

PLAINFIELD MUNICIPAL UTILITIES AUTHORITY

**Minutes of a Board of Commissioners Special Meeting
Wednesday, December 28, 2011**

**127 Roosevelt Avenue
Plainfield, New Jersey**

I. OPEN PUBLIC MEETINGS LAW (STATEMENT OF COMPLIANCE)

Commissioner Mitchell, Chairperson, called the meeting to order at 6:02 p.m. by reading the Statement of Compliance.

II. SALUTE TO THE FLAG

The Pledge of Allegiance was said by all.

III ROLL CALL

Present

Commissioner Harold Mitchell
Commissioner Carol Ann Brokaw
Commissioner Malcolm R. Dunn @ 6:03 pm
Commissioner Alex Toliver
Alt. Cecil H. Sanders, Jr. @6:03 pm

Also Present

Mr. Duane Young, Executive Director
Mr. James Perry, Chief Financial Officer
Mrs. Lana Carden, Manager of Human Resources
Ms. Leslie London, Board Attorney
Mrs. Roslyn Mathis, Board Secretary
Staff and Public

Commissioner Tracey Brown

absent

IV. PUBLIC HEARING

Commissioner Mitchell said this is the public hearing portion of the meeting; if any member of the public has anything to say please stand and give their name and address and they will be given two minutes to speak. He then asked the record to reflect that Commissioner Dunn and Alt. Commissioner Sanders have arrived.

Philip Charles, 965 Carnegie Avenue, Plainfield. Today he received two Agreements; one agreement by and between the PMUA and David Ervin regarding settlement of employment contract issues and also for Eric Watson. They're both dated June 22nd and June 24th. His question is are there resolutions attached with these Agreements or were they the result of some kind of court order because of a firing by the employees.

Ms. London responded that there is a resolution 48-2011 which authorized a partial settlement.

Mr. Charles said resolution 48 doesn't reference anything regarding these Agreements. His question and concern is both of these Agreements state they will be on the roll well beyond June 30th, which the resolution states June 30th being the last working day.

Ms. London responded that is correct, the last working day.

Mr. Charles asked, the payment is for vacation and sick days

Ms. London stated that the last physical working day was June 30th; they stayed on the payroll to utilize accrued and unused vacation and sick days. They got off the payroll after that period.

Mr. Charles said so they were sick and on vacation after June 30th.

Ms. London stated that they were able to utilize accumulated sick and vacation days as is the practice in many public entities that if you have accrued and earned a certain amount of time you would be allowed to utilize it.

Mr. Charles' final question was why in resolution 48 it makes no mention of that, it appears to be an after the fact document or Agreement, almost two weeks after that time. He also asked if there will be any public comment after the Commissioners come back from Executive Session.

Commissioner Mitchell replied yes there will be.

Ms. London said just to answer the question and so the record is clear resolution 48-2011 anticipated that a settlement Agreement would be entered into, it authorized settlement.

Charles Sporn, 960 Woodland Avenue. He asked if there is anything in the corporate bylaws or whatever documents governing the MUA which authorizes simultaneously two Executive Directors and Assistant Directors to serve at the same time. He believes the inference by what Ms. London just told Mr. Charles by allowing Mr. Watson and Mr. Ervin to remain on the payroll that's what they had.

Ms. London replied that Mr. Watson did remain in his position as Executive Director as of July 1.

Mr. Sporn asked what his title was.

Ms. London replied there was no title, he was utilizing his time.

Mr. Sporn responded he was employed for the sole purpose of utilizing time.

Ms. London replied he was utilizing his time.

Mr. Sporn asked if he was compensated in any way.

Ms. London said there is nothing in the bylaws or MUA law that talks about that.

Mr. Sporn said he in fact was serving without title; he had a position on the payroll, but he had no title and the same would go for Mr. Ervin as well, is that correct?

Ms. London replied from an HR perspective she was not sure how that was handled.

