

MINUTES OF MEETING
NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION
February 29, 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
Mary E. Hennessy-Shotter, Deputy General Counsel
Don Horowitz, Deputy General Counsel
Martin R. Pachman, General Counsel
Barbara L. Neuman, Certified Court Reporter

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 February 22, 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 January 20, 2012 special meeting. A motion to adopt the minutes was made by Commissioner Eskilson and seconded by Commissioner Voos. Commissioners Bonanni, Jones and Wall were not present at the special meeting because they were recused from voting and did abstained from voting on the minutes. The motion to adopt the minutes was unanimously approved (Chair Hatfield, Commissioners Eskilson, Krengel and Voos).

The next item for consideration was the minutes of the January 26, 2012 meeting. A motion to adopt the minutes was made by Commissioner Eskilson and seconded by Commissioner Krengel. The motion to adopt the minutes was unanimously approved (Chair Hatfield, Commissioners Bonanni, Eskilson, Jones, Krengel, Voos and Wall).

Chair Hatfield reported that there was a fact-finders/mediators training session held on January 31, 2012, which was nicely attended. She thanked the staff who attended and participated by providing updates on rules and recent developments on Commission cases.

The Counsel's Office distributed a monthly report.

Martin Pachman, General Counsel, reported that the Supreme Court has declined to review Flemington-Raritan, a Commission decision that was issued by the Commission in 2011 and affirmed by the Appellate Division last year. He continued noting that an

appeal is pending in Atlantic City Board of Education, a Commission decision which restrained a grievance seeking compensation for certain evaluations given to school psychologists. The employer has also sought review in the Atlantic City Police SOA case, in which the Commissioners eligible to vote split 3-3, effectively denying the City's request to restrain arbitration. The General Counsel also referred the Commission to disciplinary decisions mentioned in the report involving rulings by the Department of Civil Service and the Department of Education that were taken up to the Appellate Division.

The first case for consideration was the draft decision in Township of Bloomfield and FMBA Local 19, Docket No. IA-2008-002. Commissioner Voos moved the draft decision and Commissioner Wall seconded the motion. The motion to adopt the decision was approved by a vote of six in favor (Chair Hatfield, Commissioners Bonanni, Eskilson, Krengel, Voos and Wall), and one opposed (Commissioner Jones).

Next for consideration was the draft decision in Township of Teaneck and PBA Local 215, Docket No. SN-2011-060. Commissioner Bonanni left the meeting at this time. Commissioner Eskilson moved the draft decision and Chair Hatfield seconded the motion. Commissioner Jones recused himself because this case involved the Locke law firm. Commissioner Wall recused himself because of

his affiliation with the PBA. Commissioner Krengel stated she feels the issue involved here is arbitrable. She continued that the grievance here was decided, in effect, when the Edison decision was reversed. She further stated that all the Commission should have done was say "yes" an arbitrator needs to take a look at this and see if the contract is still in effect. Mr. Horowitz pointed out that one of the differences, even though it is the 1.5% issue, is that the interest arbitrator imposed the 1.5% in his award as of the effective date of the 1.5% law, a circumstance not present in Edison. Mr. Bonanni returned to the meeting at this time. Chair Hatfield responded that she respectfully disagrees and stands with the decision here. The law is clear. We don't send subjects to grievance arbitrators a) when the courts have spoken and b) when the law is clear. It is a waste of taxpayers' dollars to send something to a grievance arbitrator when you know what the law says and you have the courts upholding it too. Commissioner Eskilson stated he agreed with the Chair. Also, in a practical matter we have also had an arbitrator weigh in in the interest arbitration. The motion to adopt the decision was approved by a vote of three in favor (Chair Hatfield, Commissioners Bonanni and Eskilson), one opposed (Commissioner Krengel), and one abstention (Commissioner Voos).

Next for consideration was the draft decision in County of Hudson and District 1199J, NUHHCE, AFSCME, AFL-CIO, Docket No.

SN-2011-071. Commissioner Voos moved the draft decision and Commissioner Krengel 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 County of Cumberland and UAW, Local 2327, Docket No. SN-2011-082.

Commissioner Eskilson moved the draft decision and Commissioner Bonanni seconded the motion. Commissioner Eskilson stated that as a practical matter he believed the Cumberland County Nursing Home is under contract or closed, which is where this employee worked. He said he was not sure what the remedy would be here. To give the person an interview, but it seems that would render the whole thing rather moot. But nevertheless, I support the decision. Commissioner Jones stated that if they had just conducted the interview then they would still maintain their prerogative and the CNA clearly calls for her right to be interviewed. The motion to adopt the decision was approved by a vote of six in favor (Chair Hatfield, Commissioners Bonanni, Eskilson, Krengel, Voos and Wall), and one opposed (Commissioner Jones).

The next item for consideration was a draft resolution in honor and memory of Charles Marciante. Draft resolutions for retiring Commission staff members Stuart Reichman and Charles

Tadduni were also read into the record. All resolutions were unanimously approved by acclamation.

Commissioner Wall 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, March 29, 2012 at 10:00 a.m.