December 30, 2015

TO: County Personnel Policy Board Members

SUBJECT: Personnel Policy Board Meeting
Thursday, January 7, 2016
9:00 a.m., Commissioners Hearing Room
County–City Building, Room 112

NOTE: SPECIAL MEETING TIME

A G E N D A

ITEM 1: Request to change the pay grade of the following classifications:

CLASS CODE	CLASS TITLE	CURRENT PAY GRADE	PROPOSED PAY GRADE
4875	Master Electrician	C11 ($43,998.24 - $56,353.44)	C16 ($52,509.60 - $67,258.88)
7408	District Court Administrator	C15 ($50,683.36 - $64,918.88)	C18 (56,353.44 - $72,184.32)

ITEM 2: Request for appeal hearing – Kevin Herling and Elizabeth (Svatos) Lamer – Corrections

ITEM 3: Request for appeal hearing – Evan Juhnke – Corrections

ITEM 4: Miscellaneous Discussion

pc: Don Killeen
Mike Thurber
Jennifer Kulwicki
Tom McCarty
Kevin Herling
Elizabeth (Svatos) Lamer
Evan Juhnke
Kristy Bauer

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HAND DELIVER

May 1, 2015

2015 MAY 1 PM 3 24
CITY COUNTY PERSONNEL

VIA HAND DELIVERY

Mr. Doug McDaniel
Human Resources Director
Secretary. County Personnel Board
555 S. 10th Street
Lincoln, NE 68508

RE: Fraternal Order of Police #32; Corrections Officers Kevin Herling and Elizabeth Svatos; Appeal of Denial of Grievance

Dear Doug:

This firm represents Fraternal Order of Police Lodge #32, and Corrections Officers Kevin Herling and Elizabeth Svatos (hereinafter "Grievants"). On April 23, 2015, Corrections Director Mike Thurber denied the grievance of the Grievants, which I have attached hereto. The Grievants received the grievance reply on April 28, 2015.

Pursuant to the bargaining agreement between Lancaster County and FOP #32, the Grievants hereby give their notice of appeal of this denial of the grievance and hereby submit the attached grievance to the Lancaster County Personnel Board.

We request that the appeal be scheduled for the June meeting of the County Personnel Policy Board. Thank you.

Yours very truly,

Thomas P. McCarty
FOR THE FIRM

ENCLOSURE

Lois Osburn 4-15-15

IN RE GRIEVANCE OF FOP 32 ON BEHALF OF ALL MEMBERS IMPACTED; KEVIN HERLING; and ELIZABETH SVATOS) April 15, 2015

TO: Michael Thurber, Department Head, or his designated representative

FROM: Keving Herling, Elizabeth Svatos, and Fraternal Order of Police Lodge #32

COMES NOW Kevin Herling, Elizabeth Svatos, and Fraternal Order of Police Lodge #32 on behalf of all bargaining unit members affected, and for their grievance state as follows:

NATURE OF GRIEVANCE AND ACTS OF COMMISSION OR OMISSION GRIEVED:

Probationary correction officers serve a twelve-month probationary period, which runs from their date of hire to the 12-month anniversary of the date of hire. At the end of the probationary period, officers who successfully complete probation are entitled to a pay raise in accordance with the step plan set forth in Appendix "A" of the current bargaining agreement between FOP #32 and the County. Officers Herling and Svatos, and any other affected members of the FOP #32 bargaining unit, have successfully completed their probationary periods but have been denied such an increase on the 12-month anniversary of their start date. Their one-year pay raise under the pay plan set forth in Appendix "A" has been delayed until the first pay period *following* the officers' 12-month anniversary dates. These officers are then reassigned a "new" anniversary date that corresponds with the pay period *following* the anniversary of the officers' hire dates instead of the actual anniversary of their hire dates. As a result, these officers continue to be paid as probationary employees for approximately two to three weeks (and perhaps longer) even though they are no longer probationary employees. Also, due to the establishment of a "new" anniversary date, these officers' future pay increases will not correspond with the actual anniversary of their dates of hire. Therefore, the County has impermissibly extended the length of probationary employees beyond the 12-month period provided for under the bargaining agreement (see also Neb. Rev. Stat. § 23-2525(7)), and has failed to pay its employees in accordance with the pay plan set forth in Appendix "A." Emails from Lois Osburn to Officers Herling and Svatos describing the County's practice are attached hereto and incorporated herein by reference.