Mr. Sporn's other question was concerning the language in resolution 48-2011 which he assumed is the spring board for their meeting here tonight. According to his interpretation there is language that does not accurately reflect the certification of the funds by the Chief Financial Officer; specifically, he would like to point to the second full paragraph on page 2 which states, "whereas as set forth in the certification of funds of the Authority's Chief Financial Officer, the funds to make this payment have been budgeted for this purpose and importantly the payment of such funds will not affect the budget for the Authority's rates."

According to what Mr. Sporn read in the certification Mr. Perry states "I have determined that sufficient funds are available in the sewer and solid waste accounts of the Authority for the severance payments pending approval under resolution number 43-2011."

It is completely silent as to whether or not this is going to require any rate increases to make up the difference. Mr. Sporn asked Ms. London is there any way she can respond to that.

Ms. London replied the resolution stated it would not have any impact. The certification is simply to state where the funds are coming from.

Mr. Sporn said his final question, is any settlement going to be agreed to tonight that is going to require to be regulated by any regulatory body in the State of New Jersey.

Bernice Paglia, 124 E. 7th Street, through the Chair to Ms. London, would this be analogous to, they just had a Fire Chief to retire, they couldn't name a new one because the Fire Chief was using up his accrued days, but Acting Chief Tidwell was in charge. Is this analogous to that?

Ms. London didn't understand Ms. Paglia's question.

Ms. Paglia clarified by saying the Chief retired and had almost a year's worth of accrued days, he left office and an Acting Chief was named and served until the leave was officially up and he could be named Chief.

Ms. London replied she didn't know.

Bill Kruse, 1009 Hillside Ave., Plainfield. He is uncertain as to what going into Executive Session is about. As he read the scarce documentation on it the two departees have a claim in the aggregate amount of about \$1,200,000, is that correct?

Commissioner Mitchell responded that is correct.

Mr. Kruse didn't see what the basis is for that claim; could he be told why is it that they feel they are entitled to \$1,200,000.

Ms. London replied that they are in an awkward state at this point; there is a disagreement between the parties as to what they are entitled to receive. In the event the Board decides not to act on their settlement demand, they are still in arbitration. After resolution 48-2011 and the partial agreement that had been entered into by the Authority and the parties, there was an agreement to go forward and have a mutual third party look at the contracts and listen to testimony.

Mr. Kruse asked mediation or arbitration.

Ms. London replied arbitration. The arbitration was halfway through when the attorney for the former Executive Director and Assistant Director submitted a proposed settlement letter asking the Board to consider their demand and they set forth specific reasons for their demand. Since they are still in arbitration and the matter has not been settled, it's inappropriate to get into the details of the proposed settlement at this time.

Mr. Kruse stated that he is not dealing with the proposed settlement or asking them to reveal defensive strategies; he's asking what the claim is. He's an Arbitrator, he's been a panelist for 30 years and that's not privileged information.

Ms. London responded that Mr. Kruse is entitled to his opinion, but they are still in arbitration and it would be, in her opinion, inappropriate to get into the details regarding their claims and positions, or what the Board's claims are until the Board decides what they want to do with respect to the settlement proposal.

Mr. Kruse said so the public whose money they're dealing with is not privy with this until it's a feta complete; they're going to make a decision tonight whether to give these people a settlement in their proposed amount of half their original claim or make a counter proposal and they're going to give away potentially \$600,000 of the City's money, of the 12,000 families, most of whom are struggling to exist without revealing to them the claim or the basis of your decision relative to that claim.

Mr. Kruse went on to say that he wanted to encourage them in contravening to what he just said to make a large award, to give them whatever they're asking for because the comedy that exists between the Executive branch and the present and previous Commissioners has been so long and so one-minded that he thinks that 15, 16 years spirit of cooperation deserves giving these deserving men whatever they ask for and pay their attorneys. Tell the attorneys to round up their bill. As far as the plaque goes, that's insufficient for these men. They can have a statute put up in the square. The plaque should be to the youth of Plainfield and what it says should be young man if you desire to go into organized crime, choose government not the private sector because you'll never be indicted.

