

MINUTES OF SPECIAL MEETING
NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION
July 2, 2012
9:30 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
Paul Boudreau
John H. Eskilson
David Jones
Paula B. Voos

Also present were:

David Gambert, Deputy General Counsel
Mary E. Hennessy-Shotter, 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 "Notice of Special Meeting."
On June 28, 2012 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.

Chair Hatfield welcomed Paul Boudreau as a new Commissioner. Mr. Boudreau is replacing former Commissioner Sharon Krengel.

A roll call was initiated to confirm the Commissioners that were present and participated via the telephone conference call. Commissioner Wall was not present.

The first item for consideration was a Resolution on Invoking the Doctrine of Necessity regarding the County of Morris and PBA Local 327 decision. Chair Hatfield read the resolution for the record. There must be four Commissioners present and eligible to vote to constitute a quorum on any agenda item. The interest arbitration law mandates that an appeal be decided in 30 days, so the doctrine of necessity is required to secure a quorum. Commissioner Bonanni moved to adopt the resolution and Commissioner Eskilson seconded the motion. The Chair asked the Commissioners that would normally be recused from voting to state on the record the reason for recusal. Commissioner Bonanni, Morris County Administrator, stated that he is normally recused from Morris County cases and from cases involving Fred Knapp, Esq., who is labor counsel for Morris County. Commissioner Eskilson, Sussex County Administrator, stated that Mr. Knapp's law firm also represents Sussex County as legal counsel for personnel matters. Deputy General Counsel Christine Lucarelli-Carneiro stated for the record that Commissioner Boudreau has an inquiry pending with the State Ethics Commission regarding

whether he needs to recuse himself on matters involving the County of Morris. Commissioner Jones stated that Richard Loccke, Esq. is counsel for the PBA and was also counsel for the STFA while he was in his employ as Trooper President. The motion to adopt the resolution was unanimously approved (Chair Hatfield, Commissioners Bonanni, Boudreau, Eskilson, Jones and Voos).

The first case for consideration was the draft decision in County of Morris and PBA Local 327, Docket No. IA-2012-032. Commissioner Eskilson moved the draft decision and Commissioner Bonanni seconded the motion. Commissioner Jones stated he believes that the PBA did its job in the cost analysis, the record supports that. Commissioner Eskilson responded that the PBA was referencing the New Milford case, which seems at best to be a stretch and we have it just right that the New Milford case was specific to the cost-out of the 2% hard cap over time and really was silent with respect to the cost-out of the health benefit piece. In addition, the arbitrator spent considerable time on this issue including a reference to the actual premiums paid. I feel we should affirm the arbitrator's decision. Commissioner Jones stated that the County never put in what the savings would be, they just discussed in the record what the premiums were. General Counsel Martin Pachman responded the New Milford case deals with the calculation of the 2% base salary figure. That is the figure that we are required to have the

cost-out on. Frankly, the PBA's citation to New Milford was off base, it was not an appropriate citation. Therefore, we are recommending that the decision go forward as published.

Commissioner Voos commented that if the arbitrator had increased the health insurance in a way that there were additional costs that we would insist that the economic costs be calculated in the award. It is not reasonable to say that increases have to be calculated but that decreases do not. Chair Hatfield responded that we are not saying that. Commissioner Voos stated that we can not restrict it just for salary, the cost of benefits is substantial and if you have to cost-out things under the cap, you have to look at the cost of benefits as well. General Counsel Pachman responded that the basis upon which our case law, under the new law, has been built was in response to the requirement in the statute that the 2% apply to base salaries and there are a host of things that are either included or excluded from that calculus. Commissioner Voos asked if cost of benefits was excluded. General Counsel Pachman responded that is correct. Commissioner Jones asked where is the cost analysis. Ms. Lucarelli-Carneiro responded that the arbitrator provides background as to the various costs associated with the medical plans, which leads us to the analysis with regard to the wrap-around plan and why the arbitrator felt it was appropriate to eliminate this benefit. The motion to adopt the draft decision

was approved by a vote of four in favor (Chair Hatfield, Commissioners Bonanni, Boudreau and Eskilson), and two opposed (Commissioners Jones and Voos).

Commissioner Jones removed himself from the meeting at this time, as he was recused from voting on the New Milford case.

The next case for consideration was the draft decision on the remanded matter in Borough of New Milford and PBA Local 83, Docket No. IA-2012-008. Commissioner Eskilson moved the draft decision and Commissioner Bonanni seconded the motion. Commissioner Eskilson responded that he was really troubled by the arbitrator's decision. He stated that the arbitrator could not have strayed further from the direction of the Commission in regard to the remand. For some reason the arbitrator basically appears to have thrown out the entire decision and revert back to a one-year decision. Commissioner Bonanni responded that he agreed with Commissioner Eskilson. The motion to adopt the draft decision was unanimously approved (Chair Hatfield, Commissioners Bonanni, Boudreau, Eskilson and Voos).

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

The next regular meeting is scheduled to be held on Thursday, August 9, 2012 at 10:00 a.m.