DATE OF ACTION GRIEVED: The FOP became aware of this action on April 7, 2015. Officer Herling became aware of this action on April 7, 2015, after receiving an email from County employee Lois M. Osburn regarding the delay in his pay raise and the establishment of his "new" anniversary date. Officer Svatos became aware of this action on April 7, 2015, when she received an email from County employee Lois M. Osburn regarding the delay in her pay raise and the establishment of her "new" anniversary date

IDENTITY OF GRIEVING PARTIES: FOP #32 on behalf of all affected unit members. Officer Svatos on behalf of herself. Officer Herling on behalf of himself.

IDENTITY OF PERSONS ALLEGED TO HAVE CAUSED GRIEVANCE: Lois Osburn and, upon information and belief, Michael Thurber, and other unknown parties.

PROVISIONS OF AGREEMENT
THAT WERE VIOLATED: Article 3(H); Article 9, Sections 1 and 2; Appendix "A." See also Neb. Rev. Stat. § 23-2525(7).

REMEDY SOUGHT: The Department should grant pay raises to employees who successfully complete their probationary period effective upon the 12-month anniversary of the employees' dates of hire. The Department should afford back pay to any employees who have not received their pay raises in this manner. The Department should also treat the annual anniversary of officers' date of hire as their anniversary date.

Respectfully submitted this 15th day of April, 2015.

FOP #32, on behalf of its members, Kevin Herling, and Elizabeth Svatos.

BY: _____

Gary L. Young, Esq. (#20817)
Thomas P. McCarty, Esq. (#24171)
Keating, O'Gara, Nedved & Peter, P.C.
530 South 13th Street, Suite 100
Lincoln, NE 68508
Ph: (402) 475-8230
Fax: (402) 475-8328

Attorney for the Grievants

RE: Year raise

Lois M. Osburn
Sent: Tuesday, April 07, 2015 8:15 AM
To: Kevin Herling

Your raise goes into effect 4/02/15 We are currently in that pay period so you will not see it on your check till 4/23/15. **ALL** probationary pay raises are effective the following full pay period. Your date was 3/20/15 so the first full following pay period starts 4/02/15. It will be different when you get merit increases in the future. They back up to the beginning of the pay period. Your new anniversary date is 4/02/16.

From: Kevin Herling
Sent: Monday, April 06, 2015 5:33 PM
To: Lois M. Osburn
Subject: Year raise

I was wondering when my raise goes into effect. My year was up on March 20 and I got my review March 23. Shouldn't I have gotten my raise when my year was up or at least when I signed my eval? It did not show up on the upcoming check dated April 9.

From: Lois M. Osburn

Sent: Tuesday, April 07, 2015 9:23 AM

To: Elizabeth K. Svatos

Subject: pay increase

Your probation pay
increase will be effective 4/16/15 so you won't see it till the paycheck of May 7th. Your new anniversary date it 4/16/16. This is just an FYI.

Lois
Osburn
Lancaster
County Dept. of Corrections
3801 West O
Street
Lincoln
NE 68528
402-441-1903

Lancaster County
Department of Corrections

3801 West O Street
Lincoln, NE 68528
(402) 441-1900
Fax: 441-8946

Michael Thurber, Director

April 23, 2015

Gary Young
Tom McCarty
Keating, O'Gara, Nedved & Peter, P.C.
530 South 13th Street, Suite 100
Lincoln, NE 68508

Re: Officers Herling and Svatos, and FOP #32 Grievance received April 15, 2015

Dear Mr. Young:

This letter will serve as a response to a grievance dated April 15, 2015, regarding an alleged delay in Officer Herling's and Officer Svatos' pay raise and the establishment of "new" anniversary dates. The grievance alleges that the Corrections Department has impermissibly extended the length of probationary employees beyond the 12-month period provided for under the FOP #32 Bargaining Agreement (the "Agreement"), and has failed to pay its employees in accordance with the pay plan set forth in Appendix "A" of the Agreement. Specifically, Officer Herling and Officer Svatos allege violations of Article 3(H), Article 9, Sections 1 and 2, and Appendix "A" of the Agreement, and a violation of Neb. Rev. Stat. § 23-2525(7).

