

**State of Michigan
DEPARTMENT OF CIVIL SERVICE
Civil Service Commission Meeting
January 31, 2007**

Present: Susan Grimes Munsell, Chairperson
F. Thomas Lewand, Commissioner (via conference call)
Sherry L. McMillan, Commissioner (via conference call)
James P. Pitz, Commissioner (via conference call)
James D. Farrell, State Personnel Director

1. CALL TO ORDER

The meeting of the Civil Service Commission was opened by Civil Service Commission Chairperson Susan Grimes Munsell at 9:03 a.m. in Conference Room A, Lower Level, Capitol Commons Center, 400 S. Pine Street, Lansing, Michigan.

a. Approval of Minutes

On motion duly made and supported, the Commission approved the minutes of the December 5, 2006, meeting.

2. AMENDMENTS TO AGENDA

Chairperson Munsell noted there were no amendments to the agenda.

3. INFORMATIONAL REPORTS

Chairperson Munsell noted there was no informational report.

4. UNFINISHED BUSINESS

Chairperson Munsell noted there was no unfinished business.

5. NEW BUSINESS

a. Letter of Understanding (LOU) by the UAW 6000 and the Office of the State Employer regarding recruitment and retention payments and signing bonuses for Registered Nurses.

Dan McLellan presented information regarding the LOU to amend the recruitment and retention bonuses for Registered Nurse classifications with an effective date of October 1, 2007. The LOU provides for the following:

Adds eligibility for RN classes at Charles Egler Reception and Guidance Center, Parnell Correctional Facility, and Southern Michigan Correctional Facility; increases

annual bonus amount to \$5,000; and an optional signing bonus which increases one-time lump sum bonus amount to \$5,000.

Commissioner Lewand abstained. Question was raised by the Commission regarding the timing of payment as it was outlined in the LOU. Tom Hall, Acting Director for the Office of the State Employer, addressed the Commission to clarify language in paragraph 5 regarding the Recruitment and Retention payments. Chairperson Munsell moved to approve the LOU and grant the State Personnel Director authority to approve the amended LOU that clarifies the timing of that payment when submitted by other parties. Motion supported by Commissioner Pitz. The motion was passed.

6. PUBLIC COMMENT

Chairperson Munsell noted there were no requests for public comment.

7. COMMISSION APPEALS

There were no closed session appeals.

ADJOURNMENT

There being no further items for Commission approval or public comments to be heard, Chairperson Munsell adjourned the meeting at 9:07 a.m.

NOTE

Copies of any written statements, reports, or staff proposals which were presented to the Commission may be obtained by contacting the Department of Civil Service, Executive Office, Capitol Commons Center, 400 S. Pine Street, P.O. Box 30002, Lansing, Michigan, 48909, or by telephone at 517-373-3020.

I, James D. Farrell, State Personnel Director, hereby certify that the foregoing are the Minutes of the Civil Service Commission Meeting of January 31, 2007.

State Personnel Director

Date

**State of Michigan
DEPARTMENT OF CIVIL SERVICE
Civil Service Commission Meeting
May 2, 2007**

Present: Susan Grimes Munsell, Chairperson
Sherry L. McMillan, Commissioner
F. Thomas Lewand, Commissioner (via conference call)
James D. Farrell, State Personnel Director

1. CALL TO ORDER

The meeting of the Civil Service Commission was opened by Civil Service Commission Chairperson Susan Grimes Munsell at 10:05 a.m. in Conference Room A, Lower Level, Capitol Commons Center, 400 S. Pine Street, Lansing, Michigan.

a. Approval of Minutes

On motion duly made and supported, the Commission approved the minutes of the January 31, 2007, meeting.

b. Retirement Resolution – Brenda Strieff

On motion duly made and supported, the Commission adopted the following Resolution:

Whereas, Brenda Strieff has decided to retire from State Government after over 13 years of service, nearly all of which was with the Department of Civil Service; and

Whereas, Brenda has demonstrated commitment and dedication to the State of Michigan and the Michigan Department of Civil Service throughout her career as a public servant, gaining the respect and admiration of her colleagues; and

Whereas, Brenda, in her capacity as a Secretary for the Employment Relations Board, prepared and organized the important support materials for the Board's work, often arriving early to avoid monopolizing the office copy machine and carefully organizing the materials for easy reference; and

Whereas, Brenda was instrumental in the development and maintenance of the Decision Status And Research Service (DSTARS), Civil Service's formal decisions database that has helped employees, employee representatives, and the labor relations community to understand the law of Civil Service; and

Whereas, Brenda commuted to Lansing from Ovid daily and was never late, and during one of those commutes, survived unhurt after her vehicle was struck by lightning and surrounded by a fireball; and

Whereas, Brenda will always be remembered as a generous supporter of charitable causes undertaken by Civil Service, and a kind, ethical, and thoughtful person; and

Whereas, Brenda and her husband of 41 years, Harold, have two children and three grandchildren in the mid-Michigan area with whom they can now spend more time; and

Whereas, Brenda and Harold will now be able to further indulge their love of travel, visiting auctions, craft fairs and interesting sites along the way, be it therefore

Resolved, that the Michigan Civil Service Commission does hereby extend to Brenda Strieff its heartfelt appreciation for her dedicated efforts and many accomplishments during her years of service.

Resolved, that the Commission extends to Brenda its warmest wishes for much health and happiness throughout her retirement.

2. AMENDMENTS TO AGENDA

Chairperson Munsell noted there were no amendments to the agenda.

3. INFORMATIONAL REPORTS

- a. **Director's Report:** The Commission received the following report from State Personnel Director James Farrell.

Unclassified Position Report

Department of Attorney General

The following requests were submitted by the Department of Attorney General to establish an exempt unclassified position:

Request dated December 13, 2006, to serve as the Communications Advisor. Concurrently, the Chief Deputy to the Attorney General position was abolished. The request was approved effective December 18, 2006.

Request dated December 28, 2006, to serve as the Administrative Assistant to the Attorney General. Concurrently, the Director of Legislative and Constituent Relations position was abolished. The request was approved effective December 31, 2006.

Request dated February 22, 2007, to serve as a Special Assistant to the Attorney General. Concurrently, the Communications Advisor position was abolished. The request was approved effective February 20, 2007.

Department of Natural Resources

The Department of Natural Resources submitted a request dated March 14, 2007, to serve as Assistant Legislative Liaison. Concurrently, the position of Press Secretary was abolished. The request was approved effective March 4, 2007.

Department of Labor and Economic Growth

The Department of Labor and Economic Growth submitted a request dated March 19, 2007, to serve as Chief of Staff. Concurrently, the position of Special Assistant to the Director was abolished. The request was approved effective March 11, 2007.

Department of State

The Department of State submitted a request dated March 26, 2007, to serve as Director of the West Michigan Executive office. Concurrently, the position of Director of Civic and Community Affairs was abolished. The request was approved effective April 2, 2007.

Letter of Understanding

As authorized by the Civil Service Commission at its January 31, 2007 meeting, the clarifications to the Letter of Understanding on bonus programs for nurses in the Human Services Unit, as submitted by the Office of the State Employer on February 9, 2007, was approved by State Personnel Director James Farrell.

Regulations

Civil Service Commission rules require that the State Personnel Director report to the Commission on the promulgation of regulations, which are issued to further implement Commission rules.

5.07, Performance-Pay Programs (Effective April 5, 2007)

In Executive Directive 2007-14, Governor Granholm requested that the Civil Service Commission impose a moratorium on performance pay awards for classified employees for the remainder of FY 2006-07 to help address the state's fiscal condition. After review of the Governor's request, this regulation was revised with an immediate effective date of April 5, 2007, to prohibit performance-pay increases from being awarded or approved, on or between April 5, 2007, and September 30, 2007.

3.14, State Transitional Position Designation and Appointments (Effective April 8, 2007)

This regulation has been revised to clarify language to reflect that an employee with status who is appointed to a position designated as transitional at a new classification may be required to complete a probationary period at the discretion of the appointing authority. In addition, minor clarifying language was added which requires an employee classified in the Sr. Executive Management Assistant Service (SEMAS) to

possess an equivalent of six months full-time experience as a SEMA in order to be eligible for appointment to a professional position designated as transitional.

4. UNFINISHED BUSINESS

Chairperson Munsell noted there was no unfinished business.

5. NEW BUSINESS

a. Department of Civil Service Budget Reduction FY 06-07

Ms. Carol Vargovich, Budget and Financial Services Division, presented a Resolution for Commission approval concerning a reduction in the Civil Service Budget. Ms. Vargovich noted that the reduction is in response to the Governor's Executive Order 2007-3, which was issued to provide for a statewide expenditure reduction and funding shift in order to meet reduced revenue estimates. As part of the statewide reductions, the general fund appropriation for the Department of Civil Service was reduced by \$466,100 for FY 06-07.

The State Personnel Director is authorized to take any action necessary to implement the provisions of this Resolution so that expenditures of the Department of Civil Service are reduced as specified for FY 06-07.

On motion duly made and supported, the Commission approved Resolution 5a.

b. Secondary Collective Bargaining Agreements: UAW & DLEG, UAW & MSHDA, UAW & Strategic Fund

Mr. Dan McLellan, General Counsel for the Commission, presented information on the secondary collective bargaining agreements (CBAs) between the UAW & Department of Labor and Economic Growth, UAW & Michigan State Housing and Development Authority, and UAW and Strategic Fund.

