

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
EMPLOYMENT RELATIONS COMMISSION

APPROVED MINUTES  
REGULAR MEETING OF AUGUST 11, 2015  
DETROIT, MICHIGAN

The meeting of the Employment Relations Commission was called to order at 10:00 a.m., by the Commission Chair, Edward D. Callaghan, at MERC's Detroit Office, 3026 W. Grand Boulevard, Suite 2-750, in Detroit, Michigan.

Those in attendance: Edward D. Callaghan, Commission Chair; Commissioner Robert S. LaBrant and Commissioner Natalie P. Yaw; Ruthanne Okun, Bureau Director; Lynn Morison, Staff Attorney; James Spalding, Mediation Supervisor; Denise Hinneburg, Elections Officer; Ashley Olszewski, Paralegal; Seth Filthaut, Law Clerk; Deborah Stewart, Legal Secretary and Nancy Pitt, Executive Secretary.

Public in Attendance: Arbitrator David W. Hershey and Attorney Tim Gardner, Thrun Law Firm.

It was moved by Commissioner LaBrant and seconded by Commissioner Yaw to adopt the agenda of the regular meeting of August 11, 2015, as proposed. A vote was called. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.

## **MINUTES**

It was moved by Commissioner Yaw and seconded by Commissioner LaBrant to adopt the minutes of the regular meeting of July 21, 2015, as proposed. A vote was called. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.

## **DIRECTOR'S REPORT**

The Act 312 and Fact Finding Reports were reviewed and discussed. Updates were reported by the Director. There are 8 Act 312 cases and 25 Fact Finding cases listed on the report.

The Administrative Law Judge Reports were reviewed and discussed.

The Event Report was reviewed.

The Representation and Election Reports were reviewed and discussed. Commission Chair Callaghan inquired about the fluctuation of Representation and Unit Clarification cases. Denise Hinneburg stated that the fluctuation in cases is related to the open-window period which causes an increase in case filings. There are currently 44 active cases listed on the Representation Case Activity Report.

The Mediation Activities Report was reviewed.

The Mediation Activities Trends Report was reviewed. An update was provided by Jim Spalding.

There were no work stoppages to report.

The Appellate Report was reviewed. There are 13 MERC cases currently pending before the Michigan Court of Appeals and 1 case pending before the Michigan Supreme Court. The matter in ***Faust Public Library -and- Michigan AFSCME Council 25, AFL-CIO***, Case No. R09 D-053, has been remanded by the Court of Appeals.

## **ADMINISTRATIVE AGENDA**

The Commission acknowledged the recent passing of Former Bureau Director Shlomo “Sol” Sperka. A Tribute to Former Bureau Director Shlomo “Sol” Sperka was read into the minutes by Director Okun.

It is with great sadness and fond memories that we report the recent death (in Israel) of former Director of the Bureau of Employment Relations/Michigan Employment Relations Commission (MERC) – Shlomo “Sol” Sperka. Sol was a renowned and respected arbitrator and a member of the MERC Panel of Arbitrators and Fact Finders, as well as the Labor Panel of the American Arbitration Association and the Federal Mediation and Conciliation Service. He attended the National Judicial College in Reno, Nevada. He was an adjunct professor at Wayne State University Law School and Interim Director of the Master of Arts Program in Industrial Relations at Wayne. Sol was a past president of the Association of Labor Relations Agencies – an organization comprised of state, federal, and Canadian agencies whose mission is similar to that of MERC. He was a true mentor to many and a friend to the entire labor constituency. Sol “wore shoes” that we could never hope to fill. Those of us who worked with or were acquainted with Sol will always remember his kindness, along with his calm demeanor and good humor – even when challenged by the most difficult lawyers. His knowledge of labor law and labor issues, in general, and especially of public sector labor law was infinite. He was always willing to share his wisdom with others – available to respond to any question that a constituent may have and ready to debate at the first opportunity. Sol was able to blend his impeccable knowledge with his profound commitment to his Judaism and to his family. He will be remembered as a really wise and decent man, who was dedicated to finding the right answer and doing the right thing. Sol will be missed by all of us in the labor-management community.

Updates were provided by the Director on the cases set forth on the significant cases report. The transition from the DWSD to GLWA is scheduled to occur in January, 2016.

All briefs have been filed with the Michigan Court of Appeals including an *Amicus Curiae* brief filed by the NRTWLDF in the Taylor School District/Taylor Federation of Teachers case. Permission to file an *Amicus Curiae* Brief in Support of Appellant has been filed by the Michigan Education Association.

MERC has received authorization from the Attorney General's Office to move forward with the use of our mediation staff and other procedures to reduce the number of City of Detroit pre and post-bankruptcy cases.

The Resolution for Milli Kennedy, who is retiring from State service on August 28, 2015, was read into the minutes by Jim Spalding. Milli was also acknowledged by the Commission for her many years of service with the agency as the Lansing Mediation Secretary. Commissioner LaBrant moved and Commissioner Yaw seconded to adopt the resolution as read. A vote was called. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie Yaw, Aye. The motion passed.