Since no one else indicated a desire to speak, Commissioner Mitchell asked for a motion to close the Public Hearing; moved by Alt. Commissioner Sanders and seconded by Commissioner Toliver. The motion carried, on a roll-call vote, with five members in favor and none opposed.

	<u>RECORDED VOTE</u>		Close the Public Hearing		
	YES	NO	ABSTAIN	PRESENT NOT VOTING	NOT PRESENT
Carol Ann Brokaw	X				
Rev. Tracey Brown					X
Malcolm R. Dunn	X				
Harold Mitchell	X				
Alex Toliver	X				
<u>Alternate</u> Cecil H. Sanders, Jr.	X				

Ms. London presented **resolution #101-2011 authorizing an Executive Session not open to the public to discuss a settlement demand from Counsel to Mr. Watson and Mr. Ervin regarding an employment contract dispute.** Commissioner Toliver moved, seconded by Alt. Commissioner Sanders to approve the resolution and go into Executive Session at 6:19 p.m. The motion carried, on a roll-call vote, with five members in favor and none opposed.

	<u>RECORDED VOTE</u>		Resolution #101-2011 Executive Session		
	YES	NO	ABSTAIN	PRESENT NOT VOTING	NOT PRESENT
Carol Ann Brokaw	X				
Rev. Tracey Brown					X
Malcolm R. Dunn	X				
Harold Mitchell	X				
Alex Toliver	X				
<u>Alternate</u> Cecil H. Sanders, Jr.	X				

The Board returned to the public portion of the meeting at 7:45 p.m.

Commissioner Brokaw summarized the discussion in Executive Session and said they went into Executive Session to consider a proposal by the attorney for Mr. Watson and Mr. Ervin with respect to their employment issue. The Board determined, after extensive discussion, that it had insufficient information to fully address that counter proposal and it would table the consideration of such proposal and give the Executive staff an opportunity to provide them with additional information to enable them to either reject that counter proposal or make a counter proposal themselves.

Alt. Commissioner Sanders moved, seconded by Commissioner Toliver, to table the proposed settlement from Counsel to Mr. Watson and Mr. Ervin. The motion carried, on a roll-call vote, with five members in favor and none opposed.

RECORDED VOTE Table Proposed Settlement to Mr. Watson and Mr. Ervin

	YES	NO	ABSTAIN	PRESENT NOT VOTING	NOT PRESENT
Carol Ann Brokaw	X				
Rev. Tracey Brown					X
Malcolm R. Dunn	X				
Harold Mitchell	X				
Alex Toliver	X				
<u>Alternate</u> Cecil H. Sanders, Jr.	X				

Commissioner Mitchell said before they adjourned to Executive Session he told the public they would have a second chance to speak. If anyone desires to do that, please stand, give your name and address.

Kim Montford, 1345 Second St. She knows this is an intricate situation here and she is not going to pretend to know all that they have to deal with at the administrative level; she'd just like to say that she hopes that the Commission honors their commitment to these two gentlemen. A lot has been done to build this organization and one of the things that she feels goes beyond the commitment to the Agreement with them is the integrity of this organization. They are being looked at and she's a taxpayer and it's going to come out of her pocket; when they enter into an Agreement they have to honor that. They have to remember how they started, what they have gone through, the cost of the success, the disturbances that come from every part of this town that it could come from to see and not to come to fruition, but they're being looked at and if they're not interested in honoring their word, how is it that they could assume they're going to honor other commitments. She is just saying maintain the integrity of this organization and let's move on. They're talking about expense, they're spending more fighting the issue than if they honor the commitment and come out standing tall and be looked upon as an organization that stands by its word. These gentlemen were put to a task to develop what they have here on their backs. They did that. The least they can do is honor their commitment to them. If there was something flawed in this arrangement it should have been looked at when it was developed; don't wait until all is said and done and now there's an issue with it; don't succumb to the pressures to get to where we've come; we'll survive.