On motion duly made and supported, the Commission approved Agenda Item 5b.

c. Temporary Layoff Rule Proposed Amendments (2-4 Layoffs, 2-5 Employment Preference, 5-16 Temporary Furloughs, 9-1 Definitions)

Counsel McLellan presented information on the temporary layoff rule. He explained that current rules for NEREs do not have any standards for temporary layoffs. Historically, the Civil Service Commission has approved temporary layoffs or furlough days as budget issues arose. Staff recommended a general temporary layoff rule which would give appointing authorities the flexibility to deal with budget issues as done previously on an ad hoc basis.

Counsel McLellan outlined the proposed rule changes as follows: 1) temporary layoff would be limited to 1-20 unpaid workdays per fiscal year, 2) employment preference would not be permitted, 3) a temporary layoff is creditable time which means that all time would be treated as if you were working, 4) while on temporary layoff, an employee would not be in pay status and could not elect for annual leave payoff, 5) benefits continue, 6) in consultation with the Office of Retirement Services, the

interpretation of the statute regarding the temporary layoff days would be included in the final average compensation at a slightly lower level. Mr. McLellan noted, however, with respect to the State Police Retirement System, the statute is unclear at this point, and staff would continue to work with the Attorney General's office and the Office of Retirement Services regarding how state police retirement would be treated if a temporary layoff occurred, and lastly, 7) an employee on temporary layoff would return to the same job at the end of the temporary layoff.

In addition, Counsel McLellan asked the Commission to repeal Rule 5-16 regarding furlough days which affected only FY 2004.

Counsel McLellan stated Resolution 5c includes the waiver of the 28-day notice requirement as provided in Civil Service Commission Rule 1-1.

Chairperson Susan Munsell discussed the reason the temporary layoff rule was being addressed was due to the state's anticipated budget shortfall for fiscal year ending September 30, 2007.

Mr. Scott Bowen, Director, Office of the State Employer (OSE), addressed the Commission to support the temporary layoff rule. He indicated the need for the rule is clear and its absence would not allow the executive office to utilize temporary layoffs as part of contingency plans for operating government in the event the budget crisis is not resolved and the state does not have enough money to fully operate all of its programs. He further noted that the proposed rule is patterned after provisions for temporary layoffs found in collective bargaining agreements and it is the intent to be equitable to all state employees. The proposed rule does not mean that temporary layoffs would automatically occur, however, state departments have been asked to prepare contingency plans in the event the budget situation goes unresolved. No final decision for implementation of those plans have been determined. He noted, the Governor is working with the legislature to resolve the budget crisis, and is taking appropriate and comprehensive measures if the budget crisis is not resolved. The OSE urged the Commission to adopt the temporary layoff rule.

Mr. Dennis Kelley, a NERE employee with the Department of Transportation, addressed the Commission regarding the rule on temporary layoffs. He expressed his concerns regarding the implementation of the rule and stated that employees have done their part in recent years with unpaid furlough days, banked leave time, and directives that have cut the ability to work effectively in our jobs and that it was unfair to target state employees. He stated that whether it's temporary layoffs or indefinite layoffs, they should not be required by state employees.

Mr. Dale Threehouse, President of MAGE, OPEIU, and legal counsel, Brandon Zuk addressed the Commission as representatives for NERE's regarding the temporary layoff rule. Mr. Threehouse expressed that the members of MAGE are adamantly opposed to the rule and that employees feel they have already done their share. Supervisors are working overtime with no overtime pay, nurses in psychiatric hospitals and prisons are working overtime excessively. Mr. Threehouse further stated that we have downsized two times, taken furlough days and banked leave time and that state employees are doing more with less staff and resources. Mr. Threehouse urged the Commission to reject the proposed rule amendment and reminded the Commission that in previous years when addressing furlough days, the Commission indicated that

NEREs would not be harmed greater than the rank and file employees and he asked that the Commission again make that proclamation.

Mr. Brandon Zuk, legal counsel for MAGE addressed the Commission to expand on MAGE's concerns with regard to the disproportionate treatment of NEREs under the proposed rule as compared to the treatment of rank and file employees in the event of a temporary layoff. He indicated the last time he was here was when the Commissioners made a commitment with regard to the furlough day issues with the NEREs not being treated disproportionately or more adversely than rank and file employees. He acknowledged that the intent was to pattern temporary layoffs for NEREs after the temporary layoff provisions in the collective bargaining agreements, but noted in some respects the proposed rules would in fact treat NEREs more adversely than rank and file employees. Mr. Zuk highlighted some of those differences. The proposed rule is capped at 20 days and none of the collective bargaining agreements (CBAs) have a cap of 20 days. Typically, the CBAs have less than 20 days, (i.e., a maximum of 19, but in two cases the CBAs have temporary layoff days capped in no more than 6 days in a fiscal year.) In many cases there is at least one additional day, and other cases, NEREs would be capped three times more. The CBAs provide that temporary layoffs be imposed in consecutive days and that a provision is missing from the proposal for NEREs and is important with regard to their ability to collect unemployment compensation for a temporary layoff. In addition, NEREs would not be able to use the leave time they have already earned and individuals will be without an income either from their pay, utilizing leave time, or collecting unemployment benefits. An additional difference for NEREs, in contrast to rank and file employees, is that the CBAs provide that temporary layoffs be done in order of seniority. The NEREs are not given this protection. He stated MAGE objects to any type of layoffs and would seek from the Commission to renew the commitment that was made a few years ago that NEREs would not be treated more adversely than rank and file employees. MAGE did have concerns with respect to the final average compensation and thanked Director James Farrell and Dan McLellan for addressing those concerns.

Mr. Ken Fletcher, Michigan State AFL-CIO, addressed the Commission regarding the state's fiscal crisis. Mr. Fletcher indicated that they would prefer that layoffs, whether temporary or indefinite, not be part of the budget solution. Mr. Fletcher indicated that it is their belief that state employees have done their part in previous fiscal years when they had furlough days and other concessions. Mr. Fletcher pointed out that the number of state employees has reduced from 58,000 to 53,000 and that is the lowest number of state employees since 1974, yet state employees are serving 1.3 million more citizens. He further indicated payroll has declined about one-third since 1982. Mr. Fletcher stated if layoffs become necessary, that they be done equally among bargaining units and departments with due consideration to maintaining public safety.

Mr. Tom Welch, a state employee with Department of Community Health, also addressed the Commission to speak from a personal perspective. Mr. Welch indicated he and his wife both work for the state and if the proposed rule was implemented it would severely impact their ability to raise their family. He implored the Commission to act as an independent body and to encourage other solutions during this time of crisis.

Ms. Martha Yoder, ASEM representing NERE employees, addressed the Commission and concurred with the concerns raised by others present. She strongly suggested

that modifications be considered to stipulate the NEREs be treated equitably with other state employees in terms of the use of temporary layoffs and/or other work time adjustments and NEREs should not suffer to a greater degree than any other group of state employees. She requested a minimum written notification be provided to employees for the use of temporary layoff days and it was suggested that it not be less than one week. Ms. Yoder also asked that temporary layoff time be given flexibility to state employees to have input as to when their layoff days would be; and that employment preference be considered. If employment preference is not considered, she asked the Commission to give direction to departments on how to implement temporary layoff because of concerns regarding favoritism and other inequities that could happen without guidance in applying the temporary layoff rule. Also requested was that NEREs not be expected to bear an overly burdensome share of layoff days and asked that the Commission understand that any loss of work time and associated pay reduction is very difficult and potentially traumatic to state employees. She reminded the Commission that state employees have always contributed their fair share and that some departments are federally funded and taking away those services would reduce federal funds.

Ms. Sandra Parker, President United Auto Workers (UAW), representing approximately 16,500 members for the State of Michigan addressed the Commission. Ms. Parker stated that the rule mirrors UAW's contract, Article 12, Section A, which does indicate that a UAW member could receive up to 20 consecutive layoff days. If the rule was implemented, it should be mirrored to the CBAs that have been negotiated and approved by the Commission.

Ms. Diane Garrison, Executive Director of the Michigan State Police Command Officers' Association, concurred with the concerns expressed by colleagues regarding temporary layoff days. She indicated that state employees feel they have done their part and it is unfair to balance the budget on the back of state employees. Other concerns addressed were, 1) additional language to the rule that the layoffs shall take place on the basis of inverse seniority among all employees of the appointing authority, and 2) concerns regarding the State Police Retirement Act whereas, the state police command officers would adversely be affected based on the statute which does not include the final average compensation of a state police command officer.

Counsel McLellan addressed the issue of final average compensation and indicated it would require a legislative change as it was done in 2003 for the furlough days. He indicated the Commission cannot address statutory issues with regard to the State Police Retirement Act.

Chairperson Susan Munsell added that OSE wanted the flexibility of using cumulative versus consecutive days and this appears to be one of the issues of contention, as well as the number of days. She indicated, even if the temporary layoff rule is adopted, the Commission is very concerned about the equity between represented and non-represented employees. The Commission's next meeting is scheduled for July and if the legislature and the Governor have not come to an agreement on how to deal with the budget shortfall, and the executive office has directed the departments to utilize the use of temporary layoffs, members of the Commission are concerned that it be done in a way that units are looked at by their function and not by whether the employees are represented or non-represented, and in fact that the NEREs do not feel unfair treatment based on their representation. Chairperson Munsell also indicated the

Commission could come back and address that issue if it is reported that employees are feeling adversely impacted, and if necessary, the Commission could meet prior to the July date. Chairperson Munsell strongly urged employees to notify staff of any issues if the institution of temporary layoffs occurred, and ensured that the Commission takes seriously their role of equitable fair treatment of State of Michigan employees.

