

MINUTES OF MEETING
NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION
June 24, 2010
10:00 a.m.
495 West State Street
Trenton, New Jersey

The meeting was called to order by Commissioner Paula Voos.

Present were:

Commissioners:

Patrick V. Colligan
Adrienne E. Eaton
Cheryl G. Fuller
Sharon Krengel
Paula B. Voos
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, Commissioner Voos, 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 17, 2009 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.

Furthermore on June 17, 2010, copies of an additional written "Notice of Meeting" were posted and sent in a similar manner.

Commissioner Paula Voos called the meeting to order.

The first item for consideration was the minutes of the May 27, 2010 meeting. A motion to adopt the minutes was made by Commissioner Watkins and seconded by Commissioner Krengel. The motion was unanimously approved (Commissioners Eaton, Krengel, Voos and Watkins). Commissioners Colligan and Fuller abstained.

The General Counsel distributed his monthly and supplemental reports. He directed the Commissioners attention to a letter from Richard Gwin, Director of Conciliation and Arbitration. Under the rules, the Director is obligated to make a recommendation on applications to the Disciplinary Arbitration Panel. In this letter he recommends the appointment of 16 additional arbitrators, but he also suggests that the Commission not take any action at this time because of pending rulemaking on the Disciplinary Arbitration Panel. There are currently 22 arbitrators on the panel. There have only been three cases filed since the panel was formed, so there are sufficient arbitrators at the present time. Mr. Gwin will be retiring effective June 30, 2010 and he wanted to get his recommendations in before that time.

The General Counsel reported on the Governor's proposed budget which includes language that would reduce the per diem salary of the PERC Commissioners from its current statutory \$250.00 plus expenses to \$100.00 inclusive of expenses.

He continued by reporting on cases. The first involves the State Police Captains case. The Appellate Division stayed the certification of the Captains unit and remanded the matter to the Commission for a hearing under the new amendment to the definitions of confidential employee and managerial executive. This matter has been remanded from the Commission back to the Hearing Officer who is in the process of setting up hearings within the 45 days that the Appellate Division ordered that hearings be conducted.

He then reported on two cases, which are not Commission cases. In *Nini v. Mercer County Community College*, the Supreme Court applied the New Jersey Law Against Discrimination to a non-renewal, stating that effectively there is no difference between a non-renewal and a termination for purposes of the Law Against Discrimination. Differences between non-renewals and terminations come up all the time under the Employer-Employee Relations Act.

Next was a case involving the Linden Bd. of Ed. in which the Court affirmed the arbitrator's authority to find that just cause to discipline, but not to terminate, where the contract did not define just cause.

He concluded with a case involving New Process Steel and the NLRB, in which the U.S. Supreme Court ruled that the NLRB does not have the authority to issue cases with only two members. It

is a five member board and their statute allows them to delegate to three.

The first item for consideration was the Proposed Readoption of Unfair Practice Rules, N.J.A.C. 19:14. Commissioner Fuller moved that the proposal to readopt the rules be published and Commissioner Colligan seconded the motion. The motion was unanimously approved (Commissioners Colligan, Eaton, Fuller, Krengel, Voos and Watkins).

The next item for consideration was the Proposed Readoption of Representation Rules, N.J.A.C. 19:11. Commissioner Fuller moved that the proposal to readopt the rules be published and Commissioner Colligan seconded the motion. The motion was unanimously approved (Commissioners Colligan, Eaton, Fuller, Krengel, Voos and Watkins).

The first case for consideration was Old Bridge Township and Teamsters Local No. 469 and Kenneth James Williams, Docket Nos. CI-1996-019, CI-1996-020 & CI-1996-021. Commissioner Eaton moved the draft decision and Commissioner Krengel seconded the motion. The motion was unanimously approved (Commissioners Colligan, Eaton, Fuller, Krengel, Voos and Watkins).

The next case for consideration was Luis Santiago and City of Bridgeton and Bridgeton PBA Local 94, Docket No. CO-2008-262. After a discussion, Commissioner Fuller made a motion to table the case and Commissioner Watkins seconded the motion.

Commissioner Colligan recused himself because of his affiliation with the PBA. The motion to table was unanimously approved (Commissioners Eaton, Fuller, Kregel, Voos and Watkins).

The next case for consideration was Township of Maplewood and FMBA Local 425 (Dispatchers), PBA Local 44, SOA Local 44A and United Construction Trades & Industrial Employees International Union, Docket Nos. CO-2008-325, CO-2008-326, CO-2009-082 & CO-2009-088. Commissioner Kregel moved the draft decision and Commissioner Eaton seconded the motion. Commissioner Colligan recused himself because of his affiliation with the PBA. The motion was unanimously approved (Commissioners Eaton, Fuller, Kregel, Voos and Watkins).

