

STATE OF MICHIGAN  
DEPARTMENT OF LABOR AND ECONOMIC OPPORTUNITY  
EMPLOYMENT RELATIONS COMMISSION

APPROVED MINUTES  
REGULAR MEETING OF JUNE 18, 2020  
VIA ZOOM CONFERENCING

The meeting of the Michigan Employment Relations Commission was called to order at 10:00 a.m. by the Commission Chair, Samuel R. Bagenstos.

Those in attendance via remote conferencing: Samuel R. Bagenstos, Commission Chair; Edward D. Callaghan, Commissioner; Robert S. LaBrant, Commissioner; Sidney McBride, Interim Bureau Director; Carl Wexel, Administrative Law Specialist; Micki Czerniak, Labor Mediator; Ashley Rahrig, Departmental Analyst; Deborah Stewart, Executive Secretary; and Tracy Marr, Mediation Secretary.

Public by remote attendance: None.

It was moved by Commissioner Robert S. LaBrant and seconded by Commissioner Edward D. Callaghan to adopt the proposed agenda as presented. A vote was called. Bagenstos, Aye; Callaghan, Aye; LaBrant, Aye. The motion passed.

### **MINUTES**

It was moved by Commissioner Callaghan and seconded by Commissioner LaBrant to adopt the proposed minutes of the regular MERC meeting held remotely on May 14, 2020. A vote was called. Bagenstos, Aye; Callaghan, Aye; LaBrant, Aye. The motion passed.

### **DIRECTOR'S REPORT**

The Act 312 and Fact Finding Reports were reviewed and discussed.

The MOAHR ALJ Reports were reviewed and discussed.

The MERC Cases in Commission Review Report was reviewed.

The MERC Appellate Report was reviewed.

The Election Certification and Elections Trends Reports were reviewed. Director McBride noted 9 certifications of new bargaining representatives were issued during the month of May, and that most MERC Election activity has had minimal impact from the COVID-19 pandemic.

The Mediation Activity Trends Report was discussed. Director McBride noted mediation activity numbers were up for May 2020 when compared to the prior 2 months since the COVID-19 emergency. It is anticipated that as more of the Michigan Safe Start Plan is implemented; this upward activity should continue.

The New Case Initiations Monthly Report was reviewed.

Department of Treasury report was reviewed.

## **ADMINISTRATIVE AGENDA**

### 1. Bureau Director's Updates

Director McBride noted the following:

- a. COVID-19 impact. The recent move from the state's Stay Home order and the reopening efforts under the MI Safe Start Plan has resulted in more workplace activity. Under the MI Safe Start Plan, there are 6 phases with 8 regions throughout the State. Different regions are at different phases which effects the workplaces likely to resume any activity related to MERC functions. Executive Order 2020-113 extends MERC's ability to conduct remote processes through June 30, 2020. This extension allows MERC hearings and other activity to continue using remote means, where possible. Director McBride noted that all MERC staff was recently trained on facilitating remote processes using Microsoft Teams or Zoom videoconferencing programs. He also acknowledged the contributions of Bureau staff-- MERC Labor Mediator Micki Czerniak and Wage and Hour Investigator Randall Harrison who each participated in special work focus groups designed to provide input to the Governor on reopening various segments of the state as part of the MI Safe Start Plan.
- b. Layoff status. Rolling layoffs continue through July 25, 2020 with no indication whether future layoffs are likely to occur. The Lansing and Detroit MERC offices are closed to in person visits through June 30, 2020 which may be extended. On a rotating basis, minimal staff reports to the offices to process mail and perform other functions that cannot be performed remotely.
- c. MOAHR's Expedited Rulemaking. MOAHR is considering to use expedited rulemaking to permit remote hearings to be conducted on MERC cases. The current MOAHR rule precludes ALJs from conducting remote hearings on MERC and Public Service Commission cases. The rule change would remove MERC from that exclusion. The change is necessary to permit the assigned ALJs to utilize remote hearing functions on MERC cases under the MOAHR rules, where appropriate.
- d. Hot Issues: Highlighted the recent progress through MERC mediation of two cases involving Oakland University and Oakland University AAUP and the University of Michigan and University of Michigan House Officers.
- e. Miscellaneous. Deputy Director Sean Egan recently appointed as Director of COVID-19 Workplace Safety, in addition to his existing position as LEO Deputy Director-- Labor.

- f. 2020 Annual Report. The kickoff of the 2020 Annual Report process has started and a preliminary organizational meeting is being held in July 2020.

Commission Chair Bagenstos on behalf of the Commission thanked Director McBride and the entire MERC staff for the work that has been done and continues to be done during this COVID-19 Emergency.

