

**BOARD OF PERSONNEL APPEALS
MINUTES – APRIL 18, 2013 MEETING**

PRESENT:

Anne MacIntyre, Presiding Officer
Jay Reardon, Board Member
Steve Johnson, Board Member
Quint Nyman, Board Member

STAFF ATTENDING:

Tim Little, Board Attorney
Pam McDaniel
Paul Melvin

Bill Smith
John Andrew

BOARD BUSINESS

APPROVAL OF MINUTES (.21-1.02):

Member Reardon moved to approve the January 17, 2013 minutes. Member Johnson seconded the motion. Motion passed 4-0

NEXT MEETING DATE (1.10-1.26):

The next meeting is scheduled for May 16, 2013, pending any appeals. There is a case that will be coming before the Board on June 20, 2013.

PUBLIC COMMENT (2-3-103 MCA) (1.31-1.53):

No comments were made.

STAFF/ATTORNEY COMMENTS – (1.54-15.06):

John Andrew spoke to Board Members about the two Religious Nonassociation petitions that have been filed with the Board. There was discussion by John and Board Attorney Tim Little about the tight timelines but both parties in the first petition waived the timelines in order to put a panel of three members together. The first petition that was filed was Randy Cavalea and the Teamsters. This went to a panel hearing in Lewistown. The panel heard argument from both sides and denied the petitioner's request 3-0. The decision has until April 26, 2013 to request a judicial review with District Court. The second petition that was filed by Morris Sherlin and the Teamsters has an agreement to accommodate his request. John has touched base with the parties to see if he can close the file and has not yet heard back.

Board Attorney Tim Little updated the Board on the Rules Project. Department Attorney Mark Cadwallader emailed Tim with an outline of how he is going to be proceeding. He stated that he will do his best to keep Mark to the timeline now that it is in written form. Then if there are any issues the members can do a conference call if needed.

Board Secretary Windy Knutson brought forth an issue that may pertain to the decertification process. If a petition has been filed incorrectly she has been denying them and there is not a process in place that the petitioner can appeal this. She asked the Board Members if there is a need to look at the rule to possibly have this as an option. After discussion by the Board it was decided that it is a fairly simple form and to be available if there are questions on the petition but to proceed as she has been.

Board Secretary Windy Knutson also informed the Board of a decertification election for the tenure faculty of Montana State University. She stated that the bargaining unit consisted of 403 eligible voters and she received 381 ballots back. Of the ballots received back 6 were challenged, 190 voted in favor of no representation and 185 voted in favor of the Associated Faculty Montana State

University, MEA-MFT. She has since brought the file to the Hearings Bureau for a hearing on the challenged ballots.

There was also discussion amongst the Board Members that management representative Karla Stanton is no longer on the Board. She will be replaced by Rina Moore, Cascade County Clerk and Recorder. The Board just needs to wait on the confirmation from the Governor's Office.

The Board also discussed the new process of receiving the administrative file electronically. The Board Members really liked having it prepared this way. However, it needs to be put into a format similar to that of the docket that breaks down the file. Board Secretary Windy Knutson, stated that she will prepare the next case with the new format and ensure all hearing cds are properly formatted onto the thumb drives. She will also get with the Hearings Bureau to see if they have the file and any documents done electronically instead of rescanning everything. There was also discussion in regards to the parties just using the hearing cds in their briefs. If this is to be done, Windy will either ask the parties for a transcript or have the parties note which cd and approximately the time being referenced on the cd to be input into the briefs on the briefing schedule.

MISCELLANEOUS (15.07-18.12)

ORAL ARGUMENT – TRANSPORTATION GRIEVANCE 2-2013

Bonnie J. Gundrum, Planning Division, Environmental Bureau, Resources Section vs. Department of Transportation

Anne MacIntyre was the Presiding Officer in this matter. Dave Ohler appeared before the Board to represent the State of Montana; David Gallick appeared before the Board to represent Bonnie Gundrum. Bonnie Gundrum listened to the oral argument by telephone but did not participate.

The matter before the Board was to determine if the Hearings Officer, Gregory Hanchett erred in his Recommended Order to dismiss the grievance. Argument was heard, questions were asked by Board Members. Member Johnson moved to adopt the hearing officer's Recommended Order. Board Member Nyman seconded the motion. Motion passed 4-0.
