

MINUTES OF MEETING
NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION
August 13, 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:
Patrick V. Colligan
Cheryl G. Fuller
Pierre D. Joanis
Matthew U. Watkins

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 August 6, 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 June 25, 2009 meeting. A motion to adopt the minutes was made by Commissioner Fuller and seconded by Commissioner Watkins. The motion was unanimously approved (Chairman Henderson, Commissioners Colligan, Fuller and Watkins). Commissioner Joanis abstained.

The General Counsel distributed his monthly and supplemental reports. He reported on a case involving Stengart v. Loving Care Agency, Inc., which involved an employee's use of web based e-mail on the employer's computer to communicate with an attorney, and whether that communication was protected by the attorney-client privilege. The lower court said no, but the Appellate Division said yes.

He then reported on a case involving Guard Publishing Co. v. NLRB. In this case the court reversed the NLRB and found that the union president's e-mails were protected.

The General Counsel continued by providing an update on the status of the furlough cases. The Civil Service Commission stayed their temporary rules involving the temporary layoffs/furloughs pending a rule proposal to rescind them consistent with the MOA's between the unions and the State.

He concluded by reporting on the Appellate Division's affirmance in Manalapan-Englishtown. The Commission had decided

that salary guide placement was negotiable. The case involved a teacher who became undischarged and returned to work years later.

There was also an affirmance in an Appeal Board case, Jacobs. The case involved how much of the representation fee used by the international union was chargeable to non-members. The majority representative provided no competent proof, which is the reason the Administrative Law Judge issued an order to refund \$300 of the \$1700 the petitioner had paid over a period of two years.

The first case for consideration was New Jersey Administrative Office of the Courts and Communications Workers of America, AFL-CIO, Docket No. CO-2006-148. Commissioner Watkins moved the draft decision and Commissioner Joanis seconded the motion. The motion was unanimously approved (Chairman Henderson, Commissioners Colligan, Joanis and Watkins). Commissioner Fuller abstained.

The next case for consideration was West Paterson Board of Education and West Paterson Education Association, Docket No. CO-2007-255. Commissioner Watkins moved the draft decision and Commissioner Colligan seconded the motion. The motion was unanimously approved (Chairman Henderson, Commissioners Colligan, Joanis and Watkins). Commissioner Fuller abstained.

The next case for consideration was North Hudson Regional Fire & Rescue and North Hudson Firefighters Association, Docket

No. SN-2009-024. Commissioner Joanis moved the draft decision and Commissioner Watkins seconded the motion. The motion was approved by a vote of three in favor (Chairman Henderson, Commissioners Joanis and Watkins), and one opposed (Commissioner Colligan). Commissioner Fuller abstained.

The next case for consideration was Township of Edison and Policemen's Benevolent Association, Local #75, Inc., Docket No. SN-2009-041 and Township of Edison and Edison PBA Local No. 75 (Superiors), Docket No. SN-2009-055. Commissioner Watkins 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 Joanis and Watkins). Commissioner Fuller abstained.

The next case for consideration was Marlboro Township Board of Education and Marlboro Township Education Association, Docket No. SN-2009-043. Commissioner Colligan moved the draft decision and Commissioner Watkins seconded the motion. The motion was unanimously approved (Chairman Henderson, Commissioners Colligan, Joanis and Watkins). Commissioner Fuller abstained.

The next case for consideration was Township of Wyckoff and PBA Local 261, Docket No. SN-2009-062. Commissioner Watkins 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 Joanis and Watkins).

Commissioner Fuller abstained.

The next case for consideration was Ocean County Utilities Authority and United Steelworkers 4-149, Docket No. SN-2009-069. Commissioner Watkins moved the draft decision and Commissioner Joanis seconded the motion. The motion was unanimously approved (Chairman Henderson, Commissioners Colligan, Joanis and Watkins). Commissioner Fuller abstained.

The next case for consideration was Hardyston Township Board of Education and Hardyston Township Education Association, Docket No. SN-2009-070. Commissioner Joanis moved the draft decision and Commissioner Watkins seconded the motion. The motion was unanimously approved (Chairman Henderson, Commissioners Colligan, Joanis and Watkins). Commissioner Fuller abstained.

The next case for consideration was Rockaway Borough Board of Education and Rockaway Borough Education Association, Docket No. SN-2010-002. Commissioner Colligan moved the draft decision and Commissioner Watkins seconded the motion. The motion was unanimously approved (Chairman Henderson, Commissioners Colligan, Joanis and Watkins). Commissioner Fuller abstained.

The next case for consideration was Township of Hopewell and PBA Local 342, Docket No. CO-2008-323. Commissioner Fuller 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 Fuller, Joanis and Watkins).

The last case for consideration was City of Newark and Fraternal Order of Police, Newark Lodge 12, Docket No. CO-2008-339. Commissioner Fuller moved the draft decision and Commissioner Watkins seconded the motion. The motion was unanimously approved (Chairman Henderson, Commissioners Colligan, Fuller, Joanis and Watkins).

The next item on the agenda was delegation of authority in interest arbitration matters. Commissioner Fuller moved to grant authority to the Chairman and Commissioner Colligan seconded the motion. The General Counsel explained that this delegation of authority deals with two types of issues. The first issue would be motions to exclude documents from the record. The other issue would be requests to file additional briefs. Commissioner Colligan requested that the Commission be made aware when the Chairman exerts this authority. The motion was unanimously approved (Chairman Henderson, Commissioners 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,
September 24, 2009 at 10:00 a.m.