2. The next regular meeting of the Commission was confirmed for **Thursday**, July 16, 2020 at 10:00 a.m. likely using teleconference means. It was moved by Commissioner LaBrant and seconded by Commissioner Callaghan to approve the meeting date and time. A vote was called. Bagenstos, Aye; Callaghan, Aye; LaBrant, Aye. The motion passed.

## **DECISIONAL AGENDA**

The Commission decided the following matters:

- \* ***City of Bay City & Utility Workers Union of America, AFL-CIO, Local 542***, Case No. C18 I-091. It was moved by Commissioner Callaghan and seconded by Commissioner LaBrant to dismiss the unfair labor practice. A vote was called. Callaghan, Aye; LaBrant, Aye; Bagenstos, Aye. The motion passed.

## **TENTATIVE DECISIONAL AGENDA FOR NEXT MEETING**

***City of Detroit (Department of Transportation) -and- Michigan AFSCME Council 25, Local 312 -and- Jermaine Smith II***, Case Nos. 19-E-0968-CE & 19-E-0969-CU.

## **NEW BUSINESS**

None.

## **OLD BUSINESS**

**Strategic Plan**. Director McBride noted the existing Strategic Plan is being updated to include several “lessons learned” during the COVID- 19 working environment such as remote processes and electronic case filing.

## **PUBLIC COMMENT**

Commissioner LaBrant paused to recognize the contributions of Commissioner Callaghan and his extensive experience in the area of labor relations. LaBrant

expressed an appreciation having served together over the last 8 years, and noted how much he admires and has enjoyed working with him during this time period.

Commissioner Callaghan shared a few reflections as he completes his 9<sup>th</sup> year on the Commission. He stated: "It seems like yesterday but 50 years ago this month, I was hired by the City of Birmingham as a research assistant to do all the comparable comparisons for the very first Act 312 police case in the history of the City of Birmingham." He referenced his initial exposure to the mediation and Act 312 processes nearly 50 years ago and his gratitude having worked with some exceptional people such as Leon Cornfield, Gordon Lee, Ed Phillips and many Act 312 arbitrators such as George Roumell and Leon J. Herman. Commissioner Callaghan further noted his fortune to have worked with all of MERC's Bureau Directors from the very first Director Hyman Parker, Bob Pisarski, Shlomo Sperka, Ruthanne Okun (who served 22 years), and now Sidney McBride in that interim role. He referenced since his appointment 9 years ago how much he has gleaned from former commissioners including Christine Derdarian, Nino Green and Natalie Yaw, as well as current Commissioners LaBrant and Chair Bagenstos. He further expressed gratitude to Chair Bagenstos and Commissioner LaBrant as they provide a great deal of stability in these very uncertain times. "Words are inadequate to describe my gratitude to call Bob LaBrant as a fellow Commissioner for the past eight years."

Commissioner Callaghan further thanked individual MERC Staff members: Barbara Norris, James Spalding, Lynn Morison, Carl Wexel, Denise Hinneburg (who has done a terrific job in Elections), Ashley Rahrig, Tracy Marr, Micki Czerniak (who has always taken on issues in addition to her role as Labor Mediator), Maria Greenough (whom he remembers 30 years ago), and a special thank you to Nancy Pitt and Deborah Stewart who are the unsung heroes. They are the glue that keeps the department going smoothly and directing traffic so people are in the right place at the right time. He expressed gratitude for their assistance over the last 9 years. He hopes that a future Annual Report will outline in detail that all of the Commission meetings will be available by video stream and that MERC has expanded training activities. He wanted to express his gratitude to everyone. "You all do such a great job." Commissioner Callaghan went on to thank Director McBride for his ongoing leadership.

Commission Chair Bagenstos stated that he was impressed with the way that the Commission and former Chair Callaghan had set the tone of leadership at the Agency. Chair Bagenstos hopes to have an opportunity in person when the Commission can express appreciation for the many contributions that Commissioner Callaghan has made over the years.

Director McBride thanked Commissioner Callaghan for his strong academic background and his commitment to this agency's advancement and encouragement that the agency become its very best. He noted that Commissioner Callaghan spearheaded the development of the agency's Succession and Strategic plans, first Annual Report, as well as paving the way for a new state of the art electronic case filing system.

## **ADJOURNMENT**

There being no further business before the Commission at this time, Commissioner Callaghan moved to adjourn the meeting and seconded by Commissioner LaBrant that

the meeting be adjourned at 2:57 p.m. A vote was called. Bagenstos, Aye; Callaghan, Aye; LaBrant, Aye. The motion passed.