

PUBLIC MEETING MINUTES

October 14, 2010

PUBLIC EMPLOYMENT RELATIONS BOARD
1031 18th Street
Sacramento, CA 95811

Chair Dowdin Calvillo called the meeting to order at 10:05 a.m.

Members Present

Alice Dowdin Calvillo, Chair
Sally M. McKeag, Member
Robin W. Wesley, Member

Staff Present

Tami Bogert, General Counsel
Les Chisholm, Division Chief, Office of General Counsel
Christine Bologna, Acting Chief Administrative Law Judge
Eileen Potter, Chief Administrative Officer

Call to Order

After establishing that a quorum had been reached, Chair Dowdin Calvillo called the Public Employment Relations Board (PERB or Board) to order for a return to the open session of the August 12, 2010 Board meeting. She reported that the Board met in continuous closed session to deliberate on pending cases on the Board's docket, pending requests for injunctive relief, and pending litigation, as appropriate.

Chair Dowdin Calvillo read into the record the decisions that issued since the open session in August. Those were PERB Decision Nos. 2126, 2127, 2128, 2129, 2130-S, 2131-S, 2132-M, 2133, 2134-H, 2135-S and 2136-S. In request for injunctive relief (I.R.) No. 587 (*California Attorneys, Administrative Law Judges & Hearing Officers in State Employment v. State of California (Department of Industrial Relations)*), the request was denied; I.R. No. 588 (*IUOE Local 3 v. City of Santa Rosa*), the request was denied; I.R. No. 589 (*Transport Workers Union of America Local 250 v. City & County of San Francisco*), the request was denied; and I.R. No. 590 (*International Union of Operating Engineers, Stationary Engineers Local 39, AFL-CIO v. County of Yolo*), the request was denied. A document containing a listing of the aforementioned decisions was made available at the meeting.

Without objection, Chair Dowdin Calvillo stated that she would like to adjourn today's meeting in memory of Chief Administrative Law Judge Bernard "Bernie" McMonigle, who passed away on September 4, 2010. Mr. McMonigle joined PERB in 1988 and had a 22 year career span with PERB. He has served as Chief Administrative Law Judge since 2007. Mr. McMonigle will be dearly missed by the entire PERB family. Hearing no objection, the order was made.

Without objection, Chair Dowdin Calvillo adjourned the August 12, 2010 public. She then opened and called to order the October 14, 2010 public meeting. Without objection, Chair Dowdin Calvillo substituted the previous roll call for the purposes of declaring a quorum. Hearing no objection, the order was made. Member McKeag led in the Pledge of Allegiance to the Flag.

Minutes

Motion: Motion by Member Wesley and seconded by Member McKeag, that the Board adopt the minutes for the August 12, 2010 public meeting.

Ayes: McKeag, Wesley, and Dowdin Calvillo.

Motion Adopted – 3 to 0.

Comments From Public Participants

Kevin Colburn stated that he has been the liaison for the California Teachers Association (CTA) for the past six years and it was his pleasure to have had the opportunity to interact with Bernie McMonigle at PERB. He stated that Mr. McMonigle was always friendly and receptive to all discussions had with him and he will be sorely missed by CTA.

Member Wesley stated that she had the opportunity to work with Bernie McMonigle at PERB for 19 years and he was not only a mentor to her but also a friend. She also stated that Mr. McMonigle thoroughly enjoyed his work and colleagues at PERB. She went on to state that Mr. McMonigle's work in the area of labor law will forever be remembered by his PERB friends and by the many other people who also saw him as a mentor and friend.

Member McKeag stated that it was a privilege to work with Mr. McMonigle, and she too will personally miss him. She said that Bernie was a wonderful man and a true professional in his trade.

Chair Dowdin Calvillo echoed the sentiments made by the Board members and added that she appreciated the respect that Mr. McMonigle had in the industry among both labor and employer groups. She stated that his reputation was outstanding and he was a very fair individual who told it like it was. Chair Dowdin Calvillo commended Mr. McMonigle on his many contributions to PERB.

