

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

APPROVED MINUTES  
REGULAR MEETING OF JULY 8, 2014  
LANSING, 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 the State of Michigan Library and Historical Center, Lake Superior Room, 720 W. Kalamazoo, Lansing, Michigan.

Those in attendance: Edward D. Callaghan, Commission Chair; Commissioner Robert S. LaBrant; Commissioner Natalie P. Yaw (via telephone conference); Ruthanne Okun, Bureau Director; Lynn Morison, Staff Attorney and James Spalding, Mediation Supervisor.

Those in attendance via telephone conference: Sidney McBride, Mediator; Ann Warner and Lisa Lane, Administrative Law Specialists; Denise Hinneburg, Election Officer; Ashley Olszewski, Paralegal and Nancy Pitt, Executive Secretary.

Public in Attendance: John McGlinchey, City of Lowell; Mark Howe, City of Lowell; Sara Harwood, City of Lowell; Patrick Wright, Mackinac Center Legal Foundation; Derk Wilcox, Mackinac Center Legal Foundation and Tom Schramm, Nemeth Law, PC.

It was moved by Commissioner LaBrant and seconded by Commissioner Yaw to adopt the agenda as proposed. A vote was called on the motion. 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 and the minutes of the closed session meeting of June 10, 2014 as proposed. A vote was called on the motion. 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 16 Act 312 cases and 27 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. There are 50 new and active cases currently listed on the Representation Case Activity Report.

The Mediation Activities Report was reviewed.

There were no work stoppages to report.

The Appellate Report was reviewed. There are 14 MERC cases currently pending before the Michigan Court of Appeals. There are currently no MERC cases pending before the Michigan Supreme Court.

## **ADMINISTRATIVE AGENDA**

Bureau Director Ruthanne Okun introduced to the Commission the recently-hired Paralegal, Ashley Olszewski. Information from Ashley's impressive biographical sketch was shared and a welcome was extended by the Commission to Ms. Olszewski.

Updates were reported by the Director on the significant cases report. In the ***City of Detroit and Detroit Police Officers Association*** case, Director Okun reported on DPOA's request that the Michigan Employment Relations Commission appoint a mediator to assist with the resolution of a collective bargaining agreement between the City and the DPOA. The City responded by rejecting the DPOA's request to appoint a mediator as the City is in receivership and has no duty to bargain under PERA pursuant to PA 436.

In the ***City of Ecorse and Ecorse Fire Fighters*** grievance arbitration case, Director Okun reported that the City will not participate in the grievance arbitration process because the City is in receivership and is not subject to the terms of PERA pursuant to PA 436. The City has suggested that the dispute may be referred to grievance mediation should the Union be willing to participate.

An update was reported by Jim Spalding on the MERC Act 312/Fact Finder Constituent Training. The deposit for the space has been paid and dates for the training have been locked in for March 26-27, 2015 at the Schoolcraft College

VisTa Tech Center in Livonia, Michigan. A half-day session is planned for Thursday, March 26 for the constituents and a full-day session on Friday, March 27, for Act 312 and Fact Finding panel members. The Bureau's conference committee has met and discussed several potential topics. The next meeting is scheduled for the end of July and before that time Commission Chair Callaghan requests input from the members of the Commission and others. The dates of the training will be posted on MERC's website under the "What's New" feature.

An update was reported by Jim Spalding on the MERC Back to Basics training seminar scheduled for August 20, 2014 in the a.m. at the Bank of America Headquarters Building in Troy, Michigan. Jim also noted that he and Sidney McBride had met to discuss proposed topics for the training seminar. The topics for the training have been forwarded to the Metropolitan Bureau of School Studies (which is sponsoring the training) for review. Commission Chair Callaghan has invited the former MERC commissioners to attend the seminar.

There was discussion regarding the Mackinac Center's request for adoption of Administrative Rule, pursuant to Administrative Procedures Act, MCL 24.238. The Commission discussed if submission of a new rule would begin a new process and whether it would affect MERC's moving forward on the General and Act 312 Rules during this legislative session. The matter was tabled to the August 12, 2014 meeting to allow FTW Specialist Lisa Lane more time to complete her recommendation for the Commission's review and consideration. The Commission has ninety days to respond to the request for rulemaking – until sometime in early September.