Commissioner Lewand added that the Commission shares the tremendous concern that the budget not be balanced on the backs of state employees who have given so much and so often in the past, and who are valued by state government. He stated it is a policy decision made by the policymakers in the legislature and Governor's office and if the policymakers make those difficult decisions, the Commission feels very strongly that employees be treated fairly across the board, and encouraged staff to advise the Commission if there are trends that are problematic that the Commission address and meet prior to the scheduled July meeting if necessary.

On motion duly made and supported, the Commission approved Resolution 5c.

6. PUBLIC COMMENT

Mr. Robert Proctor, retired Administrative Law Examiner in the Hearings Division of the Department of Civil Service, addressed the Commission regarding his interactions with the Department of Natural Resources (DNR) human resources staff. Mr. Proctor referred to a letter that was sent to the Commission on March 5, 2007, and provided an update to that correspondence with respect to Ms. Joyce Rhodes. In summary he stated his March 5, 2007, letter set forth a chronology of events regarding the DNR's actions related to the implementation of the decisions by the Hearing Officer, Employment Relations Board and Civil Service Commission with respect to the grievance decision of Ms. Rhodes. Since that time, Ms. Rhodes has received reimbursement, however, Mr. Proctor stated there were still outstanding issues.

Mr. Proctor also addressed the agency's failure to respond to grievances as provided in Regulation 8.01. He expressed his concern of the employee who pays for representation at such steps when the department does not respond and that the employee may then move their grievance to the next step when a required answer is not answered. Mr. Proctor submits that the Commission should address department's compliance with the rules and regulations.

Mr. Proctor also stated there is a burden of expense upon an employee when appealing an adverse adjudicating officer decision. Mr. Proctor requested the Commission consider this matter when the department's appeal is unsuccessful.

7. COMMISSION APPEALS

In closed session on May 2, 2007, the Commission considered six recommended decisions of the Employment Relations Board. Copies of the review sheets indicating the Commission's actions on these decisions are on file at the Department of Civil Service.

In closed session via conference call on February 22, 2007, the Commission considered 17 recommended decisions of the Employment Relations Board. Copies of the review sheets

indicated the Commission's actions on these decisions are on file at the Department of Civil Service.

ADJOURNMENT

There being no further items for Commission approval or public comments to be heard, Chairperson Munsell adjourned the meeting at 11:19 a.m.

NOTE

Copies of any written statements, reports, or staff proposals which were presented to the Commission may be obtained by contacting the Department of Civil Service, Executive Office, Capitol Commons Center, 400 S. Pine Street, P.O. Box 30002, Lansing, Michigan, 48909, or by telephone at 517-373-3020.

I, James D. Farrell, State Personnel Director, hereby certify that the foregoing are the Minutes of the Civil Service Commission Meeting of May 2, 2007.

State Personnel Director

Date

**State of Michigan
DEPARTMENT OF CIVIL SERVICE
Civil Service Commission Meeting
August 21, 2007**

Present: F. Thomas Lewand, Chairperson
Sherry L. McMillan, Commissioner
Bryan J. Waldman, Commissioner
James D. Farrell, State Personnel Director

1. CALL TO ORDER

The meeting of the Civil Service Commission was opened by State Personnel Director, James D. Farrell at 9:08 a.m. in Conference Room A, Lower Level, Capitol Commons Center, 400 S. Pine Street, Lansing, Michigan.

a. Election of Chairperson

State Personnel Director, James D. Farrell requested the election of a Chairperson due to the resignation of former Chairperson, Susan Grimes Munsell. Commissioner McMillan moved to elect F. Thomas Lewand as Chairperson to the Civil Service Commission. Commissioner Waldman seconded the motion and the motion passed.

b. Approval of Minutes

On motion duly made and supported, the Commission approved the minutes of the May 2, 2007, meeting.

c. Retirement Resolution – Barb Stoker

On motion duly made and supported, the Commission adopted the following Resolution:

Whereas, Barb Stoker has decided to retire from state government after 35 years of service, of which over seven years were with the Department of Civil Service, and

Whereas, Barb has demonstrated commitment and dedication throughout her career as a public servant, gaining the respect and admiration of her colleagues, and

Whereas, Barb has demonstrated extensive knowledge of the Department of Civil Service and state government and imparted that knowledge with enthusiasm and style, and

Whereas, Barb, in her capacities as Personnel Management Assistant with the Departments of Mental Health and Transportation, and Personnel Management Analyst with the Employee Benefits Division and, most recently, with the Production Support unit in the Office of Human Resource Operations, and

Whereas, Barb, will always be remembered for her warm smile and laughter, and

Whereas, Barb will now be able to spend more time with her husband, Tony and son, Derek, and

Whereas, Barb can further indulge in her love of gardening and sewing, be it therefore

Resolved, that the Michigan Civil Service Commission does hereby extend to Barb Stoker its heartfelt appreciation for her dedicated efforts and many accomplishments during her years of service.

Resolved, that the Commission extends to Barb its warmest wishes for much health and happiness throughout her retirement.

2. AMENDMENTS TO AGENDA

Chairperson Lewand noted there were no amendments to the agenda.

3. INFORMATIONAL REPORTS

- a. **Director's Report:** The Commission received the following report from State Personnel Director James D. Farrell.

Unclassified Position Report

Department of Human Services

The Department of Human Services submitted a request to establish an exempt unclassified position dated May 3, 2007, to serve as the Deputy Director for Children and Adult Policy. Concurrently, the Deputy for Service Delivery position was abolished. The request was approved effective May 21, 2007.

Department of Natural Resources

The Department of Natural Resources submitted a request dated May 18, 2007, to convert the unclassified position of Chief Deputy Director to a classified position. Concurrently, the unclassified Chief Deputy Director position was abolished. The request was approved effective June 18, 2007.

Department of Corrections

The Department of Corrections submitted a request to establish an unclassified position to serve as the Office of Public Affairs Manager. Concurrently, the Legislative Liaison position was abolished. The request was approved effective February 11, 2007.

The Department of Corrections also submitted a request to establish an unclassified position to serve as the Community Liaison for the Office of Offender Re-Entry. Concurrently, the Public Information Officer position was abolished. The request was approved effective April 8, 2007.

Regulations

Civil Service Commission Rules require that the State Personnel Director report to the Commission on the promulgation of regulations, which are issued to further implement Commission rules.

5.09, Annual, Personal, and School and Community Participation Leave, and 5.10 Sick Leave (Effective May 6, 2007)

As a result of the approval of the amendments to Rule 2-4 (Layoffs) at the May 2, 2007 Commission meeting, minor modifications were made to regulations 5.09 and 5.10 clarifying that an employee gets credit for leave accruals for each day of temporary layoff as if the employee was in active pay status. Regulation 5.09 also has been amended to clarify that freezing or paying off of annual leave is not applicable to a temporary layoff.

5.19, Temporary Furlough Hours (Effective May 6, 2007)

As a result of the deletion of Rule 5-16 (Temporary Furloughs) in its entirety, regulation 5.19 has become obsolete and therefore has been made inactive.

National Association of State Personnel Executives (NASPE)

On behalf of the Department of Civil Service and the Civil Service Commission, at the 2007 NASPE annual meeting in July, the State Personnel Director accepted the Department's second NASPE Communication award in the electronic category for our Web-based New Hire Online Orientation presentation. Chairperson Lewand extended to departmental staff and the State Personnel Director his congratulations for winning this award, particularly in this day and age where the Internet is the most used form of communication.

4. UNFINISHED BUSINESS

Chairperson F. Thomas Lewand noted there was no unfinished business.

5. NEW BUSINESS

a. Travel Expense Reimbursement Rates for FY '07-08

Rose Wilson, Department of Management & Budget (DMB), addressed the Commission regarding travel expense reimbursement rates for FY '08. Ms. Wilson indicated that the rates remain unchanged from the FY '08 rates. A memo from Lisa Webb-Sharpe, Director of the DMB, recommended adding the city of St. Joseph, Michigan to the "Select Cities" list. A copy of the letter from Lisa Webb-Sharpe is, by reference, a part of the record of this meeting.

On motion duly made and supported, the Commission approved the motion for travel expense reimbursement rates for FY '08.

b. Resolution 07-02 re Executive Order (EO) 2007-30

D. Daniel McLellan, General Counsel for the Commission, presented information on EO 2007-30 which reorganizes the executive branch by abolishing the Department of Civil Service; moving the Civil Service Commission to the Department of Management and Budget (DMB) as an autonomous agency; transferring the administration of all executive branch human resources operations and staff currently located in the executive departments to the Commission; and transferring miscellaneous supplemental statutory duties from the Department of Civil Service to the Commission or DMB.

General Counsel McLellan stated that the Commission has before it for action Resolution 07-02 that, if passed, would accept the transfer of duties and responsibilities to the Commission as outlined in Executive Order 2007-30.

Clarence Stone, Michigan State Housing Development Authority (MSHDA), addressed the Commission regarding a memorandum dated June 21, 2007, to State Deputy Budget Director Nancy Duncan and Janet McClelland, Chief Deputy Director with the Department of Civil Service, which opined that Executive Order 2007-30 does not apply to MSHDA because it operates as an independent public corporation. A copy of the memorandum is, by reference, a part of the record of this meeting.

