

MINUTES OF MEETING
NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION
November 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
Martin R. Pachman, 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 November 16, 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 October 27, 2011 meeting. A motion to adopt the minutes was made by Commissioner Krengel and seconded by Commissioner Eskilson. Commissioner Voos abstained. The motion to adopt the minutes was unanimously approved (Chair Hatfield, Commissioners Eskilson, Jones and Krengel).

Commissioners Bonanni and Wall joined the meeting at this time.

Chair Hatfield greeted the Commissioners and wished everyone a Happy Thanksgiving holiday.

The Counsel's Office distributed a monthly report.

Don Horowitz, Deputy General Counsel, reported that there was an appeal of a Commission decision involving a grievance arbitration in Salem Community College. He continued by reporting on a forfeiture case, State of New Jersey v. Blessing, which involved a public school teacher who was also the coach of a swim team at a private parochial school and engaged in inappropriate sexual conduct with a student, for which she was convicted of a crime. The public school discharged the teacher and sought to have her forfeit her public employment and barred her from future public employment. The trial court agreed, but the Appellate Court found that her actions at the parochial school did not involve a public job and overturned the part of the sentence requiring forfeiture of her public employment.

The first case for consideration was State of New Jersey and FOP Lodge 174 New Jersey Investigators Association, Docket No. CO-2009-160. Commissioner Wall moved the draft decision and Commissioner Eskilson seconded the motion. Commissioner Jones recused himself because this case involved the Loccke law firm. The motion to adopt the draft decision was unanimously approved (Chair Hatfield, Commissioners Bonanni, Eskilson, Krengel, Wall and Voos).

The next case for consideration was City of Atlantic City and Atlantic City Police Benevolent Association, Local 124 and Atlantic City Superior Officers' Association, Docket Nos. SN-2011-008 and SN-2011-009. This case was pulled from the agenda.

The next case for consideration was Township of Nutley and Nutley PBA Local No. 33, Docket No. SN-2011-030. Commissioner Eskilson moved the draft decision and Commissioner Bonanni seconded the motion. Commissioner Wall recused himself because of his affiliation with the PBA. Commissioner Krengel asked about the pending grievance and the identical issues involved. Ms. Hennessy-Shotter responded that the two matters were identical. The only difference here is that the detectives are moving over to patrol, which is probably the result of the last decision that was issued where it did not involve the same rank. That is currently in arbitration. The motion to adopt the draft decision was approved by a vote of five in favor (Chair

Hatfield, Commissioners Bonanni, Eskilson, Krengel and Voos), and one opposed (Commissioner Jones).

The next case for consideration was Readington Township Board of Education and Readington Township Education Association, Docket No. SN-2011-039. Commissioner Bonanni moved the draft decision and Commissioner Wall seconded the motion. The motion to adopt the draft decision was unanimously approved (Chair Hatfield, Commissioners Bonanni, Eskilson, Jones, Krengel, Voos and Wall).

The next case for consideration was County of Burlington and PBA Local 249, Docket No. SN-2011-048. Commissioner Bonanni moved the draft decision and Commissioner Krengel seconded the motion. Commissioner Eskilson recused himself because he participates in collective negotiations with the firm of Mets, Schiro & McGovern. Commissioner Wall recused himself because of his affiliation with the PBA. Commissioner Jones stated for the record that he has had extensive dealings with Jim McGovern in his duties with the Office of Employee Relations, which was more than two years ago, and he would not be recusing himself. Commissioner Jones stated that he felt methodologies were being employed by the employer to circumvent contract clauses that have already been agreed to. He continued that the employer was attempting to avoid a seniority issue by deciding to reclassify or rename a job and exercise its managerial prerogative. He

concluded by stating the employer appears to basically be trying to get out of their contractual obligation. Chair Hatfield responded this decision allows arbitration. Ms. Hennessy-Shotter asked Commissioner Jones if he was advocating that elimination of the post should go to arbitration. She noted that even the union, in this case, agreed that this was a managerial prerogative. This draft preserves that position because of the way the grievance is written. Mr. Pachman stated that the duties have been shifted to a different organizational group within the correction officers. Commissioner Jones stated that the seniority issue is there for a reason. Mr. Pachman responded that he does not believe seniority is measured based upon a particular unit assignment. Seniority dates from original employment with the appointing authority. Commissioner Jones stated that seniority is a weighted criteria, it is not a prevailing factor. Seniority is usually based upon a position. Mr. Pachman responded the record in this case does not show that. The motion was unanimously approved (Chair Hatfield, Commissioners Bonanni, Jones, Krengel and Voos).

The last case for consideration was Borough of Highland Park and PBA Local No. 64, Docket No. SN-2011-019. Commissioner Bonanni moved the draft decision and Chair Hatfield seconded the motion. Commissioner Eskilson recused himself because he participates in collective negotiations with the firm of Mets,

Schiro & McGovern. Commissioner Wall recused himself because of his affiliation with the PBA. Commissioner Krengel recused herself because of her residency in Highland Park. The motion to accept the draft decision resulted in a tie vote. Two in favor (Chair Hatfield and Commissioner Bonanni), and two opposed (Commissioners Jones and Voos).

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

The next meeting is scheduled to be held on Thursday, December 15, 2011 at 10:00 a.m.