Commissioner Toliver moved, seconded by Alt. Commissioner Sanders and unanimously approved by the Board, to adjourn the meeting at 7:55 p.m.

Recorded by:

Roslyn Mathis, Board Secretary

EXECUTIVE SESSION
NOT FOR PUBLIC
DISTRIBUTION
@ 6:19 p.m.

Ms. London opened by saying she would like to go over the packet of information that she sent to the Commissioners via email.

A lot of the background information was given in light of the fact they have two new Commissioners so that they have all of the information to help make a decision.

In 2010, a contract was authorized for Mr. Watson and Mr. Ervin. They went through Mr. Watson's first. A four-year contract was approved for Mr. Watson effective January 1, 2010 through December 31, 2013. At that time the compensation was \$148,666. The contract had various benefits; 20 paid vacation days per year, if he had accumulated unused days at the time he left he would be entitled to that amount and this is one of the questions that came up during the public session.

At the time Mr. Watson left, June 30th, he had sick days amounting to \$22,894.80. He received that through staying on the payroll up to sometime in October. He was entitled to eight paid personal days; again, he was kept on the payroll and that amounted to \$6,244.

Alt. Commissioner Sanders asked if those two were paid through working it out. Ms. London replied yes and the same thing for vacation; he was entitled to 30, but at the time of separation he had used some of his days so it was \$17,542 worth. From July 1 through sometime in October Mr. Watson stayed on the payroll receiving his full paycheck based on these days.

Under the contract, there were three provisions that dealt with separation; section 3.2 is entitled severance pay and under that section it states "if the Authority chooses not to renew the Agreement at the end of the Term" for Mr. Watson it was 12/31/13, "or the Agreement is not renewed for any other reason other than cause you would be entitled to 1 month for each year of service if applicable." That was the severance provision; if his contract was not renewed that's what he would be entitled to.

Mr. Watson's first demand sought that provision and it was \$206,144 based on 16 years. The second provision, 3.3, dealt with termination. "If the Authority terminates Agreement for any reason other than cause, death or disability of the employee or employee terminates for good cause then he would be entitled to full salary and benefits for the duration of the term." If that applied then Mr. Watson would be entitled to his full salary through the end of the term, which would be December 31, 2013. That demand sought \$385,520.

There is a third section of the Agreement, section 3.4, which says "if the Authority terminates Agreement for cause or employee voluntarily terminates Agreement prior to end of term without just cause" he is entitled to nothing unless the Board agrees to make payment. He sought \$719,219 under this provision.

That was the very first demand that the Board received in June. The Board decided in June that section 3.4 applied to the situation and determined that there had been monies put aside in the event any of the staff, particularly Mr. Watson or Mr. Ervin, left and there was \$275,000 in that account at the time and the Board decided to pay out that amount; \$151,000 to Mr. Watson and \$124,000 to Mr. Ervin. Each of those amounts essentially amounted to almost a year's salary for each of them.

The Board and Mr. Watson and Mr. Ervin were not in agreement whether or not additional monies were owed and it was recommended by Ms. London that it would be prudent to have a neutral party come in and look at the contract, listen to the testimony, and make a determination whether or not any additional monies over and above the year's worth of salary should be paid. If monies were due to them, the Board could point to the decision of the Arbitrator to help insulate the Board.

What the number represents right under that for both Mr. Watson and Mr. Ervin is if they opt out of the medical coverage being provided by the Authority, because a spouse has the coverage, they would get a payment. The payment is made up front at the beginning of the year. Their payment covered well beyond the period when they left. In fact, they received more money than they were entitled to. The overpayment to Mr. Watson in the opt out was \$2,500; it was appropriate at the time, but since he left he technically owes that money to the Authority.

What's listed next are the reasons set forth in their attorney's letter as the reasons why they felt they were entitled to that larger amount of money.

