

MINUTES OF MEETING
NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION
September 22, 2011
10:00 a.m.
495 West State Street
Trenton, New Jersey

The meeting was called to order by Chair P. Kelly Hatfield.

Present were:

Commissioners:

John Bonanni
John H. Eskilson
David Jones
Sharon Krengel
Paula B. Voos
Richard Wall

Also present were:

David Gambert, Deputy General Counsel
Mary E. Hennessy-Shotter, Deputy General Counsel
Don Horowitz, Deputy General Counsel
Christine Lucarelli-Carneiro, Deputy General Counsel
Annette Thompson, who acted as Stenographer

At the commencement of the meeting, Chair Hatfield, 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 16, 2010 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 September 14, 2011, copies of an additional written "Notice of Meeting" were posted and sent in a similar manner.

The first item for consideration was the minutes of the August 11, 2011 meeting. A motion to adopt the minutes was made by Commissioner Eskilson and seconded by Commissioner Bonanni. The motion to adopt the minutes was unanimously approved (Chair Hatfield, Commissioners Bonnani, Eskilson, Jones, Krengel, Voos and Wall).

Chair Hatfield introduced new employee, David Gambert, who began his legal career as a judge advocate on active duty in the United States Marine Corps where he was assigned primarily as a trial attorney. He began his labor law career as an assistant corporation counsel with the City of Jersey City where he was assigned as a deputy director with the Jersey City Police Department. In 2001, David began working in the labor section of the City of Newark Law Department and was assigned as the Labor Section Chief in 2004. Through his positions in Jersey City and Newark, he has gained extensive experience working in labor relations. David currently holds the rank of Colonel in the United States Marine Corps Reserve and supervises over 100 Marine Reserve judge advocates. He is a graduate of William Paterson University and Boston College Law School. He has been deployed twice and we congratulate him on his service and welcome him to the agency.

Chair Hatfield advised the Commissioners that there are two new interest arbitration appeals. The number of interest

arbitration cases has dramatically been reduced, but the number of appeals has increased. The agency has to abide by the 30-day rule. A suggested meeting date of October 14, 2011 at 11:00 a.m. was scheduled.

The Counsel's Office distributed a monthly report.

Don Horowitz, Deputy General Counsel, reported that there is a motion for reconsideration of a court decision affirming the Commission's Flemington-Raritan Bd. of Ed. decision. The Board is now seeking to take the case to the Supreme Court.

The report also mentioned a Ft. Lee decision which involves a challenge to supplemental rulings made by an interest arbitrator whose award and supplemental award have already been affirmed by the Appellate Division. The employer is appealing our decision dismissing the challenge to those four additional rulings, which were basically on issues that the parties agreed in principal, but the arbitrator directed them to work out language which was not done.

He concluded his reporting with one case in particular that was most interesting and significant involving the Open Public Records Act ("OPRA") issued by the Supreme Court declaring that the State League of Municipalities is covered by OPRA. It will probably have an impact on what the municipalities send to the League.

The first case for consideration was County of Atlantic and Fraternal Order of Police Lodge #34, Docket No. CO-2011-254.

Commissioner Eskilson moved the draft decision and Commissioner Bonanni seconded the motion. The draft decision would deny a motion for reconsideration of an interim relief decision. Chair Hatfield recused herself because she wrote the interim relief decision. A discussion ensued among the Commissioners eligible to participate. The motion to adopt the draft decision resulted in a tie vote, three in favor (Commissioners Bonanni, Eskilson and Wall), and three opposed (Commissioners Krengel, Jones and Voos). The Commissioners voting against the draft asked that the minutes reflect that they favored granting the motion for reconsideration and ordering that the increments be paid.

The next case for consideration was Franklin Township and Franklin Township PBA Local #154, Docket No. CO-2011-065 and Franklin Township and Franklin Township SOA, Docket No. CO-2011-066. Commissioner Voos moved the draft decision and Commissioner Krengel seconded the motion. Commissioner Wall recused himself because of his affiliation with the PBA. The motion to adopt the draft decision was unanimously approved (Chair Hatfield, Commissioners Bonanni, Eskilson, Jones, Krengel and Voos).

