



Public  
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Board



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September 22, 2016

## MINUTES

The regular monthly meeting of PERB was held on 22, 2016 at 12:13 a.m. at PERB headquarters. Chairman Charles Murphy, presiding, and Board members Yvonne Dixon, Ann Hoffman and Douglas Warshof being present. Board member Barbara Somson was absent.

Staff attendance: Executive Director Clarene Martin, Lindsey Maxwell, Colby Harmon, David McFadden, Najibah Almahdi and Yvonne Waller.

Minutes from the August 12, 2016 meeting were approved.

Executive Director Martin reported the following:

Introduction of PERB's new attorney, Merlin George

Case Management Report for FY 2016, as of August 31, 2016

- Open cases-91
- Closed cases-118

She stated that training for FOP was held on August 24, 2016 and that the training for MPD is scheduled September 26, 2016.

Certificates were given to participants who had successfully completed a minimum of 12 hours of instruction in the Second Tuesdays at PERB Training.

Lindsey Maxwell summarized the following four cases appearing on the case docket for Board consideration.

A. Fraternal Order of Police/ Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department, PERB Case No. 11-E-02

The petitioner Fraternal Order of Police/Metropolitan Police Department Labor Committee ("FOP") has filed a "Motion for Enforcement" of PERB's previous decision in PERB Op. 1032. FOP alleges that the respondent Metropolitan Police Department ("MPD") has failed to comply with an arbitration award regarding MPD's All Hands on Deck initiative. MPD subsequently filed a Motion to Dismiss the Petition. The two motions are before the Board for disposition.

B. Fraternal Order of Police/ Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department, PERB Case No. 15-A-03

The Petitioner Fraternal Order of Police, on behalf of Micheaux Bishop (hereinafter "Grievant"), filed an Arbitration Review Request ("Request") seeking review of an Arbitration Award ("Award") that upheld the termination of Officer Micheaux Bishop

from the District of Columbia Metropolitan Police Department (MPD”). FOP argues that the Award should be set aside on multiple grounds.

C. District of Columbia Department of General Services v. Fraternal Order of Police/ Protective Services Police Labor Committee, PERB Case No.15-A-11

In July of this year the Board issued Slip Op. No. 1586, denying an Arbitration Review Request filed by Petitioner Department of General Services’ (“DGS”) regarding the training of Special Police Officers. DGS subsequently filed a Motion for Reconsideration (“Motion”) asking the Board to reconsider its decision. That motion is now before the Board for its consideration.

D. Fraternal Order of Police/ Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department, PERB Case No. 15-A-12

On July 1, 2015, the Fraternal Order of Police/ Metropolitan Police Department Labor Committee (“FOP”) requested that the Board review an arbitrators award that sustained in part and denied in part a grievance filed by the Metropolitan Police Department (“MPD”) regarding the 30-day suspension of Officer Darrell Best (“Officer Best”).

Board Chair Murphy moved that the meeting be closed to the public for deliberations in accordance with D.C. Official Code § 2-575(b) (13). The motion passed unanimously.

The meeting was closed for deliberations.

The meeting resumed at which time the Board voted on the following cases:

**Fraternal Order of Police/ Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department, PERB Case No. 11-E-02**

It was moved and seconded that MPD’s Motion to Dismiss Petition for Enforcement of PERB Decision and Order is denied; FOP’s Motion for Enforcement of PERB’s Order Granting Petition for Enforcement and to Initiate Enforcement Proceedings in D.C. Superior Court is granted in part. The Board shall proceed with enforcement of Slip Opinion No. 1032 pursuant to D.C. Official Code §§ 1-605.02(16) and 1-617.13(b) if full compliance with the Award with respect to Phases III through VIII of the 2009 AHOD is not made and documented within ninety (90) days of the issuance of this decision and order; and the Board’s Executive Director shall refer this matter to a hearing examiner to conduct a hearing and make appropriate recommendations concerning the alleged failure of MPD to pay time and a half compensation to Members who worked during April 24-26, 2009, or June 5-7, 2009, on a day or time that was not in the Member’s tour of duty.

Member	In Favor	Opposed	Tabled
Yvonne Dixon	X		
Ann Hoffman	X		
Charles Murphy	X		
DouglasWarshof	X		

**Fraternal Order of Police/ Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department, PERB Case No. 15-A-03**

It was moved and seconded that the Board finds that FOP has not shown that the Award was procured through bias; that the Award is contrary to law and public policy; or that the Arbitrator exceeded his authority. Accordingly, FOP’s Arbitration Review Request is denied and the matter is dismissed in its entirety with prejudice.

Member	In Favor	Opposed	Tabled
Yvonne Dixon	X		
Ann Hoffman	X		
Charles Murphy	X		
Douglas Warshof	X		

**District of Columbia Department of General Services v. Fraternal Order of Police/ Protective Services Police Labor Committee, PERB Case No. 15-A-11**

It was moved and seconded that the Board finds that the instant Motion for Reconsideration is the first time that DGS has raised any arguments concerning D.C. Official Code §§ 10-551.02(6) and 47-2839.01. It did not present them before the Arbitrator, and it did not raise them in its Arbitration Review Request, or at any other time since arbitration was requested in 2014. Accordingly, the Board finds that DGS has waived its right to raise them now for the first time in its Motion for Reconsideration. Also, nothing in the Award or in PERB’s Decision usurped the Mayor’s authority or found that the Mayor misclassified DGS’ officers; nor did either decision exercise any personnel authority over the Mayor’s appointments, encroach on the Mayor’s statutory authority to classify positions under her authority, or encroach on the Mayor’s authority to set training standards for DGS’ officers. Accordingly, DGS’ Motion for Reconsideration is denied.

Member	In Favor	Opposed	Tabled
Yvonne Dixon	X		
Ann Hoffman	X		
Charles Murphy	X		
DouglasWarshof	X		

**Fraternal Order of Police/ Metropolitan Police Department Labor Committee v. District of Columbia Metropolitan Police Department, PERB Case No. 15-A-12**

It was moved and seconded that because FOP has not cited any specific law or public policy that was violated by the Arbitrator’s Award, the Board rejects FOP’s arguments and finds no cause to set aside or modify the Arbitrator’s Award. Accordingly, FOP’s request is denied and the matter is dismissed in its entirety with prejudice.

Member	In Favor	Opposed	Tabled
Yvonne Dixon	X		
Ann Hoffman	X		
Charles Murphy	X		
Douglas Warshof	X		

The meeting was adjourned at 1:22 p.m.

Prepared by: Yvonne P. Waller, Administrative Officer