Alt. Commissioner Sanders verified that the \$475,000 is the new demand and the \$151,000 is what was paid initially to Mr. Watson and then the other part, \$124,000 to Mr. Ervin?

Ms. London replied correct.

Commissioner Brokaw said the \$475,000 does not stand alone because now they're asking for additional money.

Ms. London replied yes, going forward in addition to the \$475,000, they also asked for legal costs to be paid of \$80,200 and their share of the arbitration cost of \$15,500.

Commissioner Brokaw said with respect to the arbitration cost, there was a penalty charged to them because they cancelled the arbitration on short notice and that she felt the Board should not be responsible to pay for that because it was at their behest the date was cancelled, and there is no verification how their attorney can submit a bill for \$80,000.

Alt. Commissioner Sanders asked if they couldn't confirm what the attorney actually asked for.

Ms. London replied yes they could ask for the attorney's bills, but it could be attorney-client privilege. Ms. London said they have the arbitration costs.

Ms. London said the following sheets have the same type of information for Mr. Ervin. Mr. Ervin also stayed on the payroll; he had a few more unused days than Mr. Watson, he stayed until the next to the last day in November utilizing his sick and personal days.

The last two items on page 8, just to kind of put things in context financially are the costs that the Authority has incurred so far through this arbitration proceeding, the legal costs have been \$34,054.68; the arbitration cost, \$13,500. If the Board decided to continue with the arbitration, they are looking at approximately an additional \$12,000 in legal fees and approximately \$10,000 in arbitration costs. The Arbitrator has \$3,475 in the retainer; so far \$47,554.68 has been spent and we are looking at an additional \$22,000 going forward if the Board decides to stay with the arbitration. The total projected cost is \$69,554.68 to have this completed by the Arbitrator.

The items on page 9 are things for consideration by the Board as the Board decides which route they want to take; the contract obligation of the employer, those sections 3.2, 3.3, and 3.4; the merit of the employees as set forth in their letter; the reasonableness of the payment demand; whether there is justification for the payment; public perception; proper use of public funds; ability to resolve the issue; and potential ramifications. These are all worse case scenarios that they should be aware of.

Ms. London advised that the Comptroller's Office has been looking at this because there was a complaint filed. There was a conversation with the person from the Comptroller's Office asking about sick and vacation days. It's very likely any further payment will generate another complaint; whether or not it is valid there's the potential for the Comptroller's Office to come back, look for documents, and conduct an investigation.

There is also the potential, based on past history where a lawsuit was filed when they had the rate increase, for any ratepayer, taxpayer, to file an action in Superior Court to challenge the Board's action; how the press is going to cover it, whether or not it's important, how much weight the Board gives that, it's up to them.

Commissioner Toliver asked if the attorney's cost is collective for the two of them or is it separate.

Ms. London replied the \$80,000 is for both.

Commissioner Toliver had a problem paying their attorney's fees. That's a lot of money; talking about \$80,000 plus the Arbitrator. He could go along with the \$475,000, he can understand that.

Ms. London clarified the \$475,000 is just for Mr. Watson.

Commissioner Toliver said he would give them their offer. That's his opinion.

Commissioner Brokaw felt they need to do two things. She has a tremendous amount of respect for Mr. Ervin and Mr. Watson and for their accomplishments while they were here. They were employees, employed pursuant to an Agreement and the Agreement speaks for itself. She felt it was foolhardy for this Authority to do something not in accordance with the contract. The contract doesn't call for anyone to get \$475,000 payment or \$375,000 payment. That does not mean she doesn't like or respect Mr. Watson or Mr. Ervin. They entered into a contract in 2010 and it had specific provisions. When they left the Authority it was a voluntary leave; nobody asked them to leave. They came to her and Rev. Brown at a breakfast meeting they called and said they want to leave. Commissioner Brokaw and Commissioner Brown said they don't think it's a good idea. Mr. Watson and Mr. Ervin, for whatever reason, persisted and set up their own press conference and announced their departure. She didn't think, speaking as both a member of the Board and a ratepayer, she didn't think it makes any sense to do the kind of payment they're suggesting because it's not pursuant to the contract; she asked where the language that supports that is. The appearance is they're doing it because they're great guys. She didn't want to do something that flies in the face of the contract.