Chairperson Lewand asked for a motion on Resolution 07-02. Commissioner McMillan asked Counsel if the memorandum presented would have any impact on the Commission's action. General Counsel McLellan responded that it is not for this Commission to determine, but would be a legal question regarding the Executive Order. Commissioner McMillan moved to approve the resolution, noting if an issue regarding MSHDA arises, that the issue be brought to the Commission. Commissioner Waldman supported. On motion duly made and supported, the Commission approved Resolution 07-02.

c. Resolution 07-03 Proposed Rule Amendments

D. Daniel McLellan, General Counsel for the Commission, presented information on amendments to the Rules as the result of Executive Order 2007-30.

General Counsel McLellan outlined the proposed rule changes as follows: 1) draft amendments delete all references to the "Department of Civil Service" and are replaced in most instances with "Civil Service Commission," "State Personnel Director" or "Civil Service staff" as appropriate; draft amendments address the new organizational placement of the Commission; due to the transfer of human resources operations and staff, rule amendments clarify the respective roles of the appointing authorities and the new Commission staff and resulting potential for conflicts of interest.

Unrelated to the Executive Order, additional minor amendments were made to Rules 2-14.4, 4-6.2(c), 4-7.2(c), 5-7.1(b)(1), and 9-1 (Definition of "Uniformed Services").

On motion duly made and supported, the Commission approved Resolution 07-03.

d. **Letter of Understanding (LOU) Between Office of the State Employer (OSE) & AFSCME**

D. Daniel McLellan, General Counsel for the Commission, presented information and staff recommendations on the LOU between the OSE and AFSCME amending the primary collective bargaining agreement for the Institutional Unit authorizing a pilot program for scheduling regular days off at the Hawthorn Center. Staff's review of the LOU did not identify any violations of the Commission's rules on prohibited subjects of bargaining.

On motion duly made and supported, the Commission approved Agenda Item 5d.

e. **Resolution 07-04 re Executive Order 2007-31 (Internal Audit)**

D. Daniel McLellan, General Counsel for the Commission, presented information on EO 2007-31 which transfers the statutory internal audit and related personnel functions of the principal departments to the Office of the State Budget, Department of Management and Budget.

General Counsel McLellan indicated this Resolution authorizes the State Personnel Director (SPD) to consult with the State Budget Director regarding the provision of internal audit services for the Commission by the Office of the State Budget Director after October 1, 2007. Also, the SPD is authorized to enter into a written service level agreement with the State Budget Director on behalf of the Commission regarding the provision of internal audit service for the Commission protecting confidential Civil Service Commission information and documents.

On motion duly made and supported, the Commission approved Resolution 07-04.

f. **Resolution 07-05 re Executive Order 2007-32 (Accounting)**

D. Daniel McLellan, General Counsel for the Commission, presented information on EO 2007-32 that transfers the statutory accounting functions and related personnel of the principal departments to the Office of the State Budget, Department of Management and Budget.

General Counsel McLellan indicated this Resolution authorizes the State Personnel Director (SPD) to consult with the State Budget Director regarding the provision of accounting services for the Commission by the Office of the State Budget Director after October 1, 2007. In addition, the SPD is authorized to enter into a written service level agreement with the State Budget Director on behalf of the Commission regarding the provision of accounting services for the Commission and prohibits transferring Civil Service Commission constitutional authority.

On motion duly made and supported, the Commission approved Resolution 07-05.

g. **Letter of Understanding (LOU) Between Office of the State Employer (OSE) & MCO - Overtime**

D. Daniel McLellan, General Counsel for the Commission, presented information on the Letter of Understanding between Office of the State Employer and the Michigan

Corrections Organization, which amends provisions of Article 17, *Overtime*. The amendment authorizes shift overtime changes for employees on overlapping shifts.

On motion duly made and supported, the Commission approved Agenda Item 5g.

6. PUBLIC COMMENT

David Purchase appeared before the Commission to raise questions regarding a Technical Appointment Complaint and a Technical Qualification Complaint in which he was the complainant. Mr. Purchase's main concerns focused on how an employee who is deemed not qualified for a position may occupy the same position in a working out of class capacity.

Chairperson F. Thomas Lewand asked General Counsel McLellan to review procedural issues Mr. Purchase brought before the Commission and take appropriate action necessary to answer his questions.

7. COMMISSIONER TRIBUTES

a. Susan Grimes Munsell

On motion duly made and supported, the Commission adopted the following Resolution:

Whereas, Susan Grimes Munsell has served with honor and distinction as a member and Chairperson of the Michigan Civil Service Commission for over ten years, making her the longest serving Chairperson, never missing a Civil Service Commission meeting, and

Whereas, Ms. Munsell has gained the respect and admiration of her colleagues by demonstrating dedication and commitment to the business of the Commission, and

Whereas, Ms. Munsell, as a member of the House of Representatives from 1987 to 1996, and as a Certified Public Accountant, brought to the Commission invaluable expertise addressing financial and politically-sensitive matters before the Commission, and

Whereas, Ms. Munsell worked diligently with her fellow Commissioners to completely amend the Michigan Civil Service Commission Rules, and

Whereas, Ms. Munsell continuously demonstrated her allegiance to the citizens of Michigan by volunteering her time to serve as a member of the Livingston Arts Council, board member and leader for the Girl Scouts of America, board member for the League of Women Voters, Rotary Club member, and many other volunteer activities, and was recognized as 'Citizen of the Year' by the City of Howell, and

Whereas, Ms. Munsell's dedication to public service was exemplified by her neutrality and sensitivity to issues impacting all classified state employees, and

Whereas, the Commission has greatly valued Ms. Munsell's commitment to excellence, compassion for state employees, fairness in enacting rules, and her composure and poise, be it therefore

Resolved, that the citizens of the State of Michigan, the Michigan Civil Service Commission, and the staff of the Department of Civil Service, express to Ms. Munsell their deepest appreciation for her dedicated efforts and many accomplishments during her years of service to the Commission, and be it further

Resolved, that the Michigan Civil Service Commission does hereby extend to Ms. Munsell its most sincere thanks, its highest esteem, and best wishes for health and happiness for many years to come.

b. James Pitz

On motion duly made and supported, the Commission adopted the following Resolution:

Whereas, James P. Pitz has served with distinction as a member of the Michigan Civil Service Commission for over seven and one-half years, never missing a Civil Service Commission meeting, and

Whereas, Mr. Pitz has gained the respect and admiration of his colleagues by demonstrating dedication and commitment to the business of the Commission, and

Whereas, Mr. Pitz, as a nationally recognized expert in transportation engineering, won numerous awards including recognition by the American Public Works Association as one of the nation's top ten public works leaders, and demonstrated that leadership ability with the Commission, and

Whereas, Mr. Pitz worked closely with his fellow Commissioners to completely amend the Michigan Civil Service Commission Rules, and

Whereas, Mr. Pitz demonstrated his allegiance to the citizens of the State of Michigan throughout his many years as Commissioner and having served for over eight years as Director of the Department of Transportation, and

Whereas, Mr. Pitz's dedication to public service included his keen ability and sensitivity to see both management's and employees' viewpoints, and

Whereas, the Commission has greatly valued Mr. Pitz's insight, wisdom, sense of humor, and diplomacy in addressing issues head-on, be it therefore

Resolved, that the citizens of the State of Michigan, the Michigan Civil Service Commission, and the staff of the Department of Civil Service, express to Mr. Pitz their deepest appreciation for his dedicated efforts and many accomplishments during his years of service to the Commission, and be it further

Resolved, that the Michigan Civil Service Commission does hereby extend to Mr. Pitz its most sincere thanks, its highest esteem, and best wishes for health and happiness for many years to come.

7. COMMISSION APPEALS

In closed session on August 21, 2007, the Commission considered nine recommended decisions of the Employment Relations Board. Copies of the review sheets indicating the Commission's actions on these decisions are on file at the Department of Civil Service.

In closed session via conference call on June 12, 2007, the Commission considered four recommended decisions of the Employment Relations Board. Copies of the review sheets indicated the Commission's actions on these decisions are on file at the Department of Civil Service.

ADJOURNMENT

There being no further items for Commission approval or public comments to be heard, Chairperson Lewand adjourned the meeting at 9:41 a.m.

NOTE

Copies of any written statements, reports, or staff proposals which were presented to the Commission may be obtained by contacting the Department of Civil Service, Executive Office, Capitol Commons Center, 400 S. Pine Street, P.O. Box 30002, Lansing, Michigan, 48909, or by telephone at (517) 373-3020.

I, James D. Farrell, State Personnel Director, hereby certify that the foregoing are the Minutes of the Civil Service Commission Meeting of August 21, 2007.

State Personnel Director

Date

**State of Michigan
CIVIL SERVICE COMMISSION
Public Meeting
September 28, 2007**

Present: Bryan J. Waldman, Chair
Andrew P. Abood, Commissioner
Sherry L. McMillan, Commissioner
Mac Wardrop, Commissioner
James D. Farrell, State Personnel Director

1. CALL TO ORDER

The meeting of the Civil Service Commission was opened by State Personnel Director, James D. Farrell at 8:40 a.m. in Conference Room A, Lower Level, Capitol Commons Center, 400 S. Pine Street, Lansing, Michigan. State Personnel Director Farrell welcomed the two newly appointed Commissioners to the Civil Service Commission, Mr. Andrew P. Abood, and Mr. Mac Wardrop.

