PUBLIC MEETING MINUTES

December 14, 2023
10:00 a.m.

PUBLIC EMPLOYMENT RELATIONS BOARD
Headquarters Office
1031 18th Street
Sacramento, California

Members Present

ERIC R. BANKS, Chair
ARTHUR A. KRANTZ, Member
LOU PAULSON, Member
ADRIN NAZARIAN, Member

Quorum Present? Yes

Executive Staff Present

JOSHUA GOLKA, Executive Director
SUSAN DAVEY, Deputy Executive Director
FELIX DE LA TORRE, General Counsel
SHAWN CLOUGHESY, Chief Administrative Law Judge
GERALD FECHER, Director, SMCS

Proceedings:

Meeting called to order at 10 a.m. by Chair Banks.

Since October 12th, 2023, the Board has been in continuous closed session to deliberate on cases pending on the Board's docket. A list of those Board decisions, determinations, and resolutions can be viewed on PERB's website.

Motion: Motion by Member Paulson and seconded by Member Nazarian to close the October 12th, 2023 Public Meeting.

Assent: Banks, Krantz, Paulson, Nazarian

Motion Adopted - 4 to 0

Chair Banks officially opened the Public Meeting of December 14th, 2023.

Adoption of Minutes:

Chair Banks asked the Board Members if they wished to discuss any potential corrections to the minutes of October 12th, 2023 or move to approve the minutes.

Motion: Motion by Member Krantz and seconded by Member Nazarian to approve the minutes of the October 12th, 2023 Public Meeting.

Assent: Banks, Krantz, Paulson, Nazarian

Motion Adopted - 4 to 0

Public Comment

No public participants requested to comment on issues outside of the agenda.

Executive Staff Reports:

Joshua Golka, Executive Director, announced the staff celebrating their five year anniversaries with PERB: Administrative Law Judge Jeff Edwards; Board Attorney Estelle Huerta; SMCS Conciliator Rich Anderson; Information Technology Associate Jay Hernandez; Staff Services Manager in the Division of Administration, Oanh Tu; and Executive Director Joshua Golka.

In legislative matters, Mr. Golka reported that, on January 3rd, the Legislature returns for the second year of its two-year session.

Regarding rulemaking, Mr. Golka stated that on December 26th, 2023, the public comment period closes on the Special Remedies Package, which governs civil penalties for violations of Government Code 3550.

The Office of Administrative Law has approved gender-neutral language changes, which replaces gender pronouns with non-binary pronouns throughout PERB's Regulations, is now in effect.

The big Transit Package, the larger revision to the Transit Regulations Package, has been withdrawn from the Office of Administrative Law to incorporate requested changes that will improve clarity and consistency.

Regulation packages related to word limits on appeals of dismissals and on the recording of PERB proceedings are in development.

The annual yearend review provided to constituents in a virtual presentation will be scheduled for some time in early 2024.

Lastly, PERB completed an all-staff meeting to celebrate staff's achievements over the last few years as well as a look towards the future. Mr. Golka thanked Deputy Executive Director Susan Davey and all the staff responsible for helping to put the event on, and he thanked Chair Banks and Board Member Krantz for attending as observers.

Report - Division of Administration

Susan Davey, Deputy Executive Director, reported a total of 72.25 filled positions. For changes since the last Board meeting, Ms. Davey congratulated

Jana Ellingson-Kegel on her promotion to the position of Administrative Law Judge.

Ms. Davey reported that general salary increases are expected in the coming weeks and that open enrollment has been completed for 2023.

For Fiscal Services, Ms. Davey stated that the current budgetary forecast is $39,505, which is a very tight fiscal year and is being very closely monitored.

Regarding Information Technology, Ms. Davey stated that they have completed retiring out all of the outdated servers and refreshing all the mobile devices.

Report - Office of the General Counsel

Felix De La Torre, General Counsel, reported that in October-November, the Office of the General Counsel had received 106 unfair practice charges, which is an uptick from the 96 received in August-September.

In October-November, the General Counsel's Office completed 102 case investigations compared to 101 case investigations completed in August-September.

In October-November, the General Counsel's Office issued 66 complaints and dismissed 21 charges compared to 49 complaints issued and 28 dismissed in August-September.

The average time from the initial filing of a charge to when a complaint is either issued or dismissed is 188 days, which is down from 216 days in August-September.

The current active caseload is 229, which is unchanged from August-September.

Regarding factfinding requests, the General Counsel's Office received five requests in October-November compared to six received in August-September.

In October-November, there were 13 representation petitions filed, compared to 15 filed in August-September.

Mr. De La Torre reported on one request for injunctive relief, two new litigation matters, and one final determination. He provided the details and status of each case.

Report - Division of Administrative Law

Shawn Cloughesy, Chief Administrative Law Judge, announced that Jana Ellingson-Kegel has now joined PERB's Administrative Law Judges in the Division of Administrative Law.