Alt. Commissioner Sanders asked if she was saying section 3.2 and 3.3 contractual items that are stated, that they don't deserve it?

Commissioner Brokaw replied that she is saying that they don't apply. She was an employee for a large corporation and in that corporation she was the attorney in the labor relations department for 14 years for American Broadcasting Company, she has dealt with all kinds of contractual issues. They never made concessions for people that were far beyond what was in the contract because it set a precedent for everybody else. The problem she has with the way they do things in this town in general is that they do things based on whether or not they like people. There is a contract that was fully negotiated with them in 2010. They had the opportunity to put provisions in there. When they finished it, they had a contract that spoke to the terms and conditions of their employment. When they decided to leave on their own, they should have realized that the terms and conditions in that contract that applied to voluntary leaving applied to them; not the terms and conditions that applied to if the Board asked them to leave; the Board did not ask them to leave.

Alt. Commissioner Sanders asked Ms. London if that was her feeling that the sections that are quoted are not applicable.

Ms. London replied yes, based on the fact that 3.2 comes into play if their contract is not renewed at the end of the term; their contract didn't end yet; Mr. Watson's would be 2013 and Mr. Ervin's would be 2012. The language plainly says if the contract isn't renewed then they get this, but their contract never got to the point of being renewed because they left before renewal. The second part, 3.3 says if the Authority terminates the Agreement for any reason other than for cause, again based on the facts that she knows their contracts were not terminated or the employee terminated for good cause. That's where they try to make the argument, they were terminated for good cause and it's part of some of the reasons they stated. They're saying 3.3.

When you get to 3.4 it gives discretion to the Board to make a payment; now the Board could decide to pay severance, the Board could decide to pay the salary under 3.4 based on their discretion, but again it seems that you kind of leave yourselves open because you have two provisions that dealt with that specifically.

Commissioner Brokaw said it's not rational.

Ms. London said that could lead to someone arguing that that decision was arbitrary and capricious, which goes back to that type of action that someone could challenge it in court.

Commissioner Dunn asked what does capricious mean.

Ms. London replied, capricious; not a lot of thought, random, without just cause.

Commissioner Dunn asked if Ms. London was referring to number 2 under 3.3 and 3.4 is an allusion to them both; the circumstances under which they left, he guessed she was talking about number 2 in each area of 3.3 applies only if 1 and only if 2?

Ms. London replied that 3.3 applies if the Authority terminated or the employee terminated for good cause either or.

Commissioner Dunn asked if in Ms. London's opinion she thought they had good cause.

Ms. London replied she didn't know.

Commissioner Dunn said she knew they came to Commissioners and said they wished to leave.

Ms. London replied she only knows what was told to her. She wasn't at those meetings.

Commissioner Brokaw said she could answer that.

Commissioner Dunn repeated his question, did she think that they thought they had good cause.

Commissioner Brokaw replied she was going to be honest with him. When Mr. Watson and Mr. Ervin took her and Commissioner Brown out and announced they wanted to leave, Commissioners Brokaw and Brown told them they didn't think it was a wise decision. No, Commissioner Brokaw didn't think they had good cause.

Commissioner Dunn said he asked her did they think they had good cause.

She didn't know what they thought.

Commissioner Mitchell said the same thing with him. They had breakfast together, they laid out that they were going to leave. They said to Commissioner Mitchell that the public has been on them all of this time; they were tired of the harassment.

Commissioner Dunn asked how much time they were talking about.

Commissioner Mitchell said over a period of one or two years.

Commissioner Dunn asked if he would consider what they were stating might be interpreted by them that they were set upon by the public whether justified or not.

