

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

APPROVED MINUTES
REGULAR MEETING OF SEPTEMBER 9, 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 and Commissioner Natalie P. Yaw; Ruthanne Okun, Bureau Director; Lynn Morison, Staff Attorney; James Spalding, Mediation Supervisor; Micki Czerniak and Sidney McBride, Mediators; Ann Warner and Lisa Lane, Administrative Law Specialists; Denise Hinneburg, Election Officer; Ashley Olszewski, Paralegal; Carl Wexel, Law Clerk and Nancy Pitt, Executive Secretary.

Public in attendance: Bruce A. Campbell, Wayne County; Jeff Murphy, MEA; Patrick Wright, Mackinac Center Legal Foundation; Ryan Nicholson, Thrun Law Firm. The following persons also attended from the State of Michigan Library & Historical Center – Don Todaro, Bernadette Bartlett, Kevin Driedger, and Courtney Whitmore.

The proposed agenda of the regular MERC meeting of September 9, 2014 was amended to remove the closed session and to add to the Decisional Agenda the case of **Wayne County -and- AFSCME Council 25, AFL-CIO**, Case No. C10 A-024A (Reconsideration of Vote). It was moved by Commissioner LaBrant and seconded by Commissioner Yaw to adopt the agenda of the regular MERC meeting of September 9, 2014 as amended. 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 of August 12, 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 AGENDA

The Act 312 and Fact Finding Reports were reviewed and discussed. Updates were reported by the Director. There are 17 Act 312 cases and 23 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 59 active cases currently listed on the Representation Case Activity Report. The increase in the number of petitions filed in August is related to the open window period.

The Mediation Activities Report was reviewed. Mediation Supervisor Jim Spalding reported that the numbers on the Mediation Activities Trends Report vary due to the inconsistency in statistics entered by the mediators. He stressed that the statistics entered electronically in Oracle, opposed to manually, are very critical and provide a more accurate report. The matter will be an agenda item for discussion at the Mediator's Staff Meeting on September 15, 2014.

The Mediation Activities Trends Report will be added to list of reports on the MERC Agenda, beginning with the October 7 meeting.

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 is currently one MERC case pending before the Michigan Supreme Court.

ADMINISTRATIVE AGENDA

Updates were reported by the Director on the significant cases report. Mediator Micki Czerniak provided an update in the City of Detroit/AFSCME cases and other Detroit cases pending in the bankruptcy matter.

An update was reported by Jim Spalding on the MERC Act 312/Fact Finder Constituent Training scheduled on March 26-27, 2015 at the Schoolcraft College VisTa Tech Center in Livonia. Representatives are invited from the Michigan Department of Education to speak on the subject of Deficit Elimination Plans. A Michigan Department of Treasury representative is to speak on the role of the Emergency Financial Manager, and a Blue Cross representative will present on health insurance issues. The agenda will be finalized by the October 7 meeting.

There was a recap by Jim Spalding of the MERC Back to Basics training seminar sponsored by the Metro Bureau on August 20, 2014. There was discussion regarding future Back to Basic training presentations at other locations in the State where there might be an interest. It was also suggested to highlight the training in Lawnotes. Kudos was extended to Jim Spalding, Deborah Stewart, Sidney McBride, Ashley Olszewski and staff for their hard work and efforts in planning and executing a successful seminar.

An update was reported by Mediator Sidney McBride on the General Rules and Act 312 Rules amendments. He stated that he has not received a response from ORR to his inquiry regarding the status of the pending Rules amendments. He (tentatively) anticipates final approval of both rule sets by the end of October.

Director Okun reported that a separate training for panel members on the MERC Rule amendments will be planned at a future date – this will follow the approval of both rule sets. A simultaneous broadcast of the training is also being considered at the Detroit and Lansing offices via Webinar.

A resolution was read by Director Okun and presented by the Commission to Don Todaro, Bernadette Bartlett and others at the State of Michigan Library in recognition of their efforts in the publication and posting of older MERC decisions. The conversion process was explained, and it was noted that over 30,000 pages of MERC decisions have been digitized.

The next regular MERC meeting is scheduled for 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 matters:

1. ***Keego Harbor -and- Police Officers Labor Council***, Case No. C10 A-008.
2. ***American Federation of State, County and Municipal Employees, Council 25, Local 2394 -and- Neil Sweat***, Case No. CU10 I-039.
3. ***Calhoun Intermediate Education Assn, MEA/NEA -and- Calhoun Intermediate School District***, Case No. CU12 B-009.
4. ***Michigan State University -and- Capitol City Lodge #141, Fraternal Order of Police***, Case No. C11 H-126.
5. ***Wayne County -and- Michigan AFSCME Council 25 and Its Affiliated Local 25***, Case No. C13 E-090.

6. **Macomb County -and- Michigan AFSCME Council 25, AFL-CIO, and Its Affiliated Local 411**, Case No. C11 L-215.
7. **Wayne County -and- AFSCME Council 25, AFL-CIO**, Case No. C10 A-024A.

Commissioner LaBrant moved to reconsider the Commission's vote from last month in the **Wayne County/AFSCME** decision and to bring the matter before the Commission again. A vote was called. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.

It was moved by Commissioner LaBrant and seconded by Commissioner Yaw to publish the ALJ's proposed Decision and Recommended Order in the **Wayne County/AFSCME** case, but delete the publication of any appendices to the ALJ's proposed Decision and Order in that case. A vote was called. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.

NEW BUSINESS

The Department of Treasury Emergency Manager/DEP Information and the Deficit School District list were reviewed. There are 48 school districts that remain under a Deficit Elimination Plan. Jim Spalding reported that a new report is anticipated this month and will be forwarded to the Commissioners when received.

The August 2014 Dashboard Project was reviewed. It was reported that the Dashboard Project (from August) is green in all areas. Staff members were recognized for their hard work and efforts.

OLD BUSINESS

Jim Spalding reported that the final numbers for the Annual Report are due at the end of September. A very rough draft of the Annual Report will be available for the Commission's review at the October 7 meeting.

The matter regarding the suggestion that MERC establish an award in memory of Arbitrator/Fact Finder John Lyons was discussed. The Commission stated that the award should be established by an outside organization. The Director Okun will consider this matter further.

Director Okun reported on the litigation cases involving MERC. The Commission requested to have a representative from the Attorney General's Office to be present at the October 7 meeting to address pending litigation in closed session.

PUBLIC COMMENT

There was public comment from Attorney Patrick Wright of the Mackinac Center for Public Policy.

ADJOURNMENT

There being no further business before the Commission at this time, Commissioner LaBrant moved that the meeting be adjourned at 11:22 a.m. A vote was called on the motion. Edward D. Callaghan, Aye; Robert S. LaBrant, Aye; Natalie P. Yaw, Aye. The motion passed.

