



MINUTES

PERB held its regular monthly meeting on Thursday, May 18, 2023, at 11:00 a.m. via Webex Meeting Conference. Board Chairperson Douglas Warshof, presiding; Board Member Renee Bowser, Board Member Mary Anne Gibbons, and Board Member Peter Winkler were present.

Staff Attendance: Executive Director Clarene Martin, Supervisory Attorney Advisor Royale Simms, Attorney Advisor Isaac Katz, Attorney Advisor Elizabeth Slover, Attorney Advisor Rita Solomon, Program Analyst Dawan Jones, Operations Manager Crystal Davis, and Senior Staff Assistant Gertie Elam.

The Board adopted the April 20, 2023, meeting minutes.

The Executive Director reported the following:

1. On Tuesday, May 16, 2023, PERB met with architects to review the schematic design of PERB's new location. PERB will move into its new location located at 899 North Capitol Street, NW, in quarter four of FY24.
2. Second Tuesdays at PERB was held on May 9, 2023, and discussed the topic "Subjects of Bargaining and Impasse Procedures."
3. During PERB's Annual Budget Oversight Hearing on April 11, 2023, with the Committee on Executive Administration & Labor and Committee Chairperson Anita Bonds, PERB requested an additional \$30,000 in personnel funding to increase the salaries of legal staff. The Committee has found the funding to support PERB's request.
4. The Association of Labor Relations Agencies will host its 70th Annual Conference in Vancouver, Canada, from July 15, 2023, to July 18, 2023; PERB attorneys will be in attendance.
5. During the month of April, 4 cases were closed, 5 opened, and one hearing was held.

DOCKET:

Supervisory Attorney Advisor Royale Simms summarized the following matters on the docket for Board consideration:

- A. **Fraternal Order of Police/Protective Services Division Labor Committee v. District of Columbia Department of General Services**
PERB Case No. 18-U-01

Summary: FOP filed an unfair labor practice complaint, alleging that DGS violated D.C. Official Code § 1-617.04(a)(1) and (5) of the CMPA by unilaterally implementing a change in its past practice of providing free worksite parking. In Slip Opinion No. 1739, the Board found that DGS violated D.C. Official Code § 1-617.04(a)(1) and (5) of the CMPA. Further, the Board overturned its prior precedent to find that an award of attorney fees was an available remedy

within the Board's jurisdiction in accordance with the FBPA and the CMPA. DGS appealed the matter to the D.C. Superior Court, and the court remanded the matter with instructions for the Board to supply a reasoned analysis for its decision to depart from its precedent on the attorney fees issue. This matter is now before the Board on remand from the Superior Court.

B. Shari Acosta v. American Federation of Government Employees, Local 2725
PERB Case No. 20-U-20 (MFR)

Summary: The Petitioner filed a motion for reconsideration of the Board's decision in Slip Opinion No. 1832. The Board dismissed the Petitioner's unfair labor practice claim in that decision. The Petitioner's motion for reconsideration is now before the Board for review.

C. Tasheanna Harris v. Fraternal Order of Police/Department of
Corrections Labor Committee and Fraternal Order of Police Lodge #1
PERB Case No. 22-S-02

Summary: The pro se Complainant filed a standard of conduct complaint, alleging that FOP violated D.C. Official Code § 1-617.03(a)(1), (2), and (4) of the CMPA by preventing the Complainant from assuming an FOP Lodge #1 Agency Trustee position for which she was the successful, unopposed candidate. FOP filed an answer, broadly asserting that the Board should dismiss the complaint for lack of jurisdiction. This matter is now before the Board.

D. District of Columbia Department of General Services v. Fraternal Order of
Police/Protective Services Division
PERB Case No. 23-A-02

Summary: DGS requests review of an Award that granted a grievance filed by the FOP/PSD Labor Committee. The Award held that DGS implemented a unit-wide 12-hour shift schedule without bargaining with the Union, in violation of the parties' Compensation Agreement and the Agency's statutory duty to bargain in good faith. The Award further held that DGS failed to adequately compensate PSD uniformed personnel in violation of the parties' CBA and Compensation Agreement. DGS seeks review on the grounds that (1) the Arbitrator exceeded his jurisdiction and (2) the Award is contrary to law and public policy. DGS's Request is now before the Board.

It was moved and seconded to close the meeting in accordance with D.C. Official Code § 2-575(b)(13). The motion passed unanimously.

Following deliberations, the closed meeting session was reopened. The Board voted as follows:

A. Fraternal Order of Police/Protective Services Division Labor Committee v. District of Columbia Department of General Services
PERB Case No. 18-U-01

Motion: It was moved and seconded that the Board hold that the Federal Back Pay Act grants the Board discretionary authority to award attorney fees in unfair labor practice cases where back pay is awarded; that an award of attorney fees is appropriate in this matter; and that the sum of attorney fees sought is appropriate in this case.

Name	In Favor	Opposed	Table
Chairperson Douglas Warshof	X		
Board Member Peter Winkler	X		
Board Member Mary Anne Gibbons	X		
Board Member Renee Bowser	X		

B. Shari Acosta v. American Federation of Government Employees, Local 2725
PERB Case No. 20-U-20 (MFR)

Motion: It was moved and seconded that the Board deny the motion for reconsideration.

Name	In Favor	Opposed	Table
Chairperson Douglas Warshof	X		
Board Member Peter Winkler	X		
Board Member Mary Anne Gibbons	X		
Board Member Renee Bowser	X		

C. Tasheanna Harris v. Fraternal Order of Police/Department of Corrections Labor Committee and Fraternal Order of Police Lodge #1
PERB Case No. 22-S-02

Motion: It was moved and seconded that the Board dismiss the complaint for lack of jurisdiction.

Name	In Favor	Opposed	Table
Chairperson Douglas Warshof	X		
Board Member Peter Winkler	X		
Board Member Mary Anne Gibbons	X		
Board Member Renee Bowser	X		

D. District of Columbia Department of General Services v. Fraternal Order of Police/Protective Services Division
PERB Case No. 23-A-02

Motion: It was moved and seconded that the Board grant the arbitration review request and remand the matter to the arbitrator for further findings consistent with our decision.

Name	In Favor	Opposed	Table
Chairperson Douglas Warshof	X		
Board Member Peter Winkler	X		
Board Member Mary Anne Gibbons	X		
Board Member Renee Bowser	X		

Old Business: None

The meeting was adjourned at 12:22 p.m.

The next Board meeting will be held on Thursday, June 15, 2023.