

MINUTES OF MEETING
NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION
September 6, 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
Paul Boudreau
John H. Eskilson
David Jones
Paula B. Voos
Richard Wall

Also present were:

Mary E. Hennessy-Shotter, 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 August 27, 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 June 25, 2012 special meeting. A motion to adopt the minutes was made by Commissioner Eskilson and seconded by Commissioner Jones. Commissioner Bonanni was not present at the meeting due to technical difficulties. Commissioner Wall was not present because he was recused from voting. The motion to adopt the minutes was unanimously approved (Chair Hatfield, Commissioners Eskilson, Jones and Voos).

The next item for consideration was the minutes of the June 28, 2012 regular meeting. A motion to adopt the minutes was made by Commissioner Eskilson and seconded by Commissioner Bonanni. Commissioner Wall was not present at the meeting. The motion to adopt the minutes was unanimously approved (Chair Hatfield, Commissioners Bonanni, Eskilson, Jones and Voos).

The next item for consideration was the minutes of the July 2, 2012 special meeting. A motion to adopt the minutes was made by Commissioner Eskilson and seconded by Commissioner Bonanni. Commissioner Wall was not present at the meeting. The motion to adopt the minutes was unanimously approved (Chair Hatfield, Commissioners Bonanni, Boudreau, Eskilson, Jones and Voos).

The next item for consideration was the minutes of the July 19, 2012 special meeting. A motion to adopt the minutes was made by Commissioner Bonanni and seconded by Commissioner Jones. Commissioner Wall was not present at the meeting. The motion to

adopt the minutes was unanimously approved (Chair Hatfield, Commissioners Bonanni, Boudreau, Eskilson, Jones and Voos).

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

Chair Hatfield announced that an interest arbitration training has been scheduled for October 15, 2012 in compliance with the part of the law which requires annual training sessions.

Chair Hatfield advised the Commissioners that there is a new interest arbitration appeal which involves North Hudson Regional Fire & Rescue. A suggested meeting date of Monday, October 1, 2012 at 10:00 a.m. was scheduled.

The Counsel's Office distributed a monthly report.

Don Horowitz, Deputy General Counsel, reported on a case involving Snowden v UMDNJ which sets forth the standards that an employee must prove in order to show that the union that represents him or her is violating the duty of fair representation.

The first case for consideration was the draft decision in County of Bergen, Bergen County Sheriff's Office and PBA Local 134, Docket No. CE-2011-015. Commissioner Bonanni moved the draft decision and Commissioner Boudreau seconded the motion. Commissioner Wall is recused from voting on this matter because of his affiliation with the PBA. The motion to adopt the draft

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

The next case for consideration was the draft decision in Palisades Interstate Park Commission and PBA State Law Enforcement Unit, Docket No. CO-2011-374. Commissioner Eskilson moved the draft decision and Commissioner Boudreau seconded the motion. Commissioner Wall is recused from voting on this matter because of his affiliation with the PBA. Commissioner Jones stated he disagrees with the interpretation of the contract clause. He stated it is a unilateral change in their work conditions. Ms. Lucarelli-Carneiro responded that after review of the facts a conclusion was reached that this dispute really centered around the interpretation of the Chief's memo. Once the interpretation of the memo was arrived at, it was determined whether that interpretation was consistent with the relevant contract provision or not. It was decided that there was really a good faith dispute concerning the interpretation of both the memo and the contract provision and that is why it was appropriate to proceed to grievance arbitration. Commissioner Jones responded that he felt Article XXI is clear. The motion to adopt the draft decision was approved by a vote of five in favor (Chair Hatfield, Commissioners Bonanni, Boudreau, Eskilson and Voos), and one opposed (Commissioner Jones).

The next case for consideration was the draft decision in State of New Jersey and New Jersey Law Enforcement Commanders Officers Association, Docket No. IA-2012-004. Commissioner Eskilson moved the draft decision and Commissioner Bonanni seconded the motion. Commissioner Jones recommended moving the sentence that states "the Association may file a new petition that accurately reflects the unit description in the certification," within the draft decision into the order. Chair Hatfield acknowledged this request and it was approved by acclamation. The motion to adopt the draft decision was unanimously approved (Chair Hatfield, Commissioners Bonanni, Boudreau, Eskilson, Jones, Voos and Wall).