The facts that form the basis of Officer Herling's and Officer Svatos' grievance are as follows: Officer Herling completed his 12 months of probation at the Corrections Department on March 20, 2015, and his pay increase was effective on April 2, 2015. Officer Svatos completed her 12 months of probation at the Corrections Department on April 3, 2015, and her pay increase was effective on April 16, 2015. Lancaster County Personnel Rule 8.2 states in part:

> If, in the Department Head's opinion, the employee successfully completes his probationary period, the Department Head shall recommend in writing to the Personnel Officer that the employee be given status. The employee's salary will advance to the next higher step in the pay grade for his/her class. The increase in pay shall be effective with the pay period immediately following the date of satisfactory completion of the probationary period. The employee's new eligibility date will be one year from the effective date of obtaining status.

With regard to Officer Herling, he successfully completed probation on March 20, 2015; however, the pay period immediately following his completion began on April 2nd. With regard to Officer Svatos, she successfully completed probation on April 3, 2015; however, the pay period immediately following her completion began on April 16th. Personnel Rule 8.2 sets forth the practical approach to administering pay increases County-wide, upon the successful

completion of probation. Said Rule does not conflict with the Agreement as the Agreement does not provide a procedure for administering pay increases. In fact, Article 12, Section 3, of the Agreement states in part, "[a]dministration of the Compensation Plan shall be as provided in the County Rules." Although this language does not speak directly to the administration of pay increases once an employee has completed probation, it is indicative of that fact that the Corrections Department clearly has the authority to look to the Personnel Rules for the practical application of administering pay increases.

The grievance alleges a violation of Article 3(H) of the Agreement. Article 3(H) sets forth the definition of probationary period as follows: "[p]robationary period shall mean the first twelve (12) months of employment in the classified service, beginning with the date of hire. During the probationary period, an employee can be separated from the County service without 'just cause' for termination." The definition of probationary period does not include any language relating to, or referencing, the manner by which pay increases are administered once an employee has completed probation. The grievance also alleges a violation of Article 9 (Seniority); however, the new eligibility dates given to employees based upon Rule 8.2 are for pay increase purposes only. The new date does not affect seniority dates. There are no facts indicating the County has violated Section 9 of the Agreement. Furthermore, there are no facts to support the allegation that Appendix A of the Agreement has been violated. The completion of the 12 month probationary period does not equate to an automatic pay increase exactly 12 months following an employee's start date, and nothing in the Agreement indicates such.

The grievance also alleges a violation of Neb. Rev. Stat. §23-2525(7), which states, in relevant part, that the county personnel rules shall provide "for a period of probation not to exceed one year before appointment or promotion may be made complete, and during which period a probationer may be separated from his or her position without the right of appeal or hearing..." It is clear Section 23-2525(7) provides for a period of probation not to exceed one year; however it does not state that a pay increase is automatic upon the completion of exactly 12 months. The "status" that is gained by completing probation, pursuant to Section 23-2525(7), is such that an employee can no longer be separated for any reason, without the right of appeal or hearing. Neb. Rev. Stat. §23-2525(7) does not include any language that states, or implies, that the 12 month probationary period equates to an automatic pay increase for employees exactly 12 months following their start date, nor do any other sections of the Civil Service Act.

It should be noted that future merit pay increases for Correctional Officers are effective the beginning of the pay period in which the eligibility date falls. For example, Officer Herling's eligibility date for merit pay increases is April 2nd. Next year, if his merit increase is approved, it will be effective March 31, 2016. Essentially, employees are given a "pay period advantage" on the effective date of merit pay increases; or in other words, the merit pay increase is effective prior to their eligibility date.

The Corrections Department follows Personnel Rule 8.2 when administering pay increases after an employee has successfully completed probation. Personnel Rule 8.2 does not violate the Agreement or Neb. Rev. Stat. §23-2525(7). For the foregoing reasons, I must deny the grievance.