Judge Cloughesy stated that cases continue to be set three to 3-1/2 months out from the informal. He further reported a reduction in hearing days from 209 formal hearing days at this time last year down to about 131.

The average number of days for the issuance of proposed decisions is down to 120 as compared to 166 days at this point last year.

Lastly, Judge Cloughesy reported the exceptions ratio is 37 percent as compared to 40 percent last year.

Report - State Mediation & Conciliation Service (SMCS)

Gerald Fecher, SMCS Director, reported that current active cases for October-November is 153, which compares to 122 active cases at the last Board report.

SMCS opened 107 cases in October-November in contrast to 94 cases opened in August and September.

SMCS closed 73 cases in October-November in contrast to 101 cases closed in August-September.

For Program Administration, Mr. Fecher reported that, in October-November, the Arbitration Panel Program brought in $3,700 as compared to $4,925 in August-September.

Chair Banks stated that there are 22 cases on the Board's docket and that no pending cases are over six months old.

Motion: Motion by Member Paulson and seconded by Member Nazarian to accept the reports of the Executive Director, Division of Administration, Office of the General Counsel, Division of Administrative Law, and State Mediation and Conciliation Services.

Assent: Banks, Krantz, Paulson, Nazarian

Motion Adopted - 4 to 0

Old Business

Mr. De La Torre stated that the suggested amendments and edits to the rulemaking package have been completed and the package is now ready to be submitted to the Office of Administrative Law for initiation of the official rulemaking package.

No members of the public chose to comment.

Motion: Motion by Member Krantz and seconded by Member Paulson to to approve submitting the proposed text to the regulations with the aforementioned changes to the Office of Administrative Law in order to initiate the formal rulemaking process to amend PERB Regulations that govern transit districts to include the addition of Santa Cruz Metropolitan Transit District and the Santa Clara Valley Transit Authority including approving the proposed text to the regulations authorizing the Transit Regulations Committee to initiate rulemaking based on the approved text of the proposed regulations and authorizing the committee to review, evaluate and respond to public comments after the 45-day comment period and to adopt changes including any suggested changes from the Office of Administrative Law without further Board approval unless the committee wants to make substantive changes from the previously approved text. In that case, the committee must bring the proposed changes to the full Board for approval.

Assent: Banks, Krantz, Paulson, Nazarian

Motion Adopted - 4 to 0

Chair Banks stated that Member Krantz and Member Paulson, the subcommittee assigned to begin the process of promulgating regulations on the recording of PERB proceedings, is requesting that the Board consider whether to authorize the expansion of the subcommittee's scope to include the preparations of regulations governing the participation and observation of PERB proceedings.

Member Krantz stated that interrelated to the recording of PERB proceedings are issues involving anonymous observers.

Member Paulson concurred with Member Krantz adding that expanding the subcommittee's scope will provide a clear direction for the work needed to be done.

No members of the public chose to comment.

Motion: Motion by Member Krantz and seconded by Member Paulson that the Board approve expanding the role of the existing subcommittee, which currently has the task of working on a proposal for rulemaking to bring to the Board on recording of PERB proceedings. In addition, that the Board approve the subcommittee's work to include regulations on participation and observation of PERB proceedings.

Assent: Banks, Krantz, Paulson, Nazarian

Motion Adopted - 4 to 0

New Business

Chair Banks announced the winners of 2023 PERB Employee Achievement Awards for their great work and dedication to PERB: Ed Lee, a member of the Informational Technology Team; Nikoo Seirafi, the Staff Services Manager over the Legal Support Team; Daniel Trump, a Regional Attorney in the San Francisco Regional Office; and Jennifer Carter, Legal Support in the Los Angeles Regional Office.

Chair Banks then congratulated two retirees and expressed his personal thanks to Wendi Ross and Chris Bologna.

The following also expressed their personal appreciation to the two retirees: Board Member Krantz; Board Member Paulson; Board Member Nazarian; Executive Director Joshua Golka; General Counsel Felix De La Torre; Paul Starkey, Chief of Labor Relations for CalHR; Mary Weiss, the new Deputy General Counsel; Administrative Law Judge Cloughesy; SMCS Director Gerald Fecher.

Ms. Ross and Administrative Law Judge Bologna thanked the speakers for their kind sentiments.

Mr. Golka presented both Ms. Ross and Administrative Law Judge Bologna with a certificate of public service and a token of appreciation to recognize and celebrate their years of service to the constituents of PERB and to the citizens of California.

Meeting Adjourned

Chair Banks stated that, immediately upon recess, the Board will meet in continuous closed session until the next regularly scheduled public meeting on February 8th, 2024, at Sacramento Headquarters.

During closed session, the Board will deliberate on cases listed on the Board's docket, personnel matters, pending litigation, and any pending requests for injunctive relief.

Motion: Motion by Member Krantz and seconded by Member Nazarian to recess the meeting to continuous closed session.

Assent: Banks, Krantz, Paulson, Nazarian

Motion Adopted - 4 to 0

APPROVED AT THE PUBLIC MEETING OF: April 11, 2024