Election of Chair

State Personnel Director, James D. Farrell, requested the election of a Chair due to the resignation of former Chair, F. Thomas Lewand. Commissioner McMillan moved to elect Bryan J. Waldman as Chair of the Civil Service Commission. Commissioner Abood seconded the motion and the motion passed.

a. Approval of Minutes

Chair Bryan Waldman requested a motion to approve the minutes of the August 21, 2007 meeting. On motion duly made and supported, the Commission approved the minutes of the August 21, 2007, meeting.

2. AMENDMENTS TO AGENDA

There were no amendments to the agenda.

3. NEW BUSINESS

a. Proposed Rule of General Applicability

Chair Waldman noted for the record the items being addressed and asked D. Daniel McLellan, General Counsel for the Commission, to provide explanation of the following agenda items relating to the proposed rule of general applicability:

- Rule 2-21, *Temporary Layoffs During a Fiscal Emergency*
- Resolution 07-06a – Waiver of 28-Day Notice
- Resolution 07-06b -- Rule of General Applicability
- Resolution 07-06c - approval of Rule 2-21.

General Counsel McLellan provided an explanation of the proposed rule of general applicability which would apply equally to all non-exclusively represented employees (NEREs) and to all exclusively represented employees.

General Counsel McLellan indicated the proposed use of the rule of general applicability would be for the specific purpose of regulating all temporary layoffs in the classified service between October 1, 2007 and November 3, 2007. General Counsel McLellan stated a motion may be necessary to amend the October 1, 2007 date to September 28, 2007, to provide for immediate effect in the event of possible notices being distributed to classified employees.

General Counsel McLellan further explained the temporary lay off rule would replace all collective bargaining provisions regarding temporary layoffs for a limited period which would apply to employment preference, recall, and notice for the 34 day period the rule would be in effect. The temporary layoff provisions of the collective bargaining agreements would resume at the end of the period. The purpose of the rule would be to effectively and equally apply layoffs to all employees in the classified service if a State shutdown were to occur.

General Counsel McLellan further stated the rule would authorize the appointing authority to temporarily layoff any state classified employee up to 20 cumulative days during the period up to November 3, 2007. He further explained that during a temporary layoff under the proposed rule, the benefits of all classified employees would continue, employment preference would not apply, employees would return to their same positions at the end of the temporary layoff. The rule would not establish standards for which employees would be laid off, or which employees would continue to work during a shutdown with the administration or appointing authorities determining essential services that would need to be continued.

4. PUBLIC COMMENT

Mr. M. Scott Bowen, Director, Office of the State Employer (OSE), addressed the Commission on behalf of the administration supporting the rule of general applicability due to the fiscal emergency the State of Michigan was facing. He indicated that with no budget in place for the next fiscal year, and with no experience to address these complex issues, and having examined all alternatives available in the event there is no budget by October 1, 2007, the current options under the agreement do not sufficiently meet an open ended fiscal emergency. The temporary layoff provisions in the collective bargaining agreements differ with regard to the reasons temporary layoffs may be invoked, the notice requirement, the duration of temporary layoffs, leave payoff, seniority rights and eligibility for insurance coverage.

Mr. Bowen provided historical information regarding the approval by the Civil Service Commission regarding Rule 6-3.6, Rules of General Applicability, whereby the Commission retains the authority to approve rules of general applicability during the term of any collective bargaining agreement and to apply the rule immediately to all classified employees including employees covered by collective bargaining agreements. He indicated the rule of general applicability has not been used to date for good reasons as it was designed for cases of emergency which the state is currently under. He stated if there

is no budget in place by 11:59 p.m. on September 30, 2007, the state cannot operate on October 1, 2007, and for equity across state service under the difficult circumstances, the Administration requests the Civil Service Commission to approve the proposed Rule 2-21, Temporary Layoffs During a Fiscal Emergency, as a rule of general applicability. He further explained the rule is limited and was designed to preserve employee benefits, including insurances, leave accruals, service credits, and ensures that employees who are temporarily laid off do not incur a break in service. Director Bowen indicated that while the Administration did not want to ask for this temporary rule, with the unprecedented event, and with no budget means and no constitutional authority to spend money from the state Treasury, he urged the Commission to approve the proposed rule as amended.

Mr. Mel Grieshaber, Executive Director, Michigan Corrections Organization (MCO-SEIU), spoke to the Commission in opposition of the proposed amended rule stating its main principle is to override the contract. Mr. Grieshaber urged the Commission to vote against Rule 2-21.

Mr. Roberto Mosqueda, President, Michigan State Employees Association (MSEA AFSCME), spoke to the Commission in opposition to the proposed amended rule. Mr. Mosqueda urged the Commission to reject the proposed rule.

Ms. Sandra Parker, President, United Auto Workers 6000 (UAW) and Mr. Phil Thompson, Executive Vice President, SEIU Local 517-M (Scientific & Engineering Unit) both spoke to the Commission regarding opposition to the proposed rule. Ms. Parker acknowledged Vice President UAW International, James Settles, Jr. in attendance to support the opposition of the rule. Ms. Parker outlined provisions in the UAW contract which protect state employees affected by any layoffs and stated that this rule would eliminate that protection. Ms. Parker defined "emergency" as an unforeseen combination of circumstances and stated that the budget crisis was not unforeseen. Ms. Parker urged the Commission to protect the rights of union and non-union employees and not adopt Rule 2-21.

Mr. Thompson spoke to the Commission and noted for the record that SEIU Local 517-M and the Coalition submitted letters to Governor Granholm on September 21, 2007, in opposition to the rule amendment. He provided historical information to the Commission regarding the December 12, 1998 adoption of Rule 6-3.6, Rules of General Applicability, and the concerns of the previous Commission when this Rule was enacted. Mr. Thompson outlined those concerns as to the authority of the Commission, and at what point the Commission would use the Rule 6-3.6, Rules of General Applicability. Mr. Thompson discussed specific reasons the previous Commission addressed regarding utilization of the Rule 6-3.6, Rules of General Applicability. He identified four items: 1) drug and alcohol testing, 2) smoke-free workplace (general application), 3) blood borne pathogens, and 4) Federal statute. He stated the previous Commission acknowledged that the Rule was for general application.

Mr. Thompson stated Rule 2-21 was an assault on the collective bargaining process by not following the contract on time notification. He noted that notification was given to all unions in the Spring of 2007 which later was rescinded and that OSE should be required to follow the contract. Mr. Thompson stated that the union contracts all have separate notification requirements which were bargained and that this rule takes away those bargained rights. Mr. Thompson asked the Civil Service Commission to reject Rule 2-21, and also requested the Commission to abolish Rule 6-3.6, Rules of General Applicability.

Chair Waldman asked for a practical understanding as to how this rule change would affect the members of SEIU Local 517-M, not just in regard to the notice requirement, but other impacts it would have. Mr. Thompson indicated pay, selection, seniority rights, and bumping rights would be affected. Ms. Sandra Parker, UAW, added that this rule also violates seniority rights.

Mr. Ed McNeil, Special Assistant to the President, AFSCME Council 25 (Institutional Unit) and Mark Smith, President of Local 3639, representing food service supervisors, dental aides, and LPN's in the Michigan Department of Corrections, collectively addressed the Commission. Mr. McNeil stated he concurred with the other unions addressing the Commission and that the proposed draft Rule 2-21 violates the current collective bargaining agreement between the State of Michigan and AFSCME Council 25 and that the current contract provides a process to deal with emergency layoffs requiring a 15 day notice rather than the usual 30 day notice. He defined an emergency as something sudden and unexpected which requires immediate action and stated that this "emergency" was not unexpected. Throughout the history of collective bargaining in state classified service, there is no precedence of this type of action. The inability of the legislature to find a comprehensive budget solution creates a crisis in all areas of government. He stated that this budget crisis does not justify the Commission adopting a rule to authorize a unilateral change to our contract in mid-stream. Mr. McNeil stated the Civil Service Commission provides for classified employees exclusively represented by labor organizations to bargain collectively with the State of Michigan and the purpose of employer – employee relationships is to provide employees with a voice in determining compensation and other conditions of employment. If the Commission adopts the proposed rule, it would have the effect of silencing those voices by taking unilateral action the Commission would abdicate its historic role and put in jeopardy any good will the state and its employees have built up over the years in the collective bargaining process. It would make it more difficult to resolve future contract negotiations and it would show a total disregard for concessions given over the years. Mr. McNeil urged the Commission to reject the proposed rule as it would have a substantial adverse impact on the bargaining process for all exclusively represented state employees.

Mr. Mark Smith, on behalf of his AFSCME members, spoke to the Commission in opposition to proposed Rule 2-21. He indicated the negotiation process must be protected and that the collective bargaining agreements came before this Commission for approval and to approve this rule would be going back on what the Commission had previously approved. Mr. Smith urged the Commission to oppose Rule 2-21.