Commissioner Toliver said he met with them for breakfast. They told him they were leaving to take the pressure of the public off of the Authority. He came into the office and had a private conference with Mr. Watson and asked him not to leave; take a leave of absence. Commissioner Toliver felt this was costing a lot of money and he wanted to bring it to a halt. He wants to let it go and move forward. This can keep going on and on and they could wind up with the same money they initially asked for.

Commissioner Dunn asked Mr. Perry, he came on board the same time as Mr. Watson and Mr. Ervin when they started, with regard to the salary they all were paid at that time when was the first time they got an increase.

Mr. Perry replied they all started at \$60,000; 1996 was the year it was all being put together, he thought the first salary increase was probably mid 1997 or January 1, 1998.

Commissioner Dunn asked what it went to.

Mr. Perry replied they never had more than four percent; it would have gone to \$62,400.

Commissioner Dunn was trying to determine when did it happen; from the beginning or after they produced.

Mr. Perry replied they were being paid from the beginning. The first increase was in late 1997 or in 1998. There had been some production by then, but there was an awful lot to do as well.

Commissioner Dunn was trying to determine if they were paid in accordance with individuals in this position when they first started and he thought not. He was almost sure when they moved over here to there they took less money; when they moved from the City's payroll over to the Authority they were not making the same money.

Commissioner Dunn wanted to know what their salaries were from 1996 to the present; when did this big money happen. If there was an appreciable time they worked for less than that, then they should make it up to them. However if it was not, and they were paid handsomely from the beginning, then they are not entitled to anything other than what is here.

Commissioner Dunn next asked how much insurance the Board has for the decisions it makes.

Mr. Perry replied there's D and O insurance, but he will check, he thought it was \$10,000,000.

Commissioner Dunn asked if he thought that was sufficient for protection of the Board.

Mr. Perry replied he has no qualifications to make that statement.

Ms. London stated that if an action is filed, she didn't believe there are monetary penalties against members of the Board because there's language in the MUA law and the Board's bylaws; they're indemnified; what it does is go against the entity, it may say that the PMUA action was arbitrary and capricious if it got to that point and undo it. If that was the case, possibly the Governor and the Comptroller would come here.

Commissioner Dunn wanted to know what would be a good cause.

Ms. London replied good cause, for example, sexual harassment or harassment in general, someone may feel they were being prevented from doing their job that may be viewed as an issue. That was one of the issues placed before the Arbitrator.

Commissioner Dunn asked if it was mentioned that they felt impaired of doing their job because of outside harassment they had been receiving from people who had been critical of the Board. Did they give any reason for leaving?

Commissioner Brokaw replied they said they were tired; Mr. Watson felt he had gotten to the point it was too much pressure to some degree, but based on her own perspective these were the same issues they have been dealing with for eight years. Commissioner Brokaw couldn't see how the pressure was getting anymore than it had been before. In fact, two years ago it was awful. There were a number of ratepayers coming out on a regular basis; they had to have some of their Board meetings in larger venues. Based on her experience, the pressure was going down.

Commissioner Brokaw said this issue has nothing to do with Mr. Ervin and Mr. Watson as individuals; it only has to do with them as employees of the PMUA. She didn't know the early history of what their salary was when they first started, she can only tell them what their salary was when she was on the Board. Commissioner Brokaw said they tried to make their salary as competitive as they could with other people in those same positions. The year before last Mr. Watson was in his position, it was public knowledge that his salary and benefits equaled almost \$200,000 a year; not the very last year, the year before that. People in the community were aware of that salary. When she worked in private industry there were years when their network didn't make as much money as the other two, they took a cut in pay and it wasn't made up to them. They may have reinstated the bonus but they didn't say two years ago you took a cut in pay so we're going to make it up to you.

Commissioner Brokaw said yes, it's true they brought this up from a very small entity to a substantial organization, but you don't make it up for the sacrifices you made early on.

Commissioner Dunn didn't get the meaning of 3.3 dealing with termination pay; terminating for good cause. Going to the next one, 3.4, it says here the same line, employee volunteer's termination prior to the end without just cause.