Sincerely,

Michael Thurber
Corrections Director
MT/lo

cc: Doug McDaniel, Human Resources Director
Kristy Bauer, Deputy County Attorney
Brad Johnson, Jail Administrator
Kevin Herling, Correctional Officer
Elizabeth Svatos, Correctional Officer
Personnel File

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OF COUNSEL:
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2015 JUL 15 PM 4 18
CITY - COUNTY PERSONNEL

July 15, 2015

VIA HAND DELIVERY

Mr. Doug McDaniel
Human Resources Director
Secretary. County Personnel Board
555 S. 10th Street
Lincoln, NE 68508

RE: Fraternal Order of Police #32; Corrections Officer Juhnke

Dear Doug:

This firm represents Fraternal Order of Police Lodge #32 on behalf of Officer Evan Junke and all members impacted (hereinafter "Grievants"). On July 15, 2015, Corrections Director Mike Thurber denied the grievance of the Grievants, which I have attached hereto. The Grievants received the grievance reply on July 15, 2015.

Pursuant to the bargaining agreement between Lancaster County and FOP #32, the Grievants hereby give their notice of appeal of this denial of the grievance and hereby submit the attached grievance to the Lancaster County Personnel Board.

We request that the appeal be scheduled for the August meeting of the County Personnel Policy Board. Thank you.

Yours very truly,

Thomas P. McCarty
FOR THE FIRM

ENCLOSURE

Lancaster County
Department of Corrections

3801 West O Street
Lincoln, NE 68528
(402) 441-1900
Fax: 441-8946

Michael Thurber, Director

July 15, 2015

Tom McCarty
Keating, O'Gara, Nedved & Peter, P.C.
530 South 13th Street, Suite 100
Lincoln, NE 68508

Re: Officer Evan Juhnke and FOP Lodge #32 Grievance received June 25, 2015

Dear Mr. McCarty:

This letter will serve as a response to a grievance dated June 25, 2015, regarding an alleged delay in Officer Juhnke's 6 month pay raise. The grievance alleges that the Corrections Department has delayed the effective date of the 6 month pay raise under the pay plan set forth in Appendix "A" of the FOP #32 Bargaining Agreement (the "Agreement"). Officer Juhnke alleges violations of Article 12, Section 1, and Appendix "A" of the Agreement.

The facts that form the basis of Officer Juhnke's grievance are as follows: Officer Juhnke's hire date was December 15, 2014. He completed 6 months of service with the Corrections Department on June 15, 2015. His 6 month pay raise was effective on June 25, 2015. The effective date of his 6 month pay raise was the first day of the pay period (June 25, 2015) following six months from the date of hire. The effective date of this particular pay raise is based upon the County PA Manual issued by the Human Resources Department, which includes directives to all county departments on administering the compensation plan, including establishing changes in pay for all county employees. Article 12, Section 3, of the Agreement provides that "[a]dministration of the Compensation Plan shall be as provided in the County Rules." Lancaster County Personnel Rule 16.1 states:

> The Personnel Officer shall be responsible for the maintenance of the classification and compensation plans, including but not limited to the allocation of new or changed positions, the determination of proper compensation rates within the provisions of the plans, maintenance of up-to-date class descriptions, class lists, and allocation records.

Again, pursuant to the County PA Manual, the 6 month pay raise is effective the first day of the pay period following six months from the date of hire (for those eligible county employees). The County PA Manual sets forth the practical approach and procedure to administering changes in pay County-wide, and it does not conflict with any provisions in the Agreement.

The grievance alleges a violation of Article 12, Section 1, and Appendix "A." Article 12, Section 1, states:

> The scale of wages for the classification of Correctional Officer covered by this Agreement shall be prescribed by a resolution adopted by the County Board. The scale of wages is outlined in Appendix "A". Wages as set forth in Appendix "A" become effective August 21, 2014 and reflect a four and a quarter percent (4.25%) increase. Said wages shall be increased by two and one half percent (2.5%) effective August 20, 2015.

JUL 15 2015

Article 12 does not include language as to when the 6 month pay increase is effective. Furthermore, there are no facts to support the allegation that Appendix "A" of the Agreement has been violated. The completion of 6 months of service does not equate to an automatic pay increase exactly 6 months following an employee's start date, and nothing in the Agreement indicates such. The grievance also alleges that certain correctional officers are not receiving their 6 month pay increases for "approximately two to three weeks (and perhaps longer) beyond the 6-month anniversary of their start date." However, the Union has provided no evidence, nor filed any other grievances, indicating such a delay. A review of the email attached to Officer Juhnke's grievance shows that his 6 month pay raise was effective June 25, 2015, which was the first day in the pay period following his start date (June 15, 2015). In other words, Officer Juhnke received his pay increase 6 months and 10 days after his start date.

