

MINUTES OF MEETING
NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION
October 25, 2012
10:40 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
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 October 22, 2012, copies of an additional written "Notice of Meeting" were posted and sent in a similar manner.

Commissioner Jones made a motion to delay a vote on the minutes of the meetings of September 27, 2012, October 1, 2012 and October 11, 2012 until the next regularly scheduled Commission meeting. Commissioner Wall seconded the motion. The motion was unanimously approved (Chair Hatfield, Commissioners Bonanni, Boudreau, Eskilson, Jones, Voos and Wall).

Chair Hatfield made an announcement that there are no public comments permitted during the meeting.

Chair Hatfield reported that a continuing education training program for interest arbitrators was held on October 15, 2012.

The Counsel's Office distributed a monthly report.

Don Horowitz, Deputy General Counsel, reported that the Appellate Division of the Superior Court ruled on two of our decisions, affirming both. One was a scope of negotiations case where the Commission restrained arbitration of a grievance filed by the Probation Association of New Jersey. The other decision was an appeal by the Mercer County Prosecutor from an interest arbitration award which the Commission had affirmed.

The Commission's decisions in three recent cases have been appealed. Cumberland County Prosecutor, P.E.R.C. No. 2012-66, involving an interest arbitration award and scope of negotiations rulings, Ramsey Borough, P.E.R.C. No. 2013-6, an interest arbitration appeal, and Rahway, P.E.R.C. No. 2013-13, a scope of negotiations decision restraining arbitration. In addition, the

Bergen County Sheriff seeks leave to appeal from our interim ruling finding that the County Executive has the right to participate in collective negotiations involving the Sheriff's employees.

In Mt. Olive Board of Education, an arbitrator ruled against the Association arguing that teachers should have a shortened day on the last two days of school. The past practice was clear they had always worked a full day. Both the trial court and the appellate court affirmed the arbitrator's award denying the grievance.

In the absence of the General Counsel the Commission agreed to defer discussion on the Doctrine of Necessity to a future meeting when the General Counsel is present.

The first case for consideration was the draft decision in CWA Local 1040, CWA District One and State of New Jersey (Juvenile Justice) and Judy Thorpe, Docket Nos. CI-2010-046, CI-2010-047 & CI-2010-049. Commissioner Eskilson moved the draft decision and Commissioner Bonanni 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 case for consideration was the draft decision in Township of Hanover and PBA Local 128, Docket No. CO-2009-284. Commissioner Boudreau moved the draft decision and Chair Hatfield

seconded the motion. Commissioner Wall is recused from voting on this matter because of his affiliation with the PBA.

Commissioners Bonanni and Eskilson were recused because this case involves the Knapp law firm. Commissioner Jones stated he does not agree with the order and that it is a past practice. Deputy General Counsel Christine Lucarelli-Carneiro responded that the draft states that, whether it was a past practice or not, it is a managerial prerogative to make the determination to stop the process of signing in early. Commissioner Boudreau stated that public employees in this case are reporting for duty while still on the payroll for an off-duty assignment. There are many potential conflicts. Commissioner Voos asked if the issue was about whether this past practice should be negotiated. Mr. Horowitz responded there is only an obligation to negotiate over something that is mandatorily negotiable. The motion to adopt the draft decision resulted in a tie vote with two in favor (Chair Hatfield and Commissioner Boudreau), and two opposed (Commissioners Jones and Voos).

The next case for consideration was the draft decision in County of Hudson and Hudson County Union, Local 1 Amalgamated and International Union of Painters and Allied Trades, District Council 711, Local 1007, Docket No. RO-2012-009. Commissioner Eskilson moved the draft decision and Commissioner Voos 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 case for consideration was the draft decision in County of Mercer and PBA Local 167, Docket No. SN-2011-090. Commissioner Voos moved the draft decision and Commissioner Jones seconded the motion. Commissioner Wall is recused from voting on this matter because of his affiliation with the PBA. Commissioner Jones asked why this case took so long to come before the Commission. Deputy General Counsel Mary E. Hennessy-Shotter responded that this case was originally an unfair practice charge. It was tentatively settled then the parties agreed to defer it to arbitration. The parties began the arbitration process but then began settlement discussions. Additional documentation was requested from the parties but was never received so it was decided to place this matter on the agenda for the Commission to review. 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 Township of Clinton and FOP Lodge #182, Docket No. SN-2012-006. Commissioner Eskilson moved the draft decision and Commissioner Boudreau seconded the motion. The motion to adopt the draft decision was approved by a vote of six in favor (Chair Hatfield, Commissioners Bonanni,

Boudreau, Eskilson, Voos and Wall), and one opposed (Commissioner Jones).

The next case for consideration was Rutgers, The State University of New Jersey and URA-AFT, Local 1766, AFL-CIO, Docket No. SN-2012-030. Commissioner Jones moved the draft decision and Commissioner Wall seconded the motion. Commissioner Voos recused herself because she is a Rutgers employee. The motion to adopt the draft decision was unanimously approved (Chair Hatfield, Commissioners Bonanni, Boudreau, Eskilson, Jones and Wall).

The last item for consideration was a draft of Proposed Expedited Scope Rulings for Interest Arbitration. Chair Hatfield stated all Commissioners have been provided with a draft of guidelines for resolving scope issues that come up during the course of interest arbitration. Commissioner Jones asked if discussion was with arbitrators or from individuals involved in cases. The Chair responded that the discussion was primarily with the arbitrators. Mr. Horowitz responded that during the process where the rules were proposed public comments were received and forwarded to all Commissioners summarizing the comments and the agency's responses to those comments. Commissioner Jones responded that he is not sure if we are aiding the process by expediting the scope cases. The Chair responded that fundamentally this is a good program. Commissioner Eskilson stated this program would be good especially because the

arbitrators are asking for help. Commissioner Voos stated it would be helpful to have the arbitrator weigh in on scope rulings. The Chair stated if this program does not work we will hear complaints from the parties. Commissioner Eskilson moved to approve the draft expedited scope rulings for interest arbitration as presented for six months, with the full Commission having an opportunity to reconsider within a year based on reports, and to note that nothing we are doing here changes the right in any way for the parties to request reconsideration before the full Commission. Commissioner Bonanni seconded the motion. The motion to adopt the expedited scope rulings was approved by a vote of four in favor (Chair Hatfield, Commissioners Bonanni, Boudreau and Eskilson), and three opposed (Commissioners Jones, Voos and Wall).

It was recommended to move next month's meeting date from Tuesday, November 20, 2012 to Monday, November 19, 2012. The motion was approved by acclamation.

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

The next regular meeting is scheduled to be held on Monday, November 19, 2012 at 10:00 a.m.