*Honoring  
Milli Kennedy  
On Her Retirement*

*WHEREAS, Milli Kennedy, Executive Secretary at the Bureau of Employment Relations, will retire on August 28, 2015, after over forty-two years of outstanding and meritorious service to the State of Michigan; and the Bureau of Employment Relations; and*

*WHEREAS, Milli Kennedy began her career with the State of Michigan, Bureau of Community Services Training Division on January 22, 1973, as a Secretary, Steno 5; and as a result of diligent work and demonstrated ability, Milli advanced to positions of increasing responsibility; and*

*WHEREAS, in recognition of her outstanding skills and proven professionalism, Milli was selected to fill the position of Executive Secretary 10 at the Bureau of Employment Relations on January 29, 1995, where she served until her retirement; and*

*WHEREAS, Milli loyally and ably served three Mediation Division Administrators and the Bureau Director as an Executive Secretary, and provided personal attention to every detail with style and grace. She performed her duties throughout her career in a conscientious and thoughtful manner reflecting great credit upon the Bureau of Employment Relations; and*

*WHEREAS, through her years of service Milli developed a depth of general knowledge of state agencies and would use that knowledge to provide courteous assistance to citizens who had been transferred with a problem outside the Bureau's area of jurisdiction. She was tenacious in finding the correct agency to provide the needed assistance. Milli Kennedy was always the last person with whom a citizen needed to speak to get an answer or to be directed to the proper agency, and the one person they wished they had spoken to first; and*

*WHEREAS, throughout her many years of service, Milli has served the Bureau of Employment Relations and the people of this state with fairness, compassion, dedication, and a willingness to help and volunteer; she has earned the respect and confidence of management and coworkers for her knowledge and personal attention, and she will be missed by all:*

*THEREFORE, BE IT RESOLVED, that we, the Members of the Michigan Employment Relations Commission, do hereby extend to Milli Kennedy our sincere and grateful appreciation for her outstanding record of personal and professional achievement and for her dedicated service to the Bureau of Employment Relations and to the State of Michigan, our congratulations on her well-earned retirement, and our best wishes to her for continued success, happiness, and good health in the years to come.*

*BE IT FURTHER RESOLVED that this resolution be contained in the official minutes of the Michigan Employment Relations Commission and maintained in the official records of the Bureau of Employment Relations including in Milli's personnel file, and that copies be furnished to Milli Kennedy.*

*Adopted at Detroit, Michigan, this eleventh day of August, 2015, by the Michigan Employment Relations Commission.*

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Edward D. Callaghan, Commission Chair  
Robert S. LaBrant, Commission Member  
Natalie Yaw, Commission Member

The July 2015 Dashboard Project was reviewed.

Kudos were extended by the Commission to Director Okun and staff for their efforts in planning an outstanding and memorable reception in honor of PERA's 50<sup>th</sup> Anniversary. Director Okun complimented Jim Spalding, Sidney McBride, Micki Czerniak, Barbara Norris, Deborah Stewart, Tracy Marr, Ashley Olszewski and Seth Filthaut and other staff for their diligence and hard work in planning a successful event. LARA Director Mike Zimmer was recognized for his attendance. Commissioner LaBrant moved and Commissioner Yaw seconded to congratulate the staff for all their efforts. A vote was called. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.

Director Okun reported on the litigation cases involving MERC. The cases have been resolved in *AFL-CIO v MERC Commissioners, et al* (Stipulated Final Order) and *UAW v MERC Commissioners (Michigan Supreme Court decision)*. She noted that AAG Chris Braverman has been replaced by AAG Bill Denner, who will be available to assist MERC. The change in assignments was due to recent staff changes within the Labor Division of the Attorney General's Office.

The next regular MERC meeting has been rescheduled for Wednesday, September 16, 2015, 10:00 a.m., at the State of Michigan Library & Historical Center, Lake Superior Room, 720 W. Kalamazoo, Lansing.

## **DECISIONAL AGENDA**

None.

## **NEW BUSINESS**

The Department of Treasury Emergency Manager/DEP Information and the Deficit School District list were reviewed.

Jim Spalding and Tom Kreis are scheduled to present a “Back to Basics” training seminar on September 16, 2015, at the Alpine Lodge in Gaylord, Michigan.

## **OLD BUSINESS**

The application for appointment to the Grievance Arbitration panel filed by David Hershey was revisited. Information regarding the number of requests received for appointment of a grievance arbitrator and the number of appointments for the past 5 years was presented by Director Okun. Also, a review of the current panel member list indicates a disproportionate number of members with management backgrounds. Commission Chair Callaghan expressed concern about the disservice to the individuals on the grievance arbitration panel if the Commission were to add new members and suggested placing a temporary moratorium on receiving and/or proceeding with applications. Commissioner Yaw stated that it is not equitable to close off applications that already have been received and moved to accept David Hershey’s application before closing off applications. Commissioner LaBrant seconded. (A vote was not called.) Commission Chair Callaghan asked for more information on the other panels for review at the September 16 MERC meeting. Commissioner LaBrant moved to table the moratorium on applications to the September 16 meeting and to post a notice on the website that the matter is being considered by the Commission as a signal to prospective applicants. A vote was called. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.

Director Okun will do a brief survey of the Advisory Committee regarding the temporary moratorium on accepting applicants to the panel and/or management applicants that will be considered by the Commission.

Commissioner Yaw moved and Commissioner LaBrant seconded to approve the application of David W. Hershey for appointment to the Grievance Arbitration panel. A vote was called. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.

## **PUBLIC COMMENT**

There was no public comment.

## **ADJOURNMENT**

There being no further business before the Commission at this time, Commissioner LaBrant moved that the meeting be adjourned at 10:42 a.m. A vote was called. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.