Ms. Diane Garrison, Executive Director, Michigan State Police Command Officer's Association (MSPCO), representing the non-exclusively represented employee (NERE) command officers of the Michigan State Police addressed the Commission. Ms. Garrison stated that government has no purpose other than to serve and protect its citizens and to lay off highly trained and dedicated police officers willing to put their lives on the line for state citizens is contrary to the purpose of state government and police officers' solemn oath. Unless directly ordered by the Governor, the MSPCO Association will report to duty throughout the budget crisis and will do so without pay if necessary. She indicated the officers have a sworn solemn oath to protect the public and its laws and they remain faithful to that oath and will not be deterred by politics. Ms. Garrison urged the Commission to reject the rule.

Mr. Andre Friedlis, Association of State Employees in Management (ASEM), limited-recognition organization, spoke to the Commission in objection to Rule 2-21. Mr. Friedlis stated it was the Commission's constitutional authority to protect the wages and fringe benefits of all civil service employees.

Ms. Judy Woodson spoke to the Commission as a citizen of the State of Michigan and as an employee of the Department of Human Services who spoke in opposition of the proposed Rule 2-21 and asked the Commission to stand up to the legislature and vote no.

Mr. John F. Davis, retired dispatcher, member UAW Local 6000 addressed the Commission in opposition to the rule. A contract beats written law in many cases and takes precedence in many cases. This is a contract that is signed with state employees and now it's being asked that it be thrown out. Mr. Davis stated this is not an emergency crisis and asked that the Commission vote against Rule 2-21.

Mr. Mark Richard, state employee, MSEA, questioned why a union is necessary if the Commission can throw out inverse seniority.

Mr. Joseph Sloan, Hearing Officer, Department of Human Services, stated his position was 100 percent federally funded and if a layoff occurs, that money goes back to the Federal government. With no loss of funding, there should not be any loss of work.

On motion duly made by Commissioner Mac Wardrop, and supported by Commissioner Andrew P. Abood, the Commission took a brief recess at 10:00 a.m.

The Commission reconvened at 10:10 a.m. to address the motions before them.

Chair Waldman requested for the record that the names of those that completed cards who had taken a position in opposition to Rule 2-21 be noted. The comment cards are by reference a part of the record of this meeting. They are:

MSEA: Michael Kelley, Frank Gonzales, Rod Snyder, T. Jointer, Rick Jones
AFSCME: Wayne A. Koper, John Scott Whitman, Stacie Dineen, Bill Craft, Howard Weeks
UAW: Diane Doabrava, Kelly Rottenbenk, Susan Yenglin, Carol Erickson, Bill VanDriesscly, Michele Martin, Cassandra Wade, and one unidentified.

General Counsel McLellan indicated the approval of the Rule would require approval by the Commission on three separate resolutions in order for the Rule to take effect. Resolution 07-06a waives the 28 day notice requirement required in Rule 1-1.1. Resolution 07-06b provides a notice required in the Rules of General Applicability for the Commission to separately authorize the Rules of General Applicability to take effect immediately as to all employees during the term of collective bargaining agreements. Resolution 07-06c approves draft Rule 2-21, Temporary Layoffs.

On a motion duly made and supported, Resolution 07-06a – Waiver of the 28 day notice requirement was approved.

Commissioner Mac Wardrop moved to approve Resolution 07-06b – Notice: Rules of General Applicability, seconded by Commissioner Andrew P. Abood. Commissioners

Wardrop and Abood voted in favor. Chair Bryan J. Waldman and Commissioner Sherry L. McMillan opposed. The motion failed.

General Counsel McLellan stated to the Commission that draft Rule 2-21, if approved, would only apply to non-exclusively represented employees.

Commissioner Mac Wardrop moved to adjourn stating there was no further business to address. The motion was seconded by Chair Bryan J. Waldman. All supported.

7. COMMISSION APPEALS

In closed session via conference call on November 20, 2007, the Commission considered 14 recommended decisions of the Employment Relations Board. Copies of the review sheets indicating the Commission's actions on these decisions are on file with Civil Service.

ADJOURNMENT

There being no further items for Commission approval or public comments to be heard, Chair Bryan Waldman adjourned the meeting at 10:17 a.m.

NOTE

Copies of any written statements, reports, or staff proposals which were presented to the Commission may be obtained by contacting the Civil Service Commission, Executive Office, Capitol Commons Center, 400 S. Pine Street, P.O. Box 30002, Lansing, Michigan, 48909, or by telephone at 517-373-3020.

I, James D. Farrell, State Personnel Director, hereby certify that the foregoing are the Minutes of the Civil Service Commission Meeting of September 28, 2007.

State Personnel Director

Date

**State of Michigan
CIVIL SERVICE COMMISSION
Public Meeting
December 19, 2007**

Present: Bryan J. Waldman, Chairman
Andrew P. Abood, Commissioner
Sherry L. McMillan, Commissioner
Thomas M. Wardrop, Commissioner
James D. Farrell, State Personnel Director

1. CALL TO ORDER

The meeting of the Civil Service Commission was opened by Chairman Bryan J. Waldman at 1:42 p.m. in Conference Room A, Lower Level, Capitol Commons Center, 400 S. Pine Street, Lansing, Michigan.

a. Approval of Minutes

Chairman Bryan Waldman requested a motion to approve the minutes of the September 28, 2007 meeting. On motion duly made and supported, the Commission approved the minutes of the September 28, 2007, meeting.

b. Commissioner Tribute – F. Thomas Lewand

On motion duly made and supported, the Commission adopted the following Tribute:

Whereas, F. Thomas Lewand has served with distinction as a member of the Michigan Civil Service Commission for over four years, most recently serving as its Chairman, and

Whereas, Mr. Lewand has gained the respect and admiration of his colleagues by demonstrating dedication and commitment to the affairs of the Commission, and

Whereas, Mr. Lewand's expertise in corporate law provided the Commission with keen insight in resolving complex business matters and,

Whereas, Mr. Lewand routinely shared with the Commission the invaluable knowledge of state government he gained while serving as the Chief of Staff for Governor James Blanchard and,

Whereas, Mr. Lewand's ethical standards were beyond reproach when potential conflicts of interest arose involving Commission business and,

Whereas, the Commission has appreciated Mr. Lewand's ability to consider opposing viewpoints and render decisions in the best interest of the State, to

clearly articulate his position, and to laugh under stressful circumstances, be it therefore

Resolved, that the citizens of the State of Michigan, the Michigan Civil Service Commission, and staff, express to Mr. Lewand their deepest appreciation for his dedicated efforts and many accomplishments during his years of service to the Commission, and be it further

Resolved, that the Michigan Civil Service Commission does hereby extend to Mr. Lewand its most sincere thanks, its highest esteem, and best wishes for health and happiness for many years to come.

c. Retirement Resolution – Dale Johnston

On motion duly made and supported, the Commission adopted the following Resolution:

Whereas, Dale Johnston has decided to retire from state government after over 34 years of service, and

Whereas, Dale has demonstrated commitment and dedication throughout his career as a public servant, gaining the respect and admiration of his colleagues, and

Whereas, Dale performed a variety of professional analyst and supervisory duties over the years, including conducting compensation studies and annual salary surveys for the Compensation Hearings Panel, before taking a promotion to head the State's Suggestion Award Program in 1988 where he served for over ten years, and

Whereas, Dale will always be remembered for his enthusiastic leadership and promotion of the State's Suggestions Awards Program receiving numerous awards including the 1997 Statistical Awards from the Employee Involvement Association and the 1989 and 1991 Group Winner Awards from the National Association of Suggestion Systems, and

Whereas, Dale will now be able to spend more time with his wife, Mary Jo, their daughter and son-in-law, Traci and Dwayne, and precious grandchildren, Hailey and Logan, and

Whereas, Dale and Mary Jo can now spend more time participating in Civil War re-enactments, portraying the parts of Reverend and Mrs. Johnston, as they travel to several states to join Musters, or gatherings of soldiers, be it therefore

Resolved, that the Michigan Civil Service Commission does hereby extend to Dale Johnston its heartfelt appreciation for his dedicated efforts and many accomplishments during his years of service.

Resolved, that the Commission extends to Dale its warmest wishes for much health and happiness throughout his retirement.

2. AMENDMENTS TO AGENDA

There were no amendments to the agenda.

3. INFORMATIONAL REPORTS

- a. **Director's Report:** The Commission received the following report from State Personnel Director James D. Farrell.

Unclassified Position Report

Since the last report, the following approvals were processed.

Department of Attorney General

The Department of Attorney General submitted the following requests to establish unclassified positions:

1. A request dated August 28, 2007, to serve as the Communications Advisor. Concurrently, the position of Administrative Assistant to the Attorney General was abolished. The request was approved effective August 30, 2007.
2. A request dated September 18, 2007, to serve as the Constituent Relations Analyst. Concurrently, the vacant Chief Deputy Attorney General position was abolished. The request was approved effective September 17, 2007.
3. A request dated October 15, 2007, to serve as the Special Assistant for Legislative Affairs. Concurrently, the Communications Advisor position was abolished. The request was approved effective October 15, 2007.

Department of Corrections

The Department of Corrections submitted a notice that they were abolishing an unclassified Deputy Director position, effective December 10, 2007.

Department of Human Services

The Department of Human Services submitted a request dated September 11, 2007, to establish an unclassified position of Chief Deputy Director. This position paralleled our existing unclassified position of Chief Deputy Director which allowed a transition period for the new incoming Chief Deputy Director. Upon completion of the transition period, one Chief Deputy Director position was abolished. The request was approved effective September 24, 2007.

Department of Natural Resources

The Department of Natural Resources submitted a request dated October 9, 2007, to establish an unclassified position of Chief of the Office of Legal Services. The request was approved effective October 7, 2007.

