

PERSONNEL POLICY BOARD

April 27, 2011

MEETING

Meeting was held Wednesday, April 27, 2011, Commissioners Hearing Room, County-City Building, Lincoln, Nebraska.

Members present: Jerry Sellentin, Georgia Glass, Kathleen Neary, Doug McDaniel.

Members absent: Connie Soucie, Randy Goyette. Personnel Department resource staff attending: Karen Eurich.

The meeting was opened at 10:30 a.m. by Chair Georgia Glass.

It was moved by Jerry Sellentin and seconded by Doug McDaniel to approve the minutes of the April 7, 2011 meeting as presented. Motion unanimously carried by roll call vote.

Agenda Item 1 was the continuation of request for appeal hearing – Debbora Day — Veterans’ Services. Tom Fox of the County Attorney’s office represented Veterans’ Services. Joy Shiffermiller of Shiffermiller Law Office represented Deb Day. The proceedings were recorded by Susan McKenzie of J.S. Wurm and Associates, and are on file in that office. The purpose of this meeting was for the attorneys to present information to the Board following their previously submitted briefs in regard to the tie vote at the April 7, 2011 meeting. Tom Fox cited court cases that would indicate a tie vote means the employee did not gain the affirmative relief that they asked for. If the Board determines there is no decision, it would mean the employee is terminated and could not appeal to another court. If the Board decided that the tie vote is in the County’s favor, it would mean the employee is terminated, but could appeal to another court. Joy Shiffermiller presented information in regard to the *Coniglia v. City of Omaha* court case and argued that the burden of proof is on the employer, not the employee. Her determination was that no decision means the employee would keep her job. Following discussion, it was moved by Jerry Sellentin and seconded by Georgia Glass to uphold the decision of the department head and the termination of Deb Day. Board member Doug McDaniel stated he did not think Jerry Sellentin could make the motion as he made the original motion at the April 7, 2011 meeting. Jerry Sellentin then withdrew his motion. It was then moved by Doug McDaniel and seconded by Jerry Sellentin to uphold the decision of the Department Head. Voting yes: Jerry Sellentin, Georgia Glass. Voting no: Kathleen Neary, Doug McDaniel.

It was then moved by Kathleen Neary and seconded by Doug McDaniel to hold another hearing with five or more members. Following discussion regarding the County Rules indicating that a quorum consists of four Board members, Kathleen Neary made a new motion to have a rehearing and was seconded by Doug McDaniel. Voting yes: Georgia Glass, Kathleen Neary, Doug McDaniel. Voting no: Jerry Sellentin. It was then determined

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the rehearing would be scheduled for the Board's normal meeting on May 5th at 1:30 p.m. following a poll of the Board members after the meeting so they had time to check their schedules.

There being no further business, the meeting adjourned at 11:38 a.m.

The next regularly scheduled meeting is tentatively set for Thursday, May 5, 2011.

Karen Eurich
Personnel Operations Specialist

pc: Debbora Day
Joy Shiffermiller
Gary Chalupa