

MINUTES OF MEETING
NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION
June 28, 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

Also present were:

David Gambert, Deputy General Counsel
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 June 21, 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 May 24, 2012 special meeting. A motion to adopt the minutes was made by Commissioner Kregel and seconded by Commissioner Voos. Commissioners Jones and Wall were not present at the meeting because they were recused from voting. The motion to adopt the minutes was unanimously approved (Chair Hatfield, Commissioners Bonanni, Eskilson, Kregel and Voos).

The next item for consideration was the minutes of the May 30, 2012 special meeting. A motion to adopt the minutes was made by Commissioner Voos and seconded by Commissioner Kregel. Commissioner Wall was not present because he was recused from voting. The motion to adopt the minutes was unanimously approved (Chair Hatfield, Commissioners Bonanni, Eskilson, Jones, Kregel and Voos).

The next item for consideration was the minutes of the May 31, 2012 regular meeting. A motion to adopt the minutes was made by Commissioner Kregel and seconded by Commissioner Eskilson. Commissioners Jones was not present at the meeting. The motion to adopt the minutes was unanimously approved (Chair Hatfield, Commissioners Bonanni, Eskilson, Kregel and Voos).

Chair Hatfield welcomed and introduced Marisa Koz, a new staff agent with the agency.

Chair Hatfield advised the Commissioners that there are two new interest arbitration appeals which involve Morris County and

New Milford. A suggested meeting date of Monday, July 2, 2012 at 9:30 a.m. was scheduled.

The Counsel's Office distributed a monthly report.

Don Horowitz, Deputy General Counsel, reported that the Appellate Division affirmed a Commission decision in County of Hunterdon and FOP Lodge No. 94 and FOP Lodge No. 29. The Appellate Division agreed with the decisions of the Commission which affirmed the interest arbitration awards. The County challenged the awards on the grounds that the arbitrator should not have awarded salary provisions containing step increments.

The employer has appealed the interest arbitration award issued in Township of West Caldwell, to the Appellate Division of the Superior Court. The sole issue raised was a claim that an out of title pay provision was outside the scope of negotiations. The Commission decision held that the disputed issue was mandatorily negotiable and affirmed the award.

New Jersey Transit is seeking leave of the Superior Court, Appellate Division, to appeal an interim relief decision denying its request for an interim restraint of arbitration filed by the Amalgamated Transit Union Division 822, seeking to have a retroactive raise paid to workers who were out with injuries at the time the raise took effect.

The first case for consideration was the draft decision in Township of Wayne and Joseph Shenekji, Docket No. CI-2011-052.

Commissioner Eskilson moved the draft decision and Commissioner Voos seconded the motion. The motion to adopt the draft decision was approved by a vote of five in favor (Chair Hatfield, Commissioners Bonanni, Eskilson, Krengel and Voos), and one opposed (Commissioner Jones).

Next for consideration was the draft decision in State of New Jersey, Kean University and Council of New Jersey State College Locals, AFT, AFL-CIO, Docket No. CO-2011-072.

Commissioner Eskilson moved the draft decision and Commissioner Bonanni seconded the motion. The motion to adopt the draft decision was approved by a vote of five in favor (Chair Hatfield, Commissioners Bonanni, Eskilson, Krengel and Voos), and one opposed (Commissioner Jones).

The next case for consideration was Robert Ruffin and Department of Human Services, Ancora Psychiatric Hospital, OAL Docket No. CSV 13378-10 and Agency Docket No. 2011-1702 and AFSCME Council 71, Local 2218 and State of New Jersey (Ancora Psychiatric Hospital), P.E.R.C. Docket No. CO-2011-221.

Commissioner Eskilson moved the draft decision and Commissioner Jones seconded the motion. The motion to adopt the draft decision was unanimously approved (Chair Hatfield, Commissioners Bonanni, Eskilson, Jones, Krengel and Voos).

General Counsel Martin Pachman left the meeting at this time.

The next case for consideration was New Jersey State (Division of State Police) and New Jersey State Trooper Captains Association, Docket No. RO-2006-087. Commissioner Eskilson moved the draft decision and Commissioner Bonanni seconded the motion. Commissioner Jones was recused himself because this case involved the Loccke law firm. The motion to adopt the draft decision was unanimously approved (Chair Hatfield, Commissioners Bonanni, Eskilson, Krengel and Voos).

Mr. Pachman returned to the meeting.

The next case for consideration was Township of Maple Shade and PBA Local 267 and PBA Local 267 (SOA), Docket Nos. SN-2011-052 and SN-2011-061. Commissioner Voos moved the draft decision and Commissioner Bonanni seconded the motion. Commissioner Eskilson recused himself because the case involved the Mets law firm. The motion to adopt the draft decision was unanimously approved (Chair Hatfield, Commissioners Bonanni, Jones, Krengel and Voos).

The next case for consideration was Township of South Brunswick and AFSCME, Council 73, Local 2242, Docket No. SN-2011-094. Commissioner Eskilson moved the draft decision and Chair Hatfield seconded the motion. Commission Voos expressed concerns about the contract provision in this case. She also asked if it was a managerial prerogative to select the most qualified person for the position. General Counsel Martin Pachman responded that

management had the right to select and determine who is most qualified. Commissioner Jones stated that the employer negotiated the clause in the contract. Commissioner Voos stated the facts of the case were unclear and the case should go to an experienced arbitrator. Chair Hatfield commented that the union can negotiate on the process but does not have the right to choose an applicant. The motion to adopt the draft decision resulted in a tie vote, three in favor (Chair Hatfield, Commissioners Bonanni and Commissioner Eskilson), and three opposed (Commissioners Jones, Krengel and Voos).

The next case for consideration was Township of West Caldwell and West Essex PBA, Local 81 (West Caldwell Unit), Docket No. SN-2012-052. Commissioner Bonanni moved the draft decision and Commissioner Eskilson seconded. Commissioner Jones was recused himself because this case involved the Loccke law firm. The motion to adopt the draft decision was unanimously approved (Chair Hatfield, Commissioners, Bonanni, Eskilson, Krengel and Voos).

The last case for consideration was Borough of New Milford and PBA Local 83, Docket No. IA-2012-008. This case was pulled from the agenda. Case will be reviewed at the Special Commission Meeting scheduled to be held on Monday, July 2, 2012.

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.