

MINUTES OF MEETING
NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION
April 26, 2012
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
Don Horowitz, Deputy General Counsel
Christine Lucarelli-Carneiro, 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 15, 2011 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 April 19, 2012, 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 March 29, 2012 meeting. A motion to adopt the minutes was made by Commissioner Voos and seconded by Commissioner Eskilson. The motion to adopt the minutes was unanimously approved (Chair Hatfield, Commissioners Bonanni, Eskilson, Jones, Krengel, Voos and Wall).

The next item for consideration was the minutes of the April 9, 2012 special meeting. A motion to adopt the minutes was made by Commissioner Eskilson and seconded by Commissioner Krengel. Commissioners Jones and Wall were not present at the meeting because they were recused from voting. Commissioner Bonanni was not present at the meeting due to a pending recusal issue. The motion to adopt the minutes was unanimously approved (Chair Hatfield, Commissioners Eskilson, Krengel and Voos).

The Counsel's Office distributed a monthly report.

Don Horowitz, Deputy General Counsel, reported there was a decision on one of our appeals, New Jersey Institute of Technology. There were two issues, one did not have to be decided. Police officers can not use a contractual grievance procedure to review terminations through binding arbitration. In 2009 a law was passed allowing non-civil service police officers to use a special binding arbitration procedure ("SDAP"), which the Commission administers, to have their terminations reviewed provided the reasons for their termination did not involve

alleged criminal conduct. A NJIT police officer was dismissed. The FOP sought contractual binding arbitration. The Commission issued a decision stating that this was not available for police. However, the FOP was allowed to refile under "SDAP" by a specific date and the Commission would determine if that procedure could be used. The second time limit was not met, so the second decision dismissed the request to have a SDAP arbitrator appointed. The officer appealed and NJIT cross-appealed to the Appellate Court asserting that the law only applied to municipal and county police officers. The Court agreed that the application was untimely and therefore did not consider NJIT's argument because the issue is moot.

The first case for consideration was the draft decision in Local 1040, Communications Workers of America and Debra Weisman, Docket No. CI-2011-017. Commissioner Voos moved the draft decision and Commissioner Wall seconded the motion. The motion to adopt the decision was unanimously approved (Chair Hatfield, Commissioners Bonanni, Eskilson, Jones, Krengel, Voos and Wall).

Next for consideration was the draft decision in Upper Township Board of Education and Upper Township Education Association, Docket No. SN-2011-070. Commissioner Eskilson moved the draft decision and Commissioner Bonanni seconded the motion. The motion to adopt the decision was approved by five in favor

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

Next for consideration was the draft decision in Borough of Oakland and PBA Local 164, Docket No. SN-2011-076. Commissioner Voos moved the draft decision and Commissioner Krengel seconded the motion. Commissioner Jones recused himself because this case involved the Loccke law firm. Commissioner Wall recused himself because of his affiliation with the PBA. The motion to adopt the decision was unanimously approved (Chair Hatfield, Commissioners Bonanni, Eskilson, Krengel and Voos).

The last case for consideration was the draft decision in Fair Lawn Board of Education and Fair Lawn Education Association, Docket No. SN-2011-084. Commissioner Eskilson moved the draft decision and Commissioner Voos seconded the motion. Commissioner Jones stated that the contract clearly calls for two positions. That was the agreement that the Board of Education entered into. In the contract language, at some point in time, it is clear that the Board of Education agrees that there were two coaching positions which was enumerated in the contract. He asked if it ever proposed back to the party that they could maintain the two positions, but they would get half the compensation. Mr. Pachman responded he did not know the answer because it was not part of the record. The motion to adopt the decision was unanimously

approved (Chair Hatfield, Commissioners Bonanni, Eskilson, Jones, Krengel, Voos and Wall).

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

The next regular meeting is scheduled to be held on Wednesday, May 31, 2012 at 10:00 a.m.