

**BOARD OF PERSONNEL APPEALS  
MINUTES – March 20, 2014 MEETING**

**PRESENT:**

Anne MacIntyre, Presiding Officer  
Jay Reardon, Board Member  
Rina Moore, Board Member

Steve Johnson, Board Member  
Quint Nyman, Board Member

**STAFF ATTENDING:**

Tim Little, Board Attorney  
Paul Melvin  
Pam McDaniel

Bill Smith  
John Andrew

**BOARD BUSINESS**

**APPROVAL OF MINUTES:**

Approval of the minutes for April 18, 2013 and June 20, 2013 were moved by Member Reardon and seconded by Member Nyman. Motion passed 3-0.

**NEXT MEETING DATE:**

The next meeting is scheduled for April 17, 2014.

**PUBLIC COMMENT (2-3-103 MCA):**

No comments were made.

**STAFF/ATTORNEY COMMENTS – (.01-13:14):**

Board Attorney Tim Little updated the Board on the Rules Project. No formal action will take place until it is on the agenda as an item. Two comments were made on the proposed rule. The Notice of Adoption needs to be filed by April 28<sup>th</sup>. There will be a meeting scheduled prior to April 14, 2014 to take action on the proposed rule before submitting to the Secretary of State for adoption and this can be done by a telephone conference call. Member Johnson requested that John Andrew put together a refresher in regards to the background of the Collyer rule and will send it out to the Board Members.

Member Reardon moved that the Board Members be compensated for three days due to the complexity of the case. Member Johnson seconded the motion. Motion passed 5-0.

**MISCELLANEOUS (13:14-13:44)**

No comments were made.

\*\*\*\*\*

**ORAL ARGUMENT – CLASSIFICATION APPEAL 1-2013**

Ronald Mashek, et. al. vs. Department of Public Health & Human Services and State Human Resources Division, Department of Administration

Anne MacIntyre was the Presiding Officer in this matter. Marjorie Thomas and Frank Clinch represented the Department of Public Health & Human Services and the State Human Resources Division, Department of Administration. Lin Deola represented Ronald Mashek, et. al.

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 for the Classification Appeal. Member Johnson moved that the Hearing Officer's Recommended Order be reversed and Conclusions of Law 5 through 10 be revised to reflect that the collectively bargained agreement is a legal agreement and is therefore binding on both parties. Member Nyman seconded the motion. There was further discussion Presiding Officer MacIntyre requested that the demonstrative timeline

exhibit used today be forwarded to the Board for review. Then after further discussion Member Johnson withdrew his motion. Member Reardon motioned to take the matter under advisement to make a determination at our next scheduled meeting and in the interim work with legal counsel to address concerns of the Board in regards to the Findings of Fact which may lead to a determination of different conclusions of law and that would be before the Board at the next meeting to make that determination. Presiding Officer MacIntyre seconded the motion. Motion passed 5-0.

\*\*\*\*\*