

MEETING MINUTES
BOARD OF PERSONNEL APPEALS
1805 Prospect Ave, Conference Room B, Second Floor
Zoom Meeting
Helena, Montana
9:00 a.m.
August 19, 2021

Call to Order – Establish Quorum – Introduction of Board & Staff Members Present: (00:01:42)

Members Present via Zoom:

Brian Hopkins, Board Chair
Kevin McRae, Management Member
Jenny Stringer, Management Member
Stacey Yates, Labor Member

Staff Present via Zoom:

Theresa Sroczyk, Dispute Resolution Section Manager
Jacquie Haney, Board Secretary
Trisha Kinsella, Board Secretary (Training)
Haley Nelson, Attorney, Department of Labor
Bill Wheeler, Deputy Administrator
Eric Strauss, Administrator

Approval of Minutes for March 18, 2021 meeting (02:39)

Member McRae moved to approve the March 18, 2021 meeting minutes as presented. Member Stringer seconded the motion. The vote was unanimous. Minutes of the March meeting are approved.

Public Opportunity to Comment (2-3-103 MCA) (04:06):

There were no comments by the Public.

Staff/Attorney Comments (04:34):

Theresa Sroczyk states there are no updates or administrative reports from the staff.

Haley Nelson, Board Attorney, states that there are no updates or administrative reports to bring forth to the board.

Rules associated with SB 56

Hopkins moves onto the rule's discussion. Senate bill 56 being enacted by legislature and becoming effective March 8th, 2021. The bill repeals Fish, Wildlife & Parks and Montana Department of Transportation grievance process from this board. Any grievance after March 8th, 2021 will no longer be under the jurisdiction of the Board of Personnel Appeals. Any grievances already in process could still come before the board. This now allows for Fish Wildlife & Parks and Montana Department of Transportation to implement their own internal grievance rules. A zoom hearing will be held on October 5th, 2021 for the public to comment on these rules.

In addition to the rules associated with SB 56, there are some administrative clean up items required after the December 2020 Rules rewrite. The language will be corrected to reflect the standard of review required by MAPA McRae motioned he would like to move forward with filing of the notice. Hopkins seconded this motion. Voted 4-0. The meeting proceeded.

Cases Before the Board

Oral Argument (15:56): Grievance Case #20192650

Petitioner: Earl Radonski

Respondent: Montana Department of Fish, Wildlife, & Parks

Presiding Officer Hopkins took roll call of the Board members who acknowledged they had received and reviewed the entire record. The Presiding Officer explained the hearing process to all parties and cautioned referencing transcript matters that have been redacted.

Ben Reed, representing Montana Department of Fish, Wildlife & Parks (FWP), opened stating he wouldn't be bringing up anything new. He presented that Fish Wildlife & Parks main concern was the hearings officer not considering FWP's interpretation of their own pay plan and not considering the testimony of all the witnesses.

Eric holm, representing Earl Radonski requests that the board adopt hearing officers recommended order in full.

The Board asked some clarifying questions of the parties. Board members shared their thoughts on the issue, expressed empathy, but ultimately overturned the Hearings Officer decision. Board Attorney Nelson reminded the Board of the standards of review that should be considered when making a motion.

5 Min Recess (56:08)

Recording stopped. Oral argument continued at (56:18)

Oral Argument (56:18): Grievance Case #20192650

Member McRae moved that the Board vacate OAH decision number 928-2020 and dismiss the grievance particularly finding of fact that employees with the same job code must be paid the same base wage was not supported by substantial and competent evidence. Member McRae motioned this decision and Stringer seconded.. Hopkins votes by roll call and this motion was carried. Voted 3-1.

A written order will be prepared and mailed to the parties giving notice of the Board's decision.

Board Chair Hopkins concluded the Boards consideration of the case for Earl Radonski vs. Montana Department of Fish, Wildlife & Parks.

Board Action - (1:55:13):

There was no further board action.

Miscellaneous (55:13):

There was no miscellaneous business.

Scheduling of Next Meeting (1:56:03):

Theresa Sroczyk reported the Board is scheduled for a September 16th meeting, but as of today, there are no cases to come before the Board.

Meeting adjourned. (1:53:29)

There being no further business to come before the Board, member Yates moved to adjourn the meeting. Board Chair Hopkins seconded the motion and the meeting was adjourned.