Ms. London replied they just leave and there's no legal reason or substantive reason, they just leave because you're tired and want to move on. That's leaving without cause.

Alt. Commissioner Sanders said he has been on a few Boards and he has found from a Board member's point of view they can never experience what an Executive Director goes through. There are many things not known they have gone through. People handle pressure different ways. For 15 years Mr. Watson has been dedicated to the Authority and Alt. Commissioner Sanders is sure most of it has been good; it has grown from a small entity to what it is today; he has more positives in his history of employment than negatives. Alt. Commissioner Sanders asked how you repay loyalty, and as a ratepayer do the things that you think the ratepayer would like to see done, there has to be a middle road. Alt. Commissioner Sanders agreed they shouldn't spend anymore time on arbitrators or lawyers than they have to; they benefit whether or not the Board wins or loses. What he would like to do is to consider the job Mr. Watson and Mr. Ervin have done, consider the history; the \$60,000, when did they start making money, that will tell them not only were they loyal, they were sacrificing. If it's \$200,000 now, he's sure back in 1995, 1996 \$60,000 wasn't comparable. He would like that to be considered before they come up with a final decision. He agrees with Commissioner Toliver they should get rid of this.

Commissioner Dunn asked Ms. London in her experience what salary is paid to those CEO's who are employed in an organization such as the PMUA.

Ms. London replied it depends on the size of the organization, but she estimated every Director is starting between \$90,000 and above.

Commissioner Dunn is in agreement with what Alt. Commissioner Sanders was saying; he is of the opinion that what they have received so far is not compensation enough nor does it reflect an appreciation for the job that was done from day one; because they decided to leave he believed that Mr. Watson had probably gotten himself to the point of sickness. Mr. Watson is not the kind of guy that quits. Commissioner Dunn thought what happened was Mr. Watson's inability to take the onslaught of complaints from people.

Alt. Commissioner Sanders asked the Chair what is the next step. Are they in Executive Session to move on this or have discussion and come up with some determination how they're going to go forward?

Ms. London replied there has been a request for additional information.

Commissioner Mitchell said they had a contract with the two employees and they terminated it. He is willing to go back to the arbitration and finish this. That's how he feels.

Commissioner Brokaw thought that the issue before them is whether or not they are going to accept or reject this proposal and the next question is whether or not there is some meeting of the minds that there is a need to make a counter proposal to them for settlement. She asked if anyone is willing to meet these demands.

Alt. Commissioner Sanders said he didn't have enough information. If they settle the issue, his feeling it would be based on where they were, where they started, the history, where they came from, low salary, cut in salary, he wants that to be part of the determination. Since he would like to have that information he would propose they table it.

Ms. London said this could be brought up at the January meeting or they could have another Special Meeting.

Commissioner Toliver really wants this to end, the cost of going back and forth. He's looking at making a counter proposal.

Commissioner Brokaw reminded Commissioner Toliver that Alt. Commissioner Sanders and Commissioner Dunn needed more information before they could make a counter proposal.

Mr. Young asked what exactly the information that's required is.

Commissioner Dunn replied the salaries of Mr. Watson and Mr. Ervin.

Commissioner Brokaw added salaries and benefits history for the last 15 years.

Mr. Perry asked in comparison to other Authorities?

Ms. London said they have a book that has a description of each of the agencies in it so when they look at the chart that AEA does they can see which ones does what and they can make that comparison.

In discussion concerning the outcome of whatever their final decision is, Commissioner Brokaw said one thing they have to be mindful of what they are doing, not only looking back but looking forward as well; when they do, whatever they do, know they are creating a precedence. Also, there are other issues here, other feelings in the community both pro and con.

Commissioner Brokaw moved, seconded by Commissioner Toliver and unanimously approved by the Board, to adjourn Executive Session and return to the public portion of the meeting at 7:45 p.m.

Recorded by:

Roslyn Mathis, Board Secretary