Buchanan, Colligan, Fuller, Joanis and Watkins).

The next case for consideration was Communications Workers of America (Local 1039) and George Ekemezie, Docket No. CI-2009-009. Commissioner Fuller moved the draft decision and Commissioner Colligan seconded the motion. The motion was unanimously approved (Chairman Henderson, Commissioners Buchanan, Colligan, Fuller, Joanis and Watkins).

The next case for consideration was State of New Jersey (Juvenile Justice Commission) and Communications Workers of

America, Local 1040, Docket No. CO-2007-040. Commissioner Fuller moved the draft decision and Commissioner Watkins seconded the motion. The motion was unanimously approved (Chairman Henderson, Commissioners Buchanan, Colligan, Fuller, Joanis and Watkins).

The next case for consideration was State-Operated School District of the City of Paterson and Paterson Education Association, Docket No. SN-2009-006. Commissioner Watkins moved the draft decision and Commissioner Joanis seconded the motion. Commissioner Colligan recused himself because one of the law firms involved in this case represents the State PBA. The motion was unanimously approved (Chairman Henderson, Commissioners Buchanan, Fuller, Joanis and Watkins).

The next case for consideration was Neptune Township Board of Education and Neptune Township Board of Education, Docket No. SN-2009-021. Commissioner Fuller moved the draft decision and Commissioner Joanis seconded the motion. The motion was unanimously approved (Chairman Henderson, Commissioners Buchanan, Colligan, Fuller, Joanis and Watkins).

The next case for consideration was Township of Edison and Policemen's Benevolent Association, Local #75, Inc., Docket No. SN-2009-025. Commissioner Joanis moved the draft decision and Commissioner Buchanan seconded the motion. Commissioner Colligan recused himself because of his affiliation with the PBA. Commissioner Watkins stated that he objected to the decision. A

detailed discussion followed pertaining to performance standards and whether counseling could be considered non-disciplinary. The motion was approved by a vote of four in favor (Chairman Henderson, Commissioners Buchanan, Joanis and Fuller), and one opposed (Commissioner Watkins).

The last case for consideration was Township of Edison and International Association of Fire Fighters, Local No. 1197, Docket No. SN-2009-028. Commissioner Buchanan moved the draft decision and Commissioner Colligan seconded the motion. Chairman Henderson recused himself because he was involved in mediation efforts to resolve disputes between the parties. Commissioner Joanis recused himself because he is involved in a proceeding with the attorneys for IAFF. The motion was unanimously approved (Commissioners Buchanan, Colligan, Fuller and Watkins).

The next item for consideration was the Proposed Readoption, with Amendments, of Chapter 10 of the Commission's Regulations. A motion to readopt the proposed rules was made by Commissioner Watkins and seconded by Commissioner Fuller. The motion was unanimously approved (Chairman Henderson, Commissioners Buchanan, Colligan, Fuller, Joanis and Watkins).

The last item for consideration was the Proposed Temporary Adoption of N.J.A.C. 19:12-6.1 through 19:12-6.8, to implement P.L. 2009, c. 16 §§10, 11 and 12 providing for binding arbitration of disciplinary terminations of non-civil service law

enforcement officers and firefighters, where the terminations do not involve alleged violations of any criminal law. A motion to adopt the proposed temporary rules was made by Commissioner Fuller and seconded by Commissioner Watkins. The motion was unanimously approved (Chairman Henderson, Commissioners Buchanan, Colligan, Fuller, Joanis and Watkins).

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

The next meeting is scheduled to be held on Thursday, May 28, 2009 at 10:00 a.m.