The next case for consideration was Township of Nutley and PBA Local 33, Docket No. SN-2009-067. Commissioner Eaton moved the draft decision and Commissioner Kregel seconded the motion. Commissioner Colligan recused himself because of his affiliation with the PBA. The motion was approved by a vote of four in favor (Commissioners Eaton, Fuller, Kregel and Voos), and one opposed (Commissioner Watkins).

The next case for consideration was Red Bank Regional High School Board of Education and Red Bank Regional Education Association, Docket No. SN-2010-022. Commissioner Watkins moved the draft decision and Commissioner Fuller seconded the motion.

The motion was unanimously approved (Commissioners Colligan, Eaton, Fuller, Krengel, Voos and Watkins).

The next case for consideration was Union County Prosecutor's Office and Detectives and Investigators Association of Union County, PBA Local 250, Docket No. SN-2010-030.

Commissioner Watkins moved the draft decision and Commissioner Krengel seconded the motion. Commissioner Colligan recused himself because of his affiliation with the PBA. The motion was unanimously approved (Commissioners Eaton, Fuller, Krengel, Voos and Watkins).

The next case for consideration was Hanover Park Regional Board of Education and Hanover Park Regional Education Association, Docket No. SN-2010-031. Commissioner Watkins moved the draft decision and Commissioner Krengel seconded the motion. The motion was unanimously approved (Commissioners Colligan, Eaton, Fuller, Krengel, Voos and Watkins).

The next case for consideration was State-Operated School District of the City of Paterson and Paterson Education Association, Docket No. SN-2010-033. Commissioner Watkins moved the draft decision and Commissioner Eaton seconded the motion. The motion was unanimously approved (Commissioners Colligan, Eaton, Fuller, Krengel, Voos and Watkins).

The next case for consideration was Winslow Township Board of Education and Winslow Township Education Association, Docket

No. SN-2010-038. Commissioner Fuller moved the draft decision and Commissioner Colligan seconded the motion. The motion was unanimously approved (Commissioners Colligan, Eaton, Fuller, Kregel, Voos and Watkins).

The next case for consideration was Mount Laurel Fire District No. 1 and Mount Laurel Professional Firefighters Association, I.A.F.F. Local 4408 & Mount Laurel Professional Firefighters Association, I.A.F.F. Local 4408-0, Docket No. SN-2010-058. Commissioner Eaton moved the draft decision and Commissioner Watkins seconded the motion. The motion was unanimously approved (Commissioners Colligan, Eaton, Fuller, Kregel, Voos and Watkins).

The next case for consideration was Mount Laurel Fire District No. 1 and Mount Laurel Professional Firefighters Association, I.A.F.F. Local 4408 & Mount Laurel Professional Firefighters Association, I.A.F.F. Local 4408-0, Docket No. SN-2010-059. Commissioner Watkins moved the draft decision and Commissioner Eaton seconded the motion. The motion was unanimously approved (Commissioners Colligan, Eaton, Fuller, Kregel, Voos and Watkins).

The next case for consideration was Asbury Park Board of Education and Cordelia Golden, Docket No. TI-2009-002. Commissioner Watkins moved the draft decision and Commissioner Colligan seconded the motion. A detailed discussion ensued. The

motion was approved by a vote of three in favor (Commissioners Colligan, Eaton and Watkins), two opposed (Commissioners Fuller and Krengel), and one abstention (Commissioner Voos).

The next case for consideration was Township of Berlin and Communications Workers of America, AFL-CIO, Docket No. RO-2010-055. Commissioner Watkins moved the draft decision and Commissioner Fuller seconded the motion. Commissioner Eaton recused herself because of an attorney-client relationship with the attorney who represents one of the parties. The motion was unanimously approved (Commissioners Colligan, Fuller, Krengel, Voos and Watkins).

The last case for consideration was University of Medicine and Dentistry of New Jersey and University of Medicine and Dentistry of New Jersey Council of American Association of University Professors Chapters, Docket Nos. CE-2006-003, CO-2005-220 & CO-2007-271. Commissioner Colligan moved the draft decision and Commissioner Fuller seconded the motion. Commissioners Eaton and Voos recused themselves because of concerns about conflicts of interest raised by UMDNJ. Both Commissioners stated that their recusal was without prejudice to deciding to participate in future cases involving the AAUP at UMDNJ. The motion was unanimously approved (Commissioners Colligan, Fuller, Krengel and Watkins).

Commissioner Eaton 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, August 12, 2010 at 10:00 a.m.