The next case for consideration was the draft decision in Town of Morristown and PBA Local 43, Docket No. SN-2011-017. Commissioner Eskilson moved the draft decision and Commissioner Boudreau seconded the motion. Commissioner Bonanni recused himself because he is a long-time friend with the officer involved in this matter. Commissioner Wall is recused from voting on this matter because of his affiliation with the PBA. Commissioner Jones stated we are relying too much on the Department of Community Affairs. The intention of the legislation was not to punish employees who save the municipality or the employer money. This individual is paying the entire premium for his dental. Mr. Pachman responded that we as a co-

agency of the State do not have the authority to overrule an agency that is charged with the responsibility for interpreting that statute. We do not have the jurisdiction to step in to correct them in carrying out one of their functions, which is to provide guidance to the municipalities. We have to adhere to the guidelines that exist. The motion to adopt the draft decision was approved by a vote of four in favor (Chair Hatfield, Commissioners Boudreau, Eskilson and Voos), and one opposed (Commissioner Jones).

The next case for consideration was the draft decision in Rutgers, The State University of New Jersey and FOP Lodge 164 (Superiors), Docket No. SN-2012-003. Commissioner Eskilson moved the draft decision and Commissioner Boudreau seconded the motion. Commissioner Voos is recused from voting on this matter because she is a Rutgers employee. Commissioner Jones states he has to respectfully disagree with the decision. He further stated that we rely too heavily on State Troopers. The motion to adopt the draft decision was approved by a vote of five in favor (Chair Hatfield, Commissioners Bonanni, Boudreau, Eskilson and Wall), and one opposed (Commissioner Jones).

The next case for consideration was the draft decision in City of Rahway and FMBA Local 33, Docket No. SN-2012-004. Commissioner Boudreau moved the draft decision and Commissioner Bonanni seconded the motion. Commissioner Eskilson recused

himself because the case involved the Mets law firm.

Commissioner Jones stated that the assignment of a title as opposed to assignment of a shift is different, and those things are not mandatorily negotiable. Commissioner Voos stated that she agrees. She does not feel it is a staffing issue, it is a compensation issue. Mr. Pachman responded that the facts show this is clearly a staffing issue. If there is no Captain, the question is does there need to be a Captain. The town has a managerial prerogative to decide whether or not they want to have a Captain in charge of that unit. Every appointment to an out-of-title job is a compensation ultimately. The employers prerogative to either fill that vacancy or not has been one of the bedrock principles upon which our law has been founded for over 25 years. The motion to adopt the draft decision was approved by a vote of four in favor (Chair Hatfield, Commissioners Bonanni, Boudreau and Wall), and two opposed (Commissioners Jones and Voos).

The next case for consideration was the draft decision in North Hudson Regional Fire and Rescue and North Hudson Fire Fighters Association, Docket No. SN-2012-007. Commissioner Voos moved the draft decision and Commissioner Eskilson seconded the motion. The motion to adopt the draft decision was unanimously approved (Chair Hatfield, Commissioners Bonanni, Boudreau, Eskilson, Jones, Voos and Wall).

The next item for consideration was the Readoption with Amendments of Rules Governing Negotiations, Impasse Procedures and Compulsory Interest Arbitration of Labor Disputes in Public Fire and Police Departments. Commissioner Eskilson moved to readopt the rules with proposed amendments and Commissioner Bonanni seconded the motion. The motion to readopt the rules was approved by a vote of six in favor (Chair Hatfield, Commissioners Bonanni, Boudreau, Eskilson, Wall and Voos), and one opposed (Commissioner Jones).

The last item for consideration was the Adoption with Amendments to Interim Relief Rules in Unfair Practice Proceedings. Commissioner Boudreau moved to adopt the rules with proposed amendments and Commissioner Bonanni seconded the motion. The motion to adopt the rules was approved by a vote of six in favor (Chair Hatfield, Commissioners Bonanni, Boudreau, Eskilson, Wall and Voos), and one opposed (Commissioner Jones).

Commissioner Voos 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 regular meeting is scheduled to be held on Thursday, September 27, 2012 at 10:00 a.m.