

ALASKA STATE PERSONNEL BOARD MINUTES

January 12, 2004

9:00 A.M.

Attendees:

In person:

Chuck Borg, Chairman

Ron Otte, Member

Debbie English, Member

By teleconference:

Sarah Felix

Lynn Ate

Dianne Corso

Lee Powelson

1. CALL TO ORDER:

Chairman Borg called the meeting to order at 9:00 A.M. on January 12, 2004 in the Anchorage office of the State Division of Personnel. He introduced the Board members present in Anchorage.

Chairman Borg called on Sarah Felix to respond to a few questions. First, the Board received a letter with the Commissioner's name on it but did not know who signed the letter. He was concerned that a copy of the public notice as published in the newspaper was not included. Lynn Ate mentioned that the affidavit of public notice was in the mail, and that, "We are still waiting for the newspaper to get that to us and we are following up on it."

Chairman Borg expressed concern and asked the Attorney General's Office to comment on 1) whether the Board has to have the affidavit and 2) because the meeting was postponed from the 8<sup>th</sup> of January, 2004 to the 12<sup>th</sup> of January, 2004, whether the Board was on solid ground regarding the public notice.

Sarah Felix from the Attorney General's office responded that the Board does not have to have the affidavit of public notice to conduct the meeting unless we question whether the notice was actually published. Ms. Felix understands the notice was published. She stated she did not have a copy of the public notice but mentioned there was one available and asked if everyone attending the meeting had a copy of it. Chairman Borg stated the Board did not have a copy of the public notice that was supposed to be included in the packet that was signed by the Commissioner.

Lynn Ate stated she had a faxed copy of the affidavit. Chairman Borg and Sarah Felix said they do not need to see it, but asked Lynn Ate from Juneau to read the public notice for record.

Chairman Borg expressed concern on the postponement regarding the date change. Sarah Felix's view is that given that the meeting was properly noticed 30 days in advance, it is allowable to do a supplemental notice. Since the re-scheduled date was later rather than earlier, the notice would cover that meeting.

Lynn Ate proceeded to read the public notice that went into the newspaper on Friday January 9, 2004. The date the notice was originally published was December 10, 2003.

Chairman Borg introduced three guests attending the meeting: Mr. Laddie Shaw, Mr. Dean Hill, and Mr. Gary Kurpius. Borg indicated they were present to provide comment or testify on the rule change and that their comments would be held until the Board reaches that agenda item.

## 2. APPROVAL OF AGENDA:

Chairman Borg initiated one change to the agenda: adding public comment of the general nature. Borg proposed that that item be added as item number 3. Borg then asked the Board if they had any comment to the agenda. Board members did not have any comments or changes.

## 3. PUBLIC COMMENT OF GENERAL NATURE.

None

## 4. ETHICS DISCLOSURES:

Chairman Borg indicated that he does have disclosure forms that were submitted to him for the last two quarters in 2003, which he signed and will get them back to the Department. of Law with a copy to the Division.

## 5. APPROVAL OF MINUTES:

Minutes dated November 14, 2002 were deferred until the next meeting. Chairman Borg commented that despite the 14 months since that meeting, the minutes had not yet been done and he would like to set a deadline for minutes of 30-45 days after a meeting. Dianne Corso responded that the timeframe is more than reasonable and that there would be at least a draft of the minutes out within the 30 days.

## 6. REVIEW OF PENDING CASE LOG:

Board members had no questions or comments about the case logs. Chairman Borg had a few questions about the case pending log dated November 30, 2003, but no further question or comments about the pending case logs were made.

## 7. REVIEW OF ETHICS CASES:

Chairman Borg asked if the two ethics cases that were presented were for informational purposes only, and verified that the Board had reviewed the two cases. Neither Borg nor the members had any additional comments or questions.

#### 8. PROPOSED PERSONNEL RULES CHANGES:

Chairman Borg asked Dianne Corso to summarize the proposed changes, particularly on paragraphs B and C. Dianne Corso responded that Alaska residents often leave the State for purposes of education and do not return to Alaska because they cannot qualify for State of Alaska jobs, because one of the requirements is that you have to be an Alaskan resident to apply.

Ms. Corso said that a shortage of applicants occurs mainly in the areas of social work, nursing and medical fields, and engineering. She mentioned that the State of Alaska would like to give more opportunity to people who are already familiar with the state to apply for jobs, and that is the purpose of paragraph B. The primary objective in "C" is to explain how the State of Alaska plans to implement the expanded definition of Alaska residency. Corso then called on Lynn Ate to explain this in more detail.

Chairman Borg then asked Ron Otte if he had any questions or comments. Otte recalled that a few years ago the State of Alaska was having difficulty in recruiting certain skilled positions. His concern was that some jobs asked the applicant to have a certain degree or years of experience, and would this cause a problem with recruiting outside or from college or military based applicants when just a degree is not enough to meet qualifications.

Corso responded that the State of Alaska does have a process for recruiting out-of-state and has become more open to authorizing recruitments as the need arises, that the option is available and being used. This proposed change means that people who graduated from high school or college, or received a GED, as residents of Alaska regardless of how long they have been gone, can apply for jobs which are not being recruited out-of-state. This proposal expands the definition of residency for the purposes of applying for state jobs.

A discussion ensued regarding the appearance that veteran's preference was being reduced. This centered on provision of a selection process that allows various types of ranking but may or may not be based on a point mechanism. Under AS.39.25.159 there would be a certain number of points added to the final passing grade. The veteran's preference statute is not eliminated but the proposed change would implement it in a different way. Ate provided an example of how the proposed language would work, and explained that the law itself is so specific that the regulations really do not need language for clarification.

