

**BOARD OF PERSONNEL APPEALS
MEETING MINUTES
SEPTEMBER 15, 2016**

PRESENT:

Anne MacIntyre, Presiding Officer
Steve Johnson, Management Member
Jim Soumas, Labor Member

Quint Nyman, Labor Member
Rina Moore, Management Member
Dave Severson, alternate Labor Member

STAFF ATTENDING:

Tim Little, Board Attorney
John Andrew
Pam McDaniel

BOARD BUSINESS

APPROVAL OF MINUTES:

Member Soumas made a motion for the approval of the minutes with the word hold changed to holds for the December 8, 2015 minutes. Presiding Officer MacIntyre seconded the motion. Motion passed 4-0.

NEXT MEETING DATE:

The next scheduled meeting is October 20, 2016. There will be an appeal to be heard. Also the Arbitration & Labor Relations Conference is September 26th-28th at Fairmont. The Board is not presenting but more than welcome to attend.

PUBLIC COMMENT (2-3-103 MCA):

No public comment was made.

STAFF/ATTORNEY COMMENTS:

Dave Severson, MEA-MFT was introduced as the new alternate labor Board Member.

Member Nyman briefly discussed adopting the new NLRB rules on representation cases. It was decided to have Board Members review the changes and start discussion on them at the next regular Board meeting.

Board Secretary Windy Knutson asked how the Board Members liked having the files in a PDF format. The Board Members liked it. However, it was noted that it was not opened in Adobe to see the bookmarks. So the next case she will remind Board Members to open the case in Adobe to view the bookmarks. Presiding Officer MacIntyre also asked why the Board was date stamping every single page. Pam McDaniel, Bureau Chief stated this is the office practice that when mail comes in, every page is stamped. Presiding Officer MacIntyre would also like to discourage repetitious filings with briefs and exhibits. She would also like to see transcripts of the hearing in the file instead of the audio. Board Attorney Tim Little stated we need to look at how the Human Rights Bureau has this in their rules. If we request now, who would pay for it and the possibility of litigation.

Board Member Johnson moved to have an additional day of pay for case review due to the volume of the case. Presiding Officer MacIntyre seconded the motion. Motion passed 4-0.

Compensation Grievance 3-2014: April Armstrong, David R. Barnhill, K. Amy Pfeifer, Peggy Probasco, and Patrick Quinn, Attorneys, Position Nos. 05020, 05203, 05022, 05023 and 05242 vs. State Personnel Division, Department of Administration, Department of Public Health & Human Services, Support Enforcement Division

Anne MacIntyre was the Presiding Officer in this matter. Lin Deola represented the Grievants. Margie Thomas represented the State Personnel Division.

The matter before the Board was to determine if the Hearing Officer, Terry Spear erred in his Recommended Order. Arguments were heard, questions were asked by Board Members.

Presiding Officer MacIntyre moved to sustain the Hearing Officer's finding that the pay differential between the two groups was not justified in their duties. There is no documentation to support on this point. Member Soumas seconded the motion. Motion fails 2-2.

Member Johnson moved the Hearing Officer decision be overturned and the Step 2 response be sustained. There are several findings of fact that need to be looked at. Member Nyman seconded the motion. Motion fails 1-3.

Member Johnson moved to remand to the Office of Administrative Hearings to determine whether or not under § 2-18-301 (4), that the Department administers the pay program based on competency, internal equity, and competitiveness to the labor market when fiscally able. Member Nyman seconded the motion. Motion passes 3-1.

Unfair Labor Practice 9-2016: Teamsters Union Local No. 2 vs. Anaconda-Deer Lodge County

Anne MacIntyre was the Presiding Officer in this matter. Tim McKittrick represented the Teamsters Union Local No. 2. Cindy Walker represented Anaconda-Deer Lodge County.

The matter before the Board was to determine if Hearing Officer, David Scrimm erred in his Findings of Fact, Conclusions of Law, and Recommended Order. Arguments were heard, questions were asked by Board Members.

Member Nyman motion to sustain the Hearing Officer's decision to grant summary judgment. Member Severson seconded the motion. Motion passed 3-1.

Meeting adjourned