The next regular MERC meeting is scheduled for Tuesday, August 12, 2014 at 10:00 a.m., in the Commission's offices at 3026 W. Grand Boulevard, 3026 W. Grand Boulevard, Suite 2-750, Detroit, Michigan.

The regular MERC meeting tentatively scheduled for Tuesday, October 14, 2014 has been rescheduled to Tuesday, October 7, 2014 at 10:00 a.m., in the Commission's offices at 3026 W. Grand Boulevard, Suite 2-750, Detroit, Michigan.

## **DECISIONAL AGENDA**

The Commission decided the following matter:

1. **36<sup>th</sup> District Court -and- AFSCME Council 25**, Case Nos. C08 H-170 & C10 F-155.

The Commission received correspondence from Charging Party indicating that the parties have reached a settlement and requesting that the charge be withdrawn. It was moved by Commissioner LaBrant and seconded by Commissioner Yaw to approve the Charging Party's request to withdraw the

charge and accept the Decision and Order as proposed in the above captioned matter. A vote was called. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.

2. ***Keego Harbor -and- Police Officers Labor Council***, Case No. C10 A-008.

The matter is tabled to the August 12, 2014 MERC meeting.

The Commission discussed the following matters:

1. ***City of Lowell -and- Int'l Brotherhood of Electrical Workers (IBEW), Local Union 876***, Case No. C13 C-050.
2. ***Macomb County -and- Michigan AFSCME Council 25, AFL-CIO, and It's Affiliated Local 411***, Case No. C11 L-215.
3. ***Wayne County -and- Michigan AFSCME Council 25 and Its Affiliated Local 25***, Case No. C13 E-090.
4. ***Wayne County -and- AFSCME Council 25, AFL-CIO***, Case No. C11 A - 024A.

The matter regarding the Respondent's motion for reconsideration and request that the ALJ's decision not be published was tabled to the August 12 MERC meeting to allow for further discussion and review by the Commission.

5. ***City of Southfield -and- SPOA -and- SCOA -and- POAM***, Case Nos. C11 L-220, C11 L-223, 224 & 225.

## **NEW BUSINESS**

The Department of Treasury Emergency manager/DEP Information and the Deficit School District list were reviewed. There are 13 municipalities with an EM; 5 K-12 districts with an EM; 45 school districts remain under a Deficit Elimination Plan.

Commission Chair Callaghan reviewed and commented concerning the "CRC Memorandum" publication by the Citizens Research Council of Michigan. The publication concerns the fiscal health of Michigan school districts.

The June 2014 Dashboard Project was reviewed, and Bureau staff was commended for their hard work and efforts.

## **OLD BUSINESS**

Sidney McBride reported that the General Rules and Act 312 Rules are in the two final stages for rulemaking. He reported that the concern by the ORR about a possible conflict between a parallel rule being promulgated by MAHS that affects MERC's General Rules has been resolved. He stated that ORR is moving forward in the process of approving our proposed rules.

Denise Hinneburg provided an update on the audits of unions. Currently 548 union audits have been received and posted to the Bureau's website.

Regarding MERC Administrative Rule 136 and 137 – the time limit set forth in the proposed rules for conducting a fact finding proceeding was discussed – vs. the time constraint for issuance of a Fact Finding decision that had been suggested by the Advisory Committee.

The deadline for the preparation of the 2013-14 Annual Report is November 30, 2014. A draft of the Table of Contents is expected for review by the Commission at the August MERC meeting. Jim Spalding asked for the commissioners' input prior to that time.

The MERC (Revised) Policy regarding the Application to and Removal from MERC's Act 312 and Fact Finder Panels, was adopted by the Commission on June 9, 2014. The Bureau Director presented the final policy.

## **PUBLIC COMMENT**

There were public comments from Attorney John McGlinchey regarding the City of Lowell; Attorney Patrick Wright had comments regarding Mackinac Center's request to promulgate a new rule and regarding the audit process and the Bureau's obligation to post audits from unions representing public sector employees. Attorney Tom Schramm had comments regarding the Motion for Reconsideration and issue of the publication of the case in the Wayne County/AFSCME matter.

## **ADJOURNMENT**

There being no further business before the Commission at this time, Commissioner Yaw moved that the meeting be adjourned at 11:17 a.m. A vote was called on the motion. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.