Regulations

5.07, Performance-Pay Programs (Effective October 1, 2007)

Standard C.8 of Regulation 5.07 prohibits performance-pay increases to be awarded or approved during FY 07-08. The ending date of this prohibition was extended from the previous September 30, 2007 ending date, to September 30, 2008.

Letter of Understanding - AFSCME

Approval of Extracurricular Premium Pay (Effective September 17, 2007)

At the request of the Office of State Employer (OSE), dated September 13, 2007, and as authorized in a letter of understanding in the AFSCME collective bargaining agreement, I approved the compensation rates for extracurricular program services for six positions at the Michigan Schools for the Deaf and Blind.

5. NEW BUSINESS

a. Civil Service Financial Reports

Ms. Carol Vargovich, Director, Budget & Financial Services Division, summarized the financial activity for the Civil Service Commission, which included a summary of FY 2007, certification of payroll of the classified state service, and the proposed budget for FY 2008. Ms. Vargovich further stated that the Civil Service Commission is currently working with the Office of State Budget for the FY 2009 budget due in part to the consolidation of human resources operations into the Civil Service Commission. The proposed FY 2009 budget will be brought before the Commission at a later date.

Ms. Vargovich requested Commission approval of the following two resolutions:

1. Certification of Payroll - Fiscal Year 2007 – Resolution 5a

The Civil Service Commission, in fulfillment of the Constitutional requirement to certify the aggregate payroll of the classified service for the preceding fiscal year, certified a payroll of \$4,453,362,885, as recorded in the State's Michigan Administrative Information Network as of November 21, 2007, for the fiscal period October 1, 2006, to September 30, 2007.

2. Budget Resolution – FY 2007-2008 – Resolution 5b

Consistent with the Civil Service Commission's constitutional authority, and recognizing the funding requirements for employee economics and CSS&M reductions, the Commission decreased the previously approved FY 07-08 budget for the Civil Service Commission by \$715,800.

On motion duly made and supported, the Commission approved Resolutions 5a and 5b.

b. Collective Bargaining Agreements

- 1. UAW**
- 2. SEIU**
 - a. Scientific & Engineering Unit**
 - b. Technical Unit**
 - c. Human Services Support Unit**

General Counsel D. Daniel McLellan addressed the Commission regarding the Collective Bargaining Agreements (CBAs) and approvals reached for three year terms for the UAW International Union and its Local 6000, Michigan Public Employees, SEIU Local 517-M (Scientific & Engineering Unit, Technical Unit, and Human Services Support Unit). General Counsel McLellan stated that staff reviewed CBAs for potential prohibited subjects of bargaining and found no violations.

On motion duly made and supported, the Commission approved Resolutions 5.b-1, 5b-2a, 5b-2b, and 5b-2c.

c. Impasse Panel Recommendation

- 1. AFSCME Council 25**
- 2. MCO Local 526-M**
- 3. MSEA**

Assistant General Counsel John Gnodtke addressed the Commission regarding the Impasse Hearing held by members of the Employment Relations Board and the parties (OSE and AFSCME Council 25, MCO Local 526-M, and MSEA) where agreement on designated issues could not be reached. The Panel consolidated three issues that were common to multiple bargaining units: wages, health insurance, and overtime calculation. The Panel's recommendation consisted of raises of 0%, 1%, and 3% for the next three fiscal years and new pay premiums for asbestos abatement work and Corrections Transportation Officers. The Panel recommended cost-sharing shifts in health insurance, with the employee premium share going up 5%, co-pays for drugs and office visits rising, deductibles increasing, and other changes. The Panel also recommended that hours on sick leave not be counted as time worked when calculating eligibility for overtime.

Assistant General Counsel Gnodtke stated the recommendations match the tentative agreements previously reached by the units at impasse, the Coordinated Compensation Panel's recommendations for nonexclusively represented employees, and the voluntary agreements ratified by other bargaining units.

The panel also addressed additional non-economic matters for each of the three units as follows: 1) recommended current language on work location definitions for AFSCME. OSE had sought to redefine neighboring facilities as a single work location, 2) OSE requested to streamline nine pages of overtime equalization and mandating procedures, while MCO had sought to add new provisions, and 3) the panel recommended current language on temporary layoffs for MSEA, extending for three years a letter of understanding pledging to not reduce hours.

The panel also recommended that a paragraph from the AFSCME contract, which indicated the premium share to be paid for health insurance, was inconsistent with the State Employees' Retirement Act and should be struck from the contract.

Assistant General Counsel Gnodtke presented IP2007-01, Institutional Unit, IP2007-02, Security Unit, and IP2007-03, Labor and Trades and Safety & Regulatory Units for approval.

Office of the State Employer Director, M. Scott Bowen and Deputy Director Tom Hall addressed the Commission on the impasse recommendations, requesting two changes that were bargained in good faith at the bargaining table and to which both parties had agreed. Mr. Hall requested approval of a letter of understanding for a pilot program for Corrections facilities in the Jackson area, which expands the definition of work locations for purposes of assignment and transfer on a pilot basis. This letter of understanding was submitted previously as part of the tentative agreement rejected in the ratification vote.

Mr. Hall also requested that the new language which was agreed to with MSEA at original negotiations related to Article 12, layoff and recall, temporary layoffs, be the language approved by the Commission.

Mr. John Loose, with the law firm Fraser, Trebilcock, Davis and Dunlap representing Michigan State Employees Association (MSEA), addressed the Commission in support of adoption of the Impasse Panel's recommendation.

Mr. Roberto Mosqueda, President, Michigan State Employees Association (MSEA), addressed the Commission in support of the adoption of the Impasse Panel's recommendation.

Mr. Mel Grieshaber, Executive Director, Michigan Corrections Organization (MCO-SEIU), spoke to the Commission regarding the sick leave time being calculated as overtime compensation. He stated that it was not equitable treatment between their unit and other units. He indicated Department of Corrections employees are required to work overtime and that it is not voluntary like in other units. He stated it's disparate treatment to Corrections Officer's pay, and asked the Commission to overturn the recommendation of the Impasse Panel and return the current language in the MCO collective bargaining agreement that has existed for the last 25 years, whereby sick leave time is considered in the calculation of overtime.

The Commission moved to consider motion 5c-1, IP2007-01, AFSCME (Institutional Unit). Commissioner Abood moved to amend and approve the tentative agreement to the Letter of Understanding regarding Article 20 – work location pilot program in the Jackson area. Commissioner McMillan seconded and the motion passed.

The Commission moved to consider motion 5c-2, IP2007-02 MCO (Security Unit). With regard to MCOs request to amend IP2007-02, Article 17, dealing with the calculation of overtime and sick leave time language to remain in the CBA, Commissioner Abood motioned for approval of IP2007-02. Commissioner McMillan seconded the motion. The motion to approve the Impasse Panel's recommendation passed.

The Commission moved to consider motion 5c-3, IP2007-03, MSEA (Labor & Trades Unit & Safety & Regulatory Unit). Commissioner Abood moved to amend the motion in regards to the tentative agreement, Article 12, regarding temporary layoffs and replace

the existing recommendation of the Impasse Panel with the Article 12 text that was previously agreed upon. Commissioner McMillan seconded and the motion passed.

d. Coordinated Compensation Panel Recommendations – FY 2009

Mr. Matthew Fedorchuk, Director, Compensation Division, presented the recommendations contained in the proposed Coordinated Compensation Proposal (CCP) for FY '09 that was developed by the members of the Employment Relations Board, serving as the CCP Panel under Civil Service Rule 5-1.3.

The Panel recommended Commission approval of the following for FY '09.

- No across-the-board general wage increase during fiscal year 2009.
- An increase in the out-of-state premium for Department of Treasury Auditors to 20% of base salary.
- Change the Employer's share of the State Health Plan PPO premium to 90%.
- Change the Employer's share of HMO premiums to 95% up to the amount paid for the same coverage code under the State Health Plan PPO.
- Add a \$50 co-pay for State Health Plan PPO members for emergency room visits if the employee is not admitted.
- Increase the State Health Plan PPO co-pay for office visits from \$10 to \$15.
- Increase State Health Plan PPO drug plan co-pays to \$10 for generic, \$20 for preferred brand, and \$40 for non-preferred brand. The mail order program will have co-pays of \$20 for generic, \$40 for preferred, and \$80 for non-preferred.
- The State Health Plan PPO drug plan will include the clinical programs of Generics Preferred, Step Therapy, and Drug Quantity Management.
- Renewal of the Professional Development Fund for MSC employees at \$150,000 and renewal of the Professional Development Fund for B&A unit employees at \$50,000.
- Effective January 1, 2009, increase the State Health Plan in-network deductible to \$300 individual/\$600 family, and increase the out-of network deductible to \$600 individual/\$1200 family.

On motion duly made and supported, the Commission approved Agenda Item 5d.

e. Unclassified Pay Recommendations – FY 2009

Mr. Fedorchuk presented staff's proposal for the annual Unclassified Pay Recommendation required under Article XI, Section 5 of the Michigan Constitution.

A survey of department director salaries in large states was conducted by staff, and information on Michigan county official and university president salaries was compiled. The salary levels of Michigan elected officials and classified deputy department directors was also reported.

Based on a review of the data, staff requested Commission approval and transmission of the following recommendations to the Governor and the Legislature for FY '09.

