

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

APPROVED MINUTES
REGULAR MEETING OF JUNE 11, 2013
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, Detroit, Michigan.

Those in attendance: Edward D. Callaghan, Commission Chair; Commissioner Nino E. Green and Commissioner Robert S. LaBrant; Ruthanne Okun, Bureau Director; Lynn Morison, Staff Attorney; James Spalding, Mediation Supervisor; Micki Czerniak, Mediator; Bob Strassberg, Mediator; John Valenti, Administrative Law Specialist; Sidney McBride, Departmental Specialist; Verna Miller, Departmental Specialist; Travis Calderwood, Administrative Law Specialist; Carl Wexel, Law Clerk and Nancy Pitt, Executive Secretary.

Public in Attendance: Mark Young, President, DPLSA; Rodney Sizemore, Vice President, DPLSA; Cassandra Brown, Attorney, Allen Park IAFF #1410; Daniel McNamara, DFFA; Howard Shifman, Attorney, Allen Park EM; Peter P. Sudnick, Attorney; Anthony Femminineo, Attorney, Dean & Fulkerson; John Willems, Attorney, City of Detroit; Misbah Shahid, Attorney, City of Detroit; Richard Mack, Attorney, DPLSA; John F. Kennedy, Attorney, DPLSA; Brian Harris, Attorney, DPLSA; Steven Carpenter, DPD; Kevin Loftis, POAM.

The agenda of the regular MERC meeting of June 11, 2013 was amended as follows: (1) The Decisional Agenda and (2) the City of Allen Park/IAFF, Case No. D13 C-0345 were moved up to Item #3 on the proposed amended agenda. A vote was called on the motion. Edward D. Callaghan, Aye; Nino E. Green, Aye; Robert S. LaBrant, Aye. The motion passed.

MINUTES

It was moved by Commissioner Green and seconded by Commissioner LaBrant to adopt the minutes of the regular MERC meeting of May 14, 2013 as proposed. A vote was called on the motion. Edward D. Callaghan, Aye; Nino E. Green, Aye; Robert S. LaBrant, Aye. The motion passed.

DECISIONAL AGENDA

City of Detroit's Emergency Motion to Dismiss Due to Lack of Arbitral Jurisdiction

- a. City of Detroit and POAM, Case No. D09 F-0703
- b. City of Detroit and DPCOA, Case No. D11 J-1169
- c. City of Detroit and DPLSA, Case No. D13 A-0005

The Commission discussed the above-listed cases. The Employer's motion to dismiss the Act 312 arbitrations pending in the above captioned cases is granted. A vote was called. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Nino E. Green, dissenting.

City's Request for Dismissal of Act 312 Petition

City of Allen Park/IAFF, Case No. D13 C-0345

Commissioner LaBrant moved to grant the City's request for dismissal of Act 312 petition in light of and based on the reasoning set forth in today's decision in the City of Detroit Act 312 cases. A vote was called. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Nino E. Green, dissenting.

DIRECTOR'S REPORT

The Act 312 and Fact Finding Reports were reviewed and discussed. Updates were reported by the Director. The number of Act 312 cases have declined while the number of fact finding cases remain relatively stable. A total of 30 Act 312 cases and 38 fact finding cases was listed on the reports.

The Administrative Law Judge Reports were reviewed and discussed. Updates were reported by the Director. ALJ O'Connor has given dates of completion concerning the City of Keego Harbor and other cases on his docket.

The Event Report was reviewed and discussed.

The Representation and Election Reports were reviewed and discussed. The UC petitions involving the City of Detroit and its bargaining units at the Detroit Water & Sewerage Department have been placed on hold. It was noted that the Unions have been granted limited intervention in the federal court case before Federal Judge Sean Cox.

The Representation Case Activity Report was reviewed and discussed.

The Elections Report was reviewed and discussed. A hearing has been scheduled for July 2, 2013 in City of Dearborn/Teamsters, Local 214/MAPE case regarding the spoiled ballot which is the focus of the objections to the election filed by MAPE.

The Mediation Report was reviewed and discussed. Mediation Supervisor Jim Spalding and Mediator Micki Czerniak are working on changes to improve the monthly report and to provide the Commission with the information that it has requested.

The Appellate Report was reviewed. It was reported that in **Reese Public School District -and- Reese Professional Support Personnel Association**, Case No. C11 I-155, an appeal has been filed with the Michigan Court of Appeals.

ADMINISTRATIVE AGENDA

The post observations of the Act 312 Arbitrators, Fact Finders and Constituents Conference were revisited to examine how we can take advantage of technology, website posting, etc., for planning future conferences.

The composition and charges of the Advisory Committees was discussed. Maria Greenough is working to contact Act 312 Arbitrators/Fact Finders to participate on that committee. Confirmations have been received from six panel members who have agreed to serve. Commission Chair Callaghan asked if a charge has been written for that committee. He also stated that, at the July meeting, he would like to have tentative dates in September for the first Act 312 Arbitrator/Fact Finder Advisory Committee meeting.

There was discussion regarding the closure of the BER Lansing office at the 1375 S. Washington address. The July MERC meeting will be the last meeting held at the Washington Street address. The office is being relocated to the second floor of the Ottawa Building - within the MAHS area. There is concern regarding the accessibility to the office by the public at the Ottawa Building location. The Secondary Complex/GOB and the State of Michigan Library/Museum were suggested as alternative sites for MERC meetings. Mediation Supervisor Spalding will look into these two locations.

Significant/critical cases – Updates were reported by the Director on City of Flint, City of Muskegon, City of Pontiac and other cases. The tentative agreement reached by the parties in the Ferris State University case has not yet been ratified, but the parties' attorney do not anticipate that ratification will be a problem. The Director will inquire if a representative from the Attorney General's office can be present at the July meeting to provide an update to the Commission on the pending litigation in a closed session.

Commissioner Green moved and Commissioner LaBrant seconded to appoint Thomas B. North to the Grievance Arbitration panel. A vote was called. Edward D. Callaghan, Aye; Nino E. Green, Aye; Robert S. LaBrant, Aye. The motion passed.

Commissioner Nino E. Green was recognized by the Commission for his many years of service, 3 terms, as a member of the Michigan Employment Relations Commission. His appointment expires on June 30, 2013. A resolution will be presented to Commissioner Green at the next meeting.

It was confirmed that the next regular Commission meeting is tentatively scheduled for Tuesday, July 9, 2013 at 10:00 a.m., in the Commission's office at 1375 S. Washington, Suite 200, Lansing, Michigan.

NEW BUSINESS

The Department of Treasury Emergency Manager Information was reviewed by the Commission. Chair Callaghan requested to be kept apprised of this information on a monthly basis.

OLD BUSINESS

The May 2013 Dashboard Project was reviewed.

An update on the MPELRA Manual was provided by the Director. There are eight individuals at MERC/BER who have agreed to assist with articles. Commissioner Green will be contributing an article on duty disability issues for State of Michigan employees.

A meeting is scheduled in July between the MERC Chair and staff to finalize the table of contents of the Annual Report for the 2012-13 year.

PUBLIC COMMENT

There was no public comment.

ADJOURNMENT

There being no further business before the Commission at this time, it was moved by Commissioner Green and seconded by Commissioner LaBrant that the meeting be adjourned at 10:30 a.m. A vote was called on the motion. Edward D. Callaghan, Aye; Nino E. Green, Aye; Robert S. LaBrant, Aye. The motion passed.