Staff Reports

The following staff reports were received with the caveat that any matter requiring action by the Board and not included as an item in today's agenda would be scheduled for consideration at a subsequent meeting.

a. Administrative Report

Chief Administrative Officer Eileen Potter reported that the Governor recently signed the budget for Fiscal Year 2010-2011 and the Department of Finance is in the process of reviewing various bills in that package that will make up this year's budget. Ms. Potter stated that it was premature at this time to report on any final appropriation for PERB for this fiscal year and that she will report back to the Board within the next two weeks of any further developments.

b. Legal Report

General Counsel Tami Bogert echoed the sentiments made by her colleagues of Bernie McMonigle. She also added that Mr. McMonigle was a tremendous individual who was widely respected and was someone who has made a life-long impact on her.

Ms. Bogert reported that the monthly activity and litigation reports had been distributed to the Board for its review. From those reports, Ms. Bogert recapped, in particular since the Board's last public meeting in August, the following information. In regards to monthly activities, Ms. Bogert reported that during the months of August and September, 156 new cases were filed with the General Counsel's office; 164 case investigations were completed; and a total of 48 informal settlement conferences were conducted by staff. During the same two-month period, as Chair Dowdin Calvillo mentioned earlier, 4 requests for injunctive relief were filed, all of which were denied by the Board.

In terms of litigation, Ms. Bogert reported that the Third District Court of Appeal recently dismissed the challenge brought by Siskiyou County Employees' Association to PERB Decision No. 2113-M. She also reported that just last week the First District Court of Appeal summarily denied the challenge brought by the California Nurses Association to PERB Decision No. 2094-H.

Acting Chief Administrative Law Judge (ALJ) Christine Bologna reported on the activities of the Division of Administrative Law and stated that the ALJ report had been distributed to the Board for its review. Ms. Bologna reported that 14 new cases were assigned for hearing to PERB's 5 ALJs. She further reported there are 66 hearings assigned to the ALJs and 19 cases have been submitted for decisions to be written.

Ms. Bologna corrected a typo in her last ALJ report. The report should have read, "in September PERB held 9 days of hearing and completed 2 formal hearings, 7 cases were

withdrawn, and 2 proposed decisions were issued.” She further reported that hearings are being scheduled from November 2010 through May 2011.

c. Legislative Report

Les Chisholm, Division Chief, Office of the General Counsel, reported that the Legislative Report was circulated to the Board for its review. Mr. Chisholm reported that Assembly Bill 2767 was enacted and signed into law in late August. He reported that the bill had no substantive effect on PERB’s jurisdiction but it did make some changes in the Trial Court Act definitions. The PERB statutes will be updated, effective January 1, 2011.

Motion: Motion by Member McKeag and seconded by Member Wesley that the Administrative, Legal (including General Counsel and Chief Administrative Law Judge), and Legislative Reports be accepted and filed.

Ayes: McKeag, Wesley and Dowdin Calvillo.

Motion Adopted – 3 to 0.

Old Business

None.

New Business

None.

General Discussion

Chair Dowdin Calvillo announced that there being no further business, it would be appropriate to recess the meeting to continuous closed session and that the Board would meet in continuous closed session each business day beginning immediately upon the recess of the open portion of this meeting through December 9, 2010 when the Board will reconvene in Room 103, Headquarters Office of the Public Employment Relations Board. The purpose of these closed sessions will be to deliberate on cases listed on the Board’s Docket (Gov. Code sec. 11126(c)(3)), personnel (Gov. Code sec. 11126(a)), pending litigation (Gov. Code sec. 11126(e)(1)), and any pending requests for injunctive relief (Gov. Code sec. 11126(e)(2)(c)).

Motion: Motion by Member Wesley and seconded by Member McKeag to recess the meeting to continuous closed session.

Ayes: McKeag, Wesley and Dowdin Calvillo.

Motion Adopted – 3 to 0.

Respectfully submitted,

Chris Wong, Administrative Assistant

APPROVED AT THE PUBLIC MEETING OF:

Alice Dowdin Calvillo, Chair