

**BOARD OF PERSONNEL APPEALS**  
**MINUTES – NOVEMBER 17, 2011 MEETING**

**PRESENT:**

Rick Parish, Alternate Presiding Officer  
Karla Stanton, Board Member  
Quint Nyman, Board Member  
Jay Reardon, Board Member  
Steve Johnson, Board Member

**STAFF ATTENDING:**

Marieke Beck, Board Attorney  
Tonya McCormack  
Paul Melvin  
Vicki Knudsen  
John Andrew

**BOARD BUSINESS**

**APPROVAL OF MINUTES (.29-1.01):**

Member Johnson moved to approve the minutes June 16, 2011. Member Reardon seconded the motion. June's minutes passed 5-0.

**NEXT MEETING DATE (1.02-1.27):**

The next meeting is scheduled for December 15, 2011. There are 2 ULP cases coming before the Board. The University Faculty Association of the University of Montana v. Montana University System it was dismissed with no merit. Then there will be MPEA, AFSCME and MEA-MFT v. The State of Montana. The unions are appealing the Hearing Officer's decision.

**PUBLIC COMMENT (HOUSE BILL 94) (1.28-1.53):**

No comments were made.

**ATTORNEY COMMENTS – BOARD ATTORNEY MARIEKE BECK (1.54-3.33):**

Rules Project: Marieke discussed the Collyerization rule. She asked if Board Members had any comments in regards to the language. She explained to the Board Members that she is going to have the Department of Labor's attorney Mark Cadwallader review them as well. Member Johnson moved to approve Marieke's language with review of the rules from Mark Cadwallader. Board Member Nyman seconded the motion. Motion passed 5-0.

**MISCELLANEOUS (3:34-4.14)**

Nothing reported.

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**ORAL ARGUMENT – UNIT DETERMINATION 4-2011**

Graduate Employee Organization, MEA-MFT vs. Montana State University

Richard Parish was the Alternate Presiding Officer in this matter. Leslie Taylor appeared before the Board to represent Montana State University; Rick Larsen appeared before the Board to represent the Graduate Employee Organization, MEA-MFT.

The matter before the Board was to determine if the Hearing Officer Terry Spear erred in his decision finding the Graduate Assistants and Graduate Teaching Assistants as employees of the State for collective bargaining purposes. Argument was heard, questions were asked by Board Members. Member Reardon motioned to affirm the Hearings Officer's decision and changing Finding of Fact Number 14 to the Conclusions of Law in part V of the decision and renumbering parts appropriately.

Board Member Nyman seconded the motion. Motion passed 3-2 Member Johnson and Member Stanton dissented.

**ORAL ARGUMENT – UNIT CLARIFICATION 2-2011**

International Union of Operating Engineers, Local 400 vs. Flathead County, Solid Waste District

Richard Parish was the Alternate Presiding Officer in this matter. Michael Dahlem appeared before the Board to represent Flathead County, Solid Waste District; Karl Englund appeared before the Board to represent the International Union of Operating Engineers, Local 400.

The matter before the Board was to determine if the Hearing Officer Gregory Hanchett erred in his decision finding the Container Site Monitor/Educator (monitor) to be placed inside the International Union of Operating Engineers, Local 400 via the doctrine of accretion. Argument was heard, questions were asked by Board Members. Member Johnson motioned to remand the case back to the Hearings Officer to determine: (1) whether or not the job at issue in this case has undergone recent substantial change and (2) whether or not there is an overwhelming community of interest between the job at issue and the jobs performed by other employees in the bargaining unit. Further, the Board notes the Hearings Officer needs to consider all facts stipulated to and provided at the hearing. Board Member Stanton seconded the motion. Motion passed 3-2 Board Member Reardon and Board Member Nyman dissented.

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