English's concern was that people could interpret the wording as taking away the right to veteran's preference, and it really was not. Ate added that in 2001 all reference in the regulation to implementing the veterans' preference was removed because the law itself is so clear, specific and detailed. The instructions that are given to hiring managers clearly refer them to the statute itself. The process of utilizing Work Place Alaska incorporates this law in the hiring manager's instructions. Corso also explained that it is part of the standard checklist for certifying any

particular hire. English felt that the proposed language should be worded so as to be clearer as to what the changes entail for the veterans.

Chairman Borg felt that the Board had an understanding of the issues, that the statute does not require a point system, but that the existing language in the regulations may insinuate that it required a point system. A revision is needed for clarification

Chairman Borg provided for members of the public to comment. He asked them to keep their comments brief, preferably no longer than 5 minutes. Laddie Shaw sought to ensure the veterans were not losing any benefits. Gary Kurpius commented also on the confusion. He thought they were going to lose one of their veteran entitlements. Dean Hill stated he felt the same way as Laddie Shaw, and Gary Kurpius: that they are not losing anything but would like to take a look at the final draft when finished. He was satisfied with the assurances and would like to add that he agrees with Gary on clarifying the wording.

Chairman Borg indicated that he had concerns about the language causing an erroneous perception. It appeared to diminish veterans' benefits, however the further explanation satisfied him that they would not actually be diminished. He felt that another look at the proposal was in order. For that reason, he did not support a positive vote on the motion at this time. Ron Otte supported the change, but felt it could have been worded better.

Corso proposed to offer an additional sentence. Ate suggested that it read as follows: "Any preference for certain Veterans, disabled Veterans, former prisoners of war, or active members of the Alaska National Guard as provided in AS.39.25.159 must be considered in the final selection process."

The Board members all agreed to the new wording and agreed that no further discussion was needed. The personnel rules were so amended.

#### 9. EXPANSION OF THE PARTIALLY EXEMPT SERVICE:

Corso began this discussion by explaining that there was a request to move a vacant classified position to the partially exempt service based on changes in the nature of the work and the requirements for recruitment. Lee Powelson provided more detail: The former position description (PD) and class specifications were over 22 years old. During that time, the environment in which the workers compensation disputes are heard has changed considerably. The Board consists of two members plus a hearing officer from the Department of Labor and Workforce Development. The chief of Workers Compensation adjudication supervises all of those people who do investigations and who serve as hearing officers. The decisions of the Board are subject to appeal to the Superior Court. In the last 20 years, the frequency at which attorneys represent people at hearings has increased, and so has the possibility of cases being advanced to court when one of the parties does not like the decision of the Board. In reviewing the classification specifications, the Division of Personnel made changes to the minimum qualifications to require that applicants be members in good standing of the Alaska Bar and have experience with Workers Compensation law and hearings. This is needed because this position is responsible for reviewing all draft decisions of the Board before they become permanent. Also,

when a decision is appealed to the court this person will review the case and make the decision on engaging an attorney on behalf of the agency to defend its action. This constitutes a substantial change. Selecting someone who will serve as the state's primary counsel on this type of issue should be discretionary and meet the requirements for inclusion in the partially exempt service.

Chairman Borg then asked Board members to comment. Board members did not have questions and understood the issues.

Chairman Borg was concerned about the position being described as 'assisting' rather than making determinative decisions. Lee Powelson clarified that the director is ultimately responsible for policy and operation of the division. The director is not required to be either an attorney or someone who has long experience with Workers Compensation cases, and in the adjudication of those cases. This position, the incumbent of which will be required to be an attorney, will play a large role in the development and implementation of policy, as well as be the supervisor of all of those employees who function as hearing officers. Powelson agreed to work with the director to make the PD clearer. Chairman Borg requested an explanation of "cases of first impression," which Powelson provided

Chairman Borg also noted that the description of supervisory duties was not consistent with the organizational chart. Lee Powelson agreed that either the organizational chart or the PD needed to be changed, and assured that corrections would be made

Chairman Borg proposed the motion, and there was a unanimous vote to accept the extension of the partially exempt to include this position.

#### 10. UPDATE FROM DIRECTOR OF PERSONNEL:

Dianne Corso directed the Board's attention to the document entitled Human Resource Enterprise Integration Overview (attached), which identified recent changes in the Division of Personnel. She highlighted the major points identified and entertained questions.

English requested information about cross training DOP staff. Corso replied that the division has embarked on an effort to provide training to staff in the basic areas of human resources; they are calling the formal training sessions academies. Academies already held include classification and recruitment and selection. There will also be training on Labor Relations and other core functions as well. They are also requiring all management services employees to go through the supervisory training classes. Staff will also be encouraged to periodically move to a new position with a new primary focus of work in order to become a generalist.

English asked about the proposed reduction in number of employees under the integration. Corso responded that of 230 positions that were considered in the integration planning process, the division ultimately transferred 202 positions. Presently, about 170 of those positions are filled. No major changes are planned.

English also asked about department feedback. to which Corso responded that DOP is meeting regularly with the Administrative Service directors. Ron Otte commented that he had heard several complimentary comments and that he was impressed.

Chairman Borg thanked Corso for her report

Chairman Borg asked if anyone had any other matters to bring before the Board.

#### 11. OTHER MATTERS THAT MAY COME BEFORE THE BOARD

##### A. NEXT MEETING

Chairman Borg pointed out that his term expires on March 1, 2004. He also suggested that the Board should proceed to review the Personnel Rule changes in sections, rather than all at once. All parties agreed. A date of mid-March was set. Otte asked Corso to look into providing for a new chair.

##### B. OTHER

There were no other matters to come before the Board.

#### 12. ADJOURNMENT:

Chairman Borg adjourned the meeting at 10:55 AM.