Article 12, Section 3, of the Agreement and Lancaster County Personnel Rule 16.1 are indicative of that fact that the Corrections Department relies on the Human Resources Department for the maintenance of the compensation plan, including the practical application of administering pay increases. Personnel Rule 16.1 and the County PA Manual do not conflict with the Agreement as the Agreement does not provide a procedure for administering pay increases, nor does it set forth an effective date of each correctional officer's 6 month pay increase. For the foregoing reasons, I must deny the grievance.

Sincerely,

Michael Thurber
Corrections Director

MT/lo

cc: Doug McDaniel, Human Resources Director
Kristy Bauer, Deputy County Attorney
Brad Johnson, Jail Administrator
Evan Juhnke, Correctional Officer
Personnel File

Terry Martinez
6-25-15

IN RE GRIEVANCE OF FOP 32 ON BEHALF OF OFFICER EVAN JUHNKE AND ALL MEMBERS IMPACTED.) June 25, 2015

TO: Michael Thurber, Department Head, or his designated representative

FROM: Fraternal Order of Police Lodge #32

COMES NOW Fraternal Order of Police Lodge #32 on behalf of Officer Evan Juhnke and all bargaining unit members affected, and for its grievance states as follows:

NATURE OF GRIEVANCE AND ACTS OF COMMISSION OR OMISSION GRIEVED:

The bargaining agreement currently in effect between FOP #32 and the County provides that, upon completion of 6 months of work, Correctional Officers move from Step 1 to Step 2 of the Correctional Officer's Pay Plan, as set forth in Appendix "A" of the agreement. Officer Evan Juhnke and any other affected members of the FOP #32 bargaining unit, have successfully completed their first 6 months of work but have been denied an increase to Step 2 of the pay plan on the 6-month anniversary of their start date. The Department has delayed the effective date of the 6-month raise under the pay plan set forth in Appendix "A" until the first pay period *following* the officers' 6-month anniversary dates. As a result, these officers continue to be paid under Step 1 of Appendix "A" for approximately two to three weeks (and perhaps longer) beyond the 6-month anniversary of their start dates. Therefore, the County has failed to pay Officer Juhnke and others in accordance with the pay plan set forth in Appendix "A." Emails from Lois Osburn to Officer Evan Juhnke describing the County's practice are attached hereto and incorporated herein by reference.

DATE OF ACTION GRIEVED: The FOP became aware of this action on June 18, 2015.

IDENTITY OF GRIEVING PARTIES: FOP #32 on behalf of Officer Juhnke and all other affected unit members.

IDENTITY OF PERSONS ALLEGED TO HAVE CAUSED GRIEVANCE: Lois Osburn and, upon information and belief, Michael Thurber, and other unknown parties.

PROVISIONS OF AGREEMENT THAT WERE VIOLATED: Article 12, Section 1; Appendix "A."

REMEDY SOUGHT: The Department should grant pay raises to officers who successfully complete 6 months' work effective upon the 6-month anniversary of the employees' start dates. The Department should afford back pay to any employees who have not received their pay raises in this manner.

Respectfully submitted this 25th day of June, 2015.

FOP #32, on behalf of Officer Evan Juhnke and its other members.

BY: _____

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530 South 13th Street, Suite 100
Lincoln, NE 68508
Ph: (402) 475-8230
Fax: (402) 475-8328

Attorney for the Grievant

From: Lois M. Osburn
Sent: Thursday, June 18, 2015 9:25 AM
To: Evan M. Juhnke
Subject: RE: 6 month pay

It does move to the following full pay period which for you will be June 25th. I've already entered it so everything should happen at the right time.

From: Evan M. Juhnke
Sent: Thursday, June 18, 2015 9:21 AM
To: Lois M. Osburn
Subject: 6 month pay

Lois,

I had a quick question about the pay after 6 months. Does the pay raise for working 6 months go into effect on the day of my six months or do i have to wait till the new pay period starts?

Thanks

Officer Evan M. Juhnke
Lancaster County Department of Corrections
Adult Detention Facility
3801 West O Street
Lincoln, NE 68508