

MINUTES OF MEETING
NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION
May 28, 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:
Kirsten S. Branigan
Donald J. Buchanan
Patrick V. Colligan
Cheryl G. Fuller
Pierre D. Joanis

Also present were:

Mary E. Hennessy-Shotter, Deputy General Counsel
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 May 21, 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 April 30, 2009 meeting. A motion to adopt the minutes was made by Commissioner Buchanan and seconded by Commissioner Joanis. The motion was unanimously approved (Chairman Henderson, Commissioners Buchanan, Colligan, Fuller and Joanis). Commissioner Branigan abstained.

The General Counsel distributed his monthly and supplemental reports. He reported on the Appellate Division decision involving Rockaway. In this Commission decision, the union was permitted to arbitrate its grievance claiming that the employer had breached the contract when co-pays for NJ Plus and HMO in the State Health Benefits Program were increased. The decision left open the question of whether or not the employer could reimburse employees for the difference in co-pays because it was not clear whether the SHBP would permit reimbursement should a contractual violation be found. The Appellate Division dismissed the appeal as moot. The Commission decision stated that the Township could come back to the Commission, which the Township has not done. There is a related appeal in East Rutherford that is pending in the Appellate Division which may lead to a more comprehensive decision.

He continued by reporting on the Supreme Court decision in Klumb v. Manalapan-Englishtown. This case is related to a Commission decision. The Court affirmed a determination that a

school district was required to rehire a teacher who went on a disability retirement but then became undischabled and wanted to return. The Commission case ruled that the union could arbitrate a claim that the employer paid the returning teacher on the wrong step in the salary guide. This case has been argued in the Appellate Division and the Court has since contacted the parties, in light of the Supreme Court's decision, and recommended that the parties come together to attempt to settle this case.

Mary E. Hennessy-Shotter, Deputy General Counsel, made reference to Commission Designee Stuart Reichman's interim relief decision in the temporary layoff/furlough cases. Since the decision issued, Maplewood has filed a motion for a stay before Commission Designee Reichman as well as a motion for leave to appeal and for a stay with the Appellate Division.

Also, the CWA has filed papers with the Appellate Division seeking leave to appeal Commission Designee Reichman's decision on an accelerated basis.

Chairman Henderson stated on the record that he is recused from the CWA case and Commissioner Branigan will be serving as Acting Chairman.

The first case for consideration was Pennsauken Board of Education and AFSCME Council 71, Local No. 2300 and Lester F. Cream, Sr., Docket No. CI-2009-019. Commissioner Buchanan moved the draft decision and Commissioner Branigan seconded the motion.

The motion was unanimously approved (Chairman Henderson, Commissioners Branigan, Buchanan, Colligan, Fuller and Joanis).

The next case for consideration was Borough of Fort Lee and PBA Local No. 245, Docket No. IA-2007-087. Commissioner Buchanan moved the draft decision and Commissioner Joanis seconded the motion. Commissioner Colligan recused himself because of his affiliation with the PBA. The motion was unanimously approved (Chairman Henderson, Commissioners Branigan, Buchanan, Fuller and Joanis).

The next case for consideration was Fair Haven Board of Education and Fair Haven Education Association, Docket No. SN-2009-027. Commissioner Joanis moved the draft decision and Commissioner Buchanan seconded the motion. Commissioner Branigan recused herself because of a conflict based on a pending court matter with her firm. The motion was unanimously approved (Chairman Henderson, Commissioners Buchanan, Colligan, Fuller and Joanis).

The next case for consideration was City of Asbury Park and IAFF Local 384, Docket No. SN-2009-031. Commissioner Buchanan moved the draft decision and Commissioner Fuller seconded the motion. Commissioner Branigan recused herself because of a conflict based on a past matter. The motion was unanimously approved (Chairman Henderson, Commissioners Buchanan, Colligan Fuller and Joanis).

The next case for consideration was Atlantic City Board of Education and Atlantic City Education Association, Docket No. SN-2009-038. Commissioner Colligan moved the draft decision and Commissioner Branigan seconded the motion. The motion was unanimously approved (Chairman Henderson, Commissioners Branigan, Buchanan, Colligan, Fuller and Joanis).

The last case for consideration was Atlantic City Board of Education and Atlantic City Education Association, Docket No. SN-2009-039. Commissioner Fuller moved the draft decision and Commissioner Joanis seconded the motion. The motion was unanimously approved (Chairman Henderson, Commissioners Branigan, Buchanan, Colligan, Fuller and Joanis).

The next item for consideration was the Adoption of Temporary Rules to implement P.L. 2009, c. 16. A motion to adopt the proposed temporary rules was made by Commissioner Buchanan and seconded by Commissioner Colligan. The motion was unanimously approved (Chairman Henderson, Commissioners Branigan, Buchanan, Colligan, Fuller and Joanis).

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

The next meeting is scheduled to be held on Thursday,
June 25, 2009 at 10:00 a.m.