- No merit salary increase for FY 2009.

On motion duly made and supported, the Commission approved Agenda Item 5e.

f. Memorandum of Understanding between the Michigan Civil Service Commission and the Michigan Department of Management and Budget regarding Retiree Health Benefits

General Counsel McLellan presented information on the Memorandum of Understanding between the Michigan Civil Service Commission and the Michigan Department of Management and Budget regarding the proposal to move the State Health Plan PPO for all medicare-eligible retirees administered by Blue Cross and Blue Shield of Michigan (BCBSM) to the Medicare Advantage plan administered by BCBSM. The MOU would not apply to persons retiring from the State Police enlisted unit on or after October 1, 1987.

On a motion duly made and supported, the motion passed. Commissioner Thomas M. Wardrop abstained from the vote.

g. Rule 5-4, Additional Compensation, Overtime, etc.

General Counsel McLellan presented information regarding amendment to Rule 5-4, Additional Compensation, Overtime, etc. to exclude sick leave time as a basis for calculating overtime for non-exclusively represented employees.

On a motion duly made and supported, the motion passed.

h. Rule 6-3.6, Rules of General Applicability

General Counsel McLellan provided information regarding two proposals staff prepared in response to the request from State Employer, M. Scott Bowen, to repeal Rule 6-3.6, Rules of General Applicability. Proposal one that staff provided was to limit the use of the Rules of General Applicability to emergency circumstances; eliminate the 14-day prior written notice requirement; and require the Commission to approve unanimously both the rule of general applicability and a separate resolution that articulates the commission's reasons for enacting the rule and confirms that the rule takes effect immediately for exclusively-represented employees. Proposal two provided by staff was to repeal Rule 6-3.6 in its entirety.

Office of the State Employer, M. Scott Bowen addressed the Commission on the subject matter asking for the repeal of Rule 6-3.6 and provided a brief history on the Rules of General Applicability. He indicated that the effect of this provision is detrimental to the bargaining process and to date the rules of general applicability have not been invoked and even when not invoked it inhibits the trust to bargain in good faith and for these reasons, he asked that the rule be repealed in its entirety.

Commissioner Abood motioned to approve 5-h, Proposal 2, to repeal Rule 6-3.6, Rules of General Applicability. Commissioner Wardrop seconded the motion. Commissioner McMillan opposed. The motion passed.

i. Contributions to Political Action Committees (PACs)

General Counsel McLellan addressed the Commission regarding the request from the Office of the State Employer (OSE) to amend its rules to permit the collective bargaining parties to negotiate payroll deduction for employee political contributions to union PACs. General Counsel McLellan stated if approved, it would only authorize the bargaining units permission contained in the rules, which authorizes the parties to negotiate and submit to the Commission for approval, provisions of the collective bargaining agreements regarding PACs.

M. Scott Bowen, Director of the Office of State Employer, addressed the Commission on the request for the adoption of proposed Rule 6-16, Payroll Deduction for Separate Segregated Funds, and to establish procedures for separate voluntary payroll deductions for legally established funds by the employee and their representative. Mr. Bowen indicated two issues need to be addressed: 1) whether to allow voluntary payroll deductions for PACs and 2) whether it is legally permissible to do so. Mr. Bowen indicated that under the current Collective Bargaining Agreement with the UAW and Letter of Understanding, the State Employer agreed to commence negotiations on the subject of PACs in the event the Civil Service Commission's policy is amended. He further stated the constitutional and plenary authority the Commission has over employee relations allows the Commission to consider this request. Further, Mr. Bowen indicated that a recent court decision (*Michigan Education Association v Land*) and a legal opinion provided by outside counsel to the Commission should legally permit the payroll deduction of PACs.

Commissioner McMillan questioned whether any provisions have been negotiated for allowing the payroll deductions of the PACs and reiterated that this is only an opportunity to negotiate. She further questioned whether it was anticipated to allow state employees to solicit PAC dues during actual work time. Mr. Bowen responded that would not take place and would be illegal.

Commissioner McMillan directed questions to State Personnel Director, James D. Farrell, regarding the time and impact on Civil Service staff for the implementation of the payroll deduction for the voluntary PAC. Director Farrell indicated the State Employer would engage in negotiations with the unions and there would be a number of different options to determine the process, and would also include involvement from the Office of Financial Services who administers the payroll process. He further stated until a process is defined through negotiations, it would take some time for staff to determine the resources available and the process to implement.

Commissioner McMillan questioned whether it would be prudent to hold on the matter, given that there are various legal opinions regarding this issue, and considering the Court of Appeals has granted leave to appeal in the *Michigan Education Association v Land* case, rather than have Civil Service Commission staff implement a program that may ultimately be determined that was not appropriate.

Mr. Robert LaBrant, Senior Vice President, Political Affairs and General Counsel, Michigan Chamber of Commerce addressed the Commission in opposition of approving the proposed draft Rule 6-16. Mr. LaBrant highlighted the issues as to his opposition: 1) Attorney General Opinion No. 7187, which is binding on the Civil Service Commission, 2) the first legal opinion of Miller, Canfield, Paddock and Stone dated February 3, 2006, and 3) a pending appeal in *Michigan Education Association v Land*, where a circuit court vacated a Secretary of State Declaratory Ruling that disallowed a public body to administer a payroll deduction program for a union's separate segregated fund. He further stated that the purpose of the Civil Service system was to keep partisan politics out of state classified employment and approval of the proposed rule would re-insert politics into the operations of state government employment. Mr. LaBrant urged the Commission to disapprove the proposed rule. Mr. LaBrant's correspondence dated December 12, 2007, is on file as part of this record.

Commissioner Thomas M. Wardrop stated that a subsequent legal opinion of outside counsel was provided to the Commission which advised the Commission that a violation would not exist if the union PACs paid all costs associated with processing the voluntary contributions.

Chairman Bryan Waldman questioned Mr. LaBrant's opinion on keeping politics out of the Civil Service Commission, and stated the reason the Civil Service Commission was created was to protect state employees from running a spoils system. If a court determined it is legal to allow state employees to contribute to PACs, the Commission has an obligation to move forward.

Mr. Andrew Nickelhoff, an attorney with the law firm of Sachs Waldman, representing the Michigan State AFL-CIO and Change to Win, addressed the Commission in support of adopting the proposed rule. Mr. Nickelhoff stated his opinion of adopting the proposed rule is consistent with the Commission's constitutional plenary authority, and does not inject politics into the classified service. Mr. Nickelhoff's December 11, 2007 correspondence is considered part of this record.

Assistant Attorney General Susan Przekop-Shaw addressed the Commission on behalf of the Attorney General's office. Ms. Przekop-Shaw urged the Commission to table the approval of the proposed rule given the ongoing Court of Appeals case, *Michigan Education Association v Land* and critical constitutional issues implicated by this proposed rule. She indicated that she believed the planning and implementation of this rule would be done during working hours. Ms. Przekop-Shaw reiterated Attorney General Mike Cox's, advice in a December 17, 2007 letter to the Commission, which stated that under the Michigan Campaign Finance Act, Section 57, the Commission is precluded from approving payroll deductions for PAC contributions. She further stated that reimbursement to the State for the expenses involved for administering PACs does not cure the violation under Section 57.

Ms. Przekop-Shaw opined that by adopting this rule, the Commission becomes instrumental in reinserting a political element into the classified service, which places state employees in an insecure position. Members who are represented by unions can choose to check off whether they want a PAC payroll deduction and this would place a label on those employees, as well as those employees who do not want to contribute. The Commission previously adopted Rule 1-12.6, which prohibits on-duty political activity, and Rule 1-12.5, which states the levying, solicitation, collection or payment of

any type of political assessment and the authorizing or ordering of such activity in the classified service are prohibited. Based on these rules, this issue was addressed previously by the Commission.

Ms. Przekop-Shaw stated that the Constitution does grant the Commission plenary authority and in the last 64 years this issue has been given consideration, but the Commission continued to protect state government employees to be sure that political activity does not have a gateway into our State's civil service process. For the reasons stated, the Attorney General advised the Commission to table the proposed rule until the appellate process is concluded and additional legal review is considered based on the outcome of that process, and to also consider the Commission's authority and limitations.

Commissioner Abood reiterated Article 11, Section 5, and the meaning of plenary authority, which grants the Commission ultimate authority to address rules such as this.

Commissioner Abood moved to approve Rule 6-16, Payroll Deduction for Separate Segregated Funds, seconded by Commissioner Wardrop. The motion passed, with Commissioner McMillan opposed.

6. PUBLIC COMMENT

7. COMMISSION APPEALS

In closed session via conference call on November 20, 2007, the Commission considered 14 recommended decisions of the Employment Relations Board. Copies of the review sheets indicating the Commission's actions on these decisions are on file with Civil Service.

ADJOURNMENT

There being no further items for Commission approval or public comments to be heard, Chairman Waldman adjourned the meeting at 4:17 p.m.

NOTE

Copies of any written statements, reports, or staff proposals which were presented to the Commission may be obtained by contacting the Civil Service Commission, Executive Office, Capitol Commons Center, 400 S. Pine Street, P.O. Box 30002, Lansing, Michigan, 48909, or by telephone at 517-373-3020.

I, James D. Farrell, State Personnel Director, hereby certify that the foregoing are the Minutes of the Civil Service Commission Meeting of December 19, 2007.

State Personnel Director

Date