

BOARD OF PERSONNEL APPEALS
MINUTES – JULY 19, 2012 MEETING

PRESENT:

Anne MacIntyre, Presiding Officer
Max Hallfrisch, Alternate Board Member
Karla Stanton, Board Member
Jay Reardon, Board Member
Steve Johnson, Board Member
Quint Nyman, Board Member

STAFF ATTENDING:

Tim Little, Board Attorney	John Andrew
Pam McDaniel	Bill Smith
Paul Melvin	

BOARD BUSINESS

APPROVAL OF MINUTES (.05-.31):

Member Reardon moved to approve the May 17, 2012 minutes. Member Stanton seconded the motion. Motion passed 5-0

NEXT MEETING DATE (1.13-1.34):

The next meeting is scheduled for February 16, 2013, pending any appeals.

PUBLIC COMMENT (2-3-103 MCA) (1.34-1.58):

No comments were made.

ATTORNEY COMMENTS – BOARD ATTORNEY TIM LITTLE (1.59-7.01):

Board Attorney Tim Little updated the Board that MEA-MFT did file for judicial review of the State pay plan issue. He will be determining over the next few weeks if BOPA is going to take a role. He will update the Board at the next meeting.

There was little discussion on the Rules Project. He will get an update from Mark Cadwallader and report at the next meeting.

John Andrew updated the Board on the Graduate Teaching unit determination. The election has been conducted and will wait to hear from the Court. The briefs have been submitted and the Judge should be ruling on it soon.

Board Chair Anne MacIntyre introduced Pam McDaniel as the Acting Bureau Chief for Labor Standards.

Pam McDaniel then introduced Bill Smith as the new labor mediator for the Board of Personnel Appeals. She also stated that mediator Vicki Knudsen has also left the Board of Personnel Appeals.

MISCELLANEOUS (7.02-36.32)

Discussion of legislative history of 26-1-813, MCA (re: mediation): Board Attorney Tim Little handed out the statutes and rules in regards to the mediation statutes. Since the Board is reviewing the issue and being proactive, they discussed the rules and statutes that are currently in place. Board Attorney Little stated that it is possible the Board could be pushed by the issue of mediations not being open meetings and that it may come to a court ruling on if the mediation is considered private or if they are considered open. Surreptitious recordings were also discussed and that if they do happen it is comes

under a criminal statute for possible prosecution. Board Member Steve Johnson stated that we should leave it in the hands of the mediator. Then it would be up to the mediator to establish the rule up front that there is no recording of the mediations. Then he is comfortable backing the mediator. Board Chair MacIntyre came back to the statute regarding the mediation and it appears that the Board already has the power to enforce the mediation problem. It was mutually agreed upon by all Board members to let the issue lie and deal with it if it comes back before the Board.

ORAL ARGUMENT – UNFAIR LABOR PRACTICE 9-2011

Montana Public Employees Association vs. State of Montana, Montana Department of Transportation

Anne MacIntyre was the Presiding Officer in this matter. Board Member Nyman recused himself since he represents Montana Public Employees Association and Alternate Member Max Hallfrisch took his place. Marjorie Thomas appeared before the Board to represent the State of Montana; Carter Picotte appeared before the Board to represent Montana Public Employees Association.

The matter before the Board was to determine if the Hearings Officer, David Scrimm erred in his Findings of Fact; Conclusions of Law; and Recommended Order to dismiss the unfair labor practice (ULP) complaint. Argument was heard, questions were asked by Board Members. Member Johnson moved to adopt the hearing officer’s Findings of Fact; Conclusions of Law; and Recommended Order. Board Member Stanton seconded the motion. Motion passed 5-0.
