

PUBLIC MEETING MINUTES

June 10, 2010

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

Chair Dowdin Calvillo called the meeting to order at 10:10 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
Bernard McMonigle, Chief Administrative Law Judge (Excused)
Christine Bologna, 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 April 8, 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 April. Those were PERB Decision Nos. 2104-M, 2105-H, 2106-S, 2107-H, 2108-S, 2109-H, 2110-S, 2111-S, 2112-I, 2113-M, and 2114-M. In request for injunctive relief (I.R.) No. 582 (*Service Employees International Union Local 1000 v. State of California (Department of Developmental Services)*), the request was denied; and in I.R. No. 583 (*Regents of the University of California v. California Nurses Association*), the request was granted. A document containing a listing of the aforementioned decisions was made available at the meeting.

Without objection, Chair Dowdin Calvillo adjourned the April 8, 2010 public meeting. She then opened and called to order the June 10, 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. Before moving forward with the public meeting, Chair Dowdin Calvillo announced that today marked the anniversary date of the passing of Tiffany Rystrom, former Member and Chair of PERB. She passed away last year on June 9, 2009. Without objection, Chair Dowdin Calvillo asked that there be a moment of silence for the purposes of remembering Tiffany Rystrom for her many contributions to PERB from 2007 through June 2009. Hearing no objection, the order was made.

Minutes

Motion: Motion by Member McKeag and seconded by Member Wesley that the Board adopt the minutes for the April 8, 2010 public meeting.

Ayes: McKeag, Wesley, and Dowdin Calvillo.

Motion Adopted – 3 to 0.

Comments From Public Participants

None.

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 neither the Senate nor the Assembly scheduled a budget hearing for PERB, thereby deeming PERB's budget approved as submitted in the Governor's 2010 budget. Ms. Potter indicated that she will continue to monitor the ongoing budget negotiations as it unfolds. She also stated that PERB's budget will not be excluded from any unallocated reductions that may become part of the approved Governor's Budget.

b. Legal Report

General Counsel Tami Bogert reported that the monthly activity and litigation reports had been distributed to the Board for their review. From those reports, Ms. Bogert recapped in particular since the Board's last public meeting in April, the following information. In regards to monthly activities, Ms. Bogert reported during the months of April and May, 213 new cases were filed with the General Counsel's office; 179 case investigations were completed; and a total of 56 informal settlement conferences were conducted by staff. She further reported in the same two-month period, as Chair Dowdin Calvillo noted earlier, one request for injunctive relief was filed and subsequently denied by the Board. More recently, as Chair Dowdin Calvillo noted earlier, a

request for injunctive relief by the University of California against the California Nurses Association was filed with and subsequently granted by PERB. The San Francisco County Superior Court also granted PERB's request for a temporary restraining order enjoining the planned strike this week.

In terms of litigation, Ms. Bogert first reported on the case *California Correctional Peace Officers Association v. PERB*, which was filed recently in the Third District Court of Appeal and seeks to overturn PERB Decision No. 2102-S. She stated PERB is compiling and will file the administrative record in the case and briefing is expected to commence some time in August. Secondly, Ms. Bogert reported on the case *Mendocino County Public Attorneys Association v. PERB*, which was filed recently in the First District Court of Appeal and seeks to overturn PERB Decision No. 2104-M. PERB will be filing the administrative record in the case next week and briefing is expected to commence in July. Lastly, Ms. Bogert reported on a litigation matter of interest to PERB. She reported that oral argument occurred in the California Supreme Court on May 5 in the lead essential-employee-strike litigation case (*City of San Jose v. Operating Engineers Local Union No. 3*, California Supreme Court Case No. S162647). The Court's decision is anticipated before or in early August.

On behalf of the Board, Member McKeag acknowledged and expressed their appreciation of the on-going hard work General Counsel Tami Bogert and her staff has shown in handling PERB litigation and injunctive relief requests.

In Chief Administrative Law Judge Bernie McMonigle's absence, Administrative Law Judge (ALJ) Christine Bologna reported on the activities of the Division of Administrative Law and stated the May ALJ report had been distributed to the Board for their review. Ms. Bologna reported that in May, the Division received 12 new cases for formal hearing. She further reported there were 63 hearings assigned to PERB's 6 ALJs and 24 cases were submitted for decisions to be written.

Ms. Bologna noted that in FY 2008-2009, 57 proposed decisions were issued; in FY 2007-2008, 44 proposed decisions were issued; in FY 2006-2007, 41 proposed decisions were issued; and in FY 2005-2006, 46 proposed decisions were issued. By noting the various fiscal year comparisons, it was pointed out the 53 proposed decisions issued this fiscal year by PERB's 6 ALJs was nearly as many issued last fiscal year with one less ALJ on staff.

c. Legislative Report

Les Chisholm, Division Chief, Office of the General Counsel, reported the Legislative Report was circulated to the Board for their review. He did not have any specific bills to highlight today but continued to track a small number of bills that may potentially impact PERB.

Motion: Motion by Member Wesley and seconded by Member McKeag 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 August 12, 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 McKeag and seconded by Member Wesley 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