

# **PERSONNEL POLICY BOARD**

## **July 7, 2022**

### **MEETING**

Meeting was held Thursday, July 7, 2022, Commissioners Hearing Room, County-City Building, Lincoln, Nebraska.

Members present: Mike Thew, Eric Brown, Steve Eicher, Jeanne Sayers, and Tara Paulson.  
Human Resources Department resource staff attending: Shelly Madison.

The meeting was opened at 12:00 p.m. by Eric Brown.

Agenda Item 1 was the approval of the minutes from the June 2, 2022 meeting. It was moved by Tara Paulson and seconded by Mike Thew to approve the minutes as presented. Voting YES: Mike Thew, Steve Eicher, Jeanne Sayers, and Tara Paulson. Abstaining: Eric Brown.

Agenda Item 2 was the request for discussion of a tie vote on grievance hearing from Jamie Draper – County Engineer. Rick DeBoer of IBEW, representing the grievant, was not present due to illness. Ashley Bohnet of the County Attorney’s office represented County Engineering. Ashley Bohnet asked Karen in the HR Department to look for any prior decisions and only found one that ended in a tie and the board continued the hearing to another month to have an odd number of members for the vote and basically redid the hearing. Looking at Robert’s Rules of Order, a tie vote is a lost vote since it’s not a majority. The grieving party needs a majority to overturn the decision made by the department head. Turning to case law, there was a case in point of *Caniglia v City of Omaha* from 1982. In this case, the court stated ‘we have held that where the vote of the members of a tribunal is evenly divided, it is treated as a denial of any affirmative release.’ Also, referred to *Colburn v Lancaster County*, a non-published opinion from 1999, where a tie vote did not render the decision for Colburn. Since Colburn was the Plaintiff, they did not meet the burden of proof to overturn the discipline that was imposed. It should also be noted that a higher court agreed with affirming the lower courts’ decisions if there is not a majority per a situation where the Nebraska Supreme Court had a tie, it affirmed the lower court’s decision *In re Interest of Dale L.* Eric Brown requested that Rick DeBoer’s research be sent to the Board Members for their review and determination. It was moved by Eric Brown and seconded by Mike Thew to postpone the action in order for the research to be presented. Motion unanimously carried by roll call vote.

Agenda Item 3 was the request for grievance hearing from Steve Slapnicka – County Engineer. Ashley Bohnet of the County Attorney’s office read into the record that Rick DeBoer was ill and the hearing will be carried over to the next meeting. It was moved by Eric Brown and seconded by Mike Thew to postpone the action to the next meeting. Motion unanimously carried by roll call vote.

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Agenda Item 4 was the request for grievance hearing from Megan Love & Timothy Burdick, and Austin Shindoll & Timothy Burdick – Corrections – Mandatory Overtime Back Half. Braden Storer of Keating, O’Gara, Nedved & Peter represented the grievant. Ashley Bohnet of the County Attorney’s office represented County Corrections. The proceedings were recorded by Joslyn Cummings of Thomas & Thomas Court Reporting and are on file in that office. Braden Storer offered Exhibits #1 through #6 and #8. Ashley Bohnet offered Exhibits #9 through #11. Eric Brown received all exhibits. Witnesses: Timothy Burdick, Daniel Goodman, Stacie Burke, Brett Wheeler and Brad Johnson. Following discussion, it was moved by Mike Thew and seconded by Tara Paulson to deny the grievance. Voting YES: Tara Paulson, Steve Eicher and Mike Thew. Voting NO: Jeanne Sayers and Eric Brown.

There being no further business, the meeting adjourned at 4:20 p.m.

The next regularly scheduled meeting is tentatively set for Thursday, August 4, 2022.

Shelly Madison  
Human Resources Clerk

PC: Kristy Bauer  
Ashley Bohnet  
Rick DeBoer  
Braden Storer  
Jamie Draper  
Steve Slapnicka  
Megan Love  
Timothy Burdick  
Austin Shindoll  
Brad Johnson  
Pam Dingman