The next case for consideration was City of Camden and the International Association of Firefighters, Local 788, Docket No. IA-2009-065. Commissioner Bonanni moved the draft decision and

Commissioner Hatfield seconded the motion. Commissioner Eskilson recused himself based on his relationship with Mr. Heineman who represents one of the parties involved in this case. The draft decision would vacate and remand to a new arbitrator the interest arbitration award. A lengthy discussion ensued that focused upon the propriety and relevance of the arbitrator's discussion of the role of the State of New Jersey and its historical practice of providing the City with substantial state aid. Chair Hatfield stated that the arbitrator admitted that the City cannot pay the award and he failed to maintain neutrality given his comments about the State that he made a party to the interest arbitration. Commissioner Krengel stated that although the arbitrator may have improperly pontificated, she did not consider his statements grounds to vacate the award. Deputy General Counsel Lucarelli stated that the draft decision states clearly that the leading reason why this award needs to be vacated is that the arbitrator did not apply the statutory factors. Commissioner Jones did not find the arbitrator's comments inappropriate given the history of state aid in funding Camden's operations. He also said that the arbitrator's award had discussion of the statutory factors that exceeded the analysis of other awards that had been upheld. The motion to adopt the draft decision was not approved, two in favor (Chair Hatfield and Commissioner Bonanni), and four opposed (Commissioners Jones, Krengel, Voos and Wall).

The next case for consideration was Township of Fairfield and West Essex PBA Local 81, Docket No. SN-2010-105.

Commissioner Eskilson moved the draft decision and Commissioner Bonanni seconded the motion. Commissioner Wall recused himself because of his affiliation with the PBA. The draft decision would have granted the Township's request for a restraint of arbitration of a grievance filed by the PBA. A discussion ensued during which Commissioner Jones asserted that under the State Troopers NCO decision, the issues raised by the PBA were mandatorily negotiable and should be allowed to go to arbitration. Commissioner Eskilson noted that as the PBA was not challenging the officers who the City promoted to sergeant and lieutenant after the promotional process was completed, the parties should have been able to work out the issues raised in the grievance without having to go to arbitration. Commissioner Jones agreed. The motion to adopt the draft decision resulted in a tie vote, three in favor (Chair Hatfield, Commissioners Bonanni and Eskilson), and three opposed (Commissioners Krengel, Jones and Voos). As the Township's request did not secure a majority, a restraint of arbitration was not granted.

The next case for consideration was Salem County College and Salem Community College Faculty Association/NJEA, Docket No. SN-2011-010. Commissioner Krengel moved the draft decision and Commissioner Jones seconded the motion. The motion to adopt the

draft decision was unanimously approved (Chair Hatfield, Commissioners Bonanni, Eskilson, Jones, Krengel, Wall and Voos).

The next case for consideration was Morris Hills Regional Board of Education and Morris Hills Regional Education Association, Docket No. SN-2011-012. Commissioner Wall moved the draft decision and Commissioner Eskilson seconded the motion. Commissioner Bonanni recused himself because a teacher in this district is also a freeholder in his county. After a discussion, the motion to adopt the draft decision was approved by a vote of five in favor (Chair Hatfield, Commissioners Eskilson, Krengel, Voos and Wall), and one opposed (Commissioner Jones).

The next case for consideration was Township of Vorhees and Voorhees Police Officers Association, Voorhees Sergeants Association and Voorhees Senior Officers Association of FOP Lodge 56 and the Fraternal Order of Police-New Jersey Labor Council, Docket No. SN-2011-016. Commissioner Voos moved the draft decision and Commissioner Krengel seconded the motion. The motion to adopt the draft decision was unanimously approved (Chair Hatfield, Commissioners Bonanni, Eskilson, Jones, Krengel, Wall and Voos).

The last case for consideration was Rutgers, The State University and URA-AFT, Local 1766, AFL-CIO, Docket No. SN-2011-029. Commissioner Eskilson moved the draft decision and Commissioner Bonanni seconded the motion. Commissioner Voos

recused herself because she is a Rutgers employee. Commissioner Jones recused himself because this case involved the Loccke law firm. Commissioner Kregel stated that the record seems disciplinary in nature. The motion was approved by a vote of four in favor (Chair Hatfield, Commissioners Bonanni, Eskilson and Wall), and one opposed (Commissioner Kregel).

The next item for consideration was the adoption of resolutions to honor the service of Patrick V. Colligan and Adrienne E. Eaton as Commissioners with the Public Employment Relations Commission. Commissioner Voos made a motion to adopt the resolutions and Commissioner Jones seconded the motion. The motion was unanimously approved (Chair Hatfield, Commissioners Bonnani, Eskilson, Jones, Kregel, Voos and Wall).

The meeting was then adjourned by acclamation.

The next meeting is scheduled to be held on Thursday, October 27, 2011 at 10:00 a.m.