



New Mexico State Personnel Board State Personnel Office

**SUSANA MARTINEZ
GOVERNOR**

Eugene J. Moser
Director

Nivia L. Thames
Deputy Director

State Personnel Board
Paul T. Yarbrough, Chairman
Christine Romero, Vice Chairman

Devon Day Rebecca Long

**State Personnel Board Meeting
State Personnel Office
2600 Cerrillos Road
Santa Fe, NM 87505
August 29, 2013**

Minutes

I. Procedural Items

Call to Order

The meeting of the State Personnel Board was called to order by Chairman Yarbrough at approximately 9:05 a.m. on August 29, 2013, at the State Personnel Office, Santa Fe, New Mexico.

Invocation David Berry

Pledge of Allegiance Justin Najaka

Roll Call

Eugene Moser, Director, State Personnel Office (SPO), called roll and a quorum was established with the following members present:

Paul Yarbrough, Chairman
Christine Romero, Vice Chairman
Rebecca Long
Devon Day

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Approval of Agenda

Board Member Long moved to approve the agenda, seconded by Vice Chairman Romero. Motion carried.

Approval of Minutes – June 24, 2013

Board Member Long moved to approve the June 24, 2013 State Personnel Board meeting minutes, seconded by Vice Chairman Romero. Motion carried.

II. Director's Report

Director Moser provided an update to the FY13 4th quarter workforce report and noted hiring is becoming stabilized.

SPO continues to work on the statewide supervisor/management training program. Preliminary recommendations will be presented for consideration in the FY15 budget in mid to late September.

Several agencies are working on the FY09 Union Lawsuit and its impact to the state.

Director Moser introduced new staff.

III. General Public Comment

None.

IV. MVD Performance Excellence Award Presentation

Mark Williams, Director, Motor Vehicle Division (MVD), presented the MVD Performance Excellence Award to Julia Lanham, Training Director, SPO. Mr. Williams noted the award is presented to employees for their outstanding work in improvement. Ms. Lanham has successfully deployed an MVD pilot project to initiate Accelerate Performance Excellence (APEX), a multi-phased succession management initiative designed to improve the performance of state agencies. The MVD pilot program's approach provides a framework for creating and institutionalizing a common orientation for systemic management and organizational improvement within and between agencies. The MVD pilot program aims to improve operating performance of MVD, via a targeted expansion of APEX, that marries the Senior Executive Service (SES) competency model with Governor Martinez's Executive Order 2012-003, linking the State's vision, mission and values with Quality New Mexico (QNM) improvement concepts, principles and practices. QNM is the most widely accepted and proven system for effective, fact-driven management.

V. FY14 Strategic Plan

Director Moser provided the Board with the SPO FY14 Strategic Plan. The plan includes strategies, goals and objectives and is similar to the FY13 Strategic Plan.



Board Member Day moved to approve the FY14 Strategic Plan, seconded by Board Member Long. Vice Chairman Romero requested that updates to the plan be provided on a quarterly basis. Vice Chairman Romero moved to approve the FY14 Strategic Plan with a modification to include in the Strategic Plan that the SPO Director is directed to update the SPB on the progress and implementation of the Strategic Plan for FY14, seconded by Board Member Long. Motion carried.

VI. FY15 Operating Budget Request

Eve Banner, Chief Financial Officer, SPO presented the proposed FY15 Operating Budget. If approved by the Department of Finance and Administration (DFA), an expansion of \$207,500 in general fund for the multi-phase succession management training program will be included in the request. The request is flat as requested by DFA for categories 300 and 400; however an increase is being requested in category 200 for six (6) unfunded positions.

The total agency request for FY15 is \$4,536,200 in general fund and \$345,300 in other state funds for a total of \$4,881,500. In response to Vice Chairman Romero, Director Moser said there was not a limit on the percentage of increase each agency could request by the Governor's office. Ms. Banner noted that if the multi-phase succession management training program expansion is approved the total FY15 operating budget request will total \$5,089,000.

Vice Chairman Romero asked if the budget request includes any out-of-state trips. Ms. Banner said \$3,500 is requested for out-of-state trips. Director Moser noted that the only out-of-state trip planned in FY15 is for him to attend the National Association of State Personnel Executives (NASPE) annual conference.

Board Member Long moved to approve the FY15 Operating Budget Request in the amount of \$5,089,000 with the understanding that the documentation will be amended to reflect the additional \$207,500 expansion request, if approved by DFA, seconded by Board Member Day. Vice Chairman Romero asked what the benefit increase is for employees. Ms. Banner said it is eight percent. Director Moser noted that eight percent is low; another increase in premiums is anticipated. Motion carried.

VII. Department of Health – Policy Making Exempt Positions

April Naranjo, Senior HR Consultant, SPO said in accordance with Subsection N of the Personnel Act 10-9-4, Coverage of Service, Department of Health (DOH) is requesting a change to the classification and duties of an already designated exempt policy making position.

Currently, position 11869 is designated as an exempt policy making position and was approved by the State Personnel Board in 2008. The position was classified as a Hospital Administrator at one of DOH's rehabilitation facilities in Roswell. The duties of the position have evolved and require a broader level of responsibility and accountability. DOH is requesting a change in the classification to a Special Director. As a Special Director, the position will serve as the Chief Facilities Officer and will oversee six (6) state run facilities as well as the Los Lunas Community program.

The position will be responsible for providing executive decisions and leadership in all phases of administrative operations within all six facilities, to include providing testimony before the program's governing board, legislative and Medicaid committees. As a Special Director, the position has authority to make policy on behalf of the Cabinet Secretary while ensuring policies are in the best interest of the facilities and the clients served by the facilities. DOH has confirmed that this position designs, develops and implements policy of public and statewide impact. The position will act on behalf of the people, communities or government, rather than private matters or interest. The already designated policy making exempt position will merely be a change in the classification and clarification of duties.

In collaboration with DOH's request, SPO is requesting the Board's approval to continue the policy making designation within the Special Director classification.

Brad McGrath, Deputy Secretary, DOH added that the Chief Facilities Officer oversees approximately 2,200 clients. The position will allow a senior level person to travel throughout the State to the seven – 24 hour facilities.

Board Member Long moved to continue the policy making designation for position 11869 within the Department of Health, seconded by Vice Chairman Romero. Deputy Secretary McGrath clarified that each of the seven facilities has an administrator that report to the Chief Facilities Officer who reports to the Chief Deputy Secretary. Vice Chairman Romero expressed concern with the generic classification of Special Director. Teresa Padilla, HR Director, DOH explained that the department is limited to Governor exempt classifications. DOH chose the title that fit the best. In addition, the salary range fit the best. The classification title will be Special Director, but the working title and the agency title will be Chief Facilities Officer. Motion carried.

Deputy Secretary McGrath noted that DOH has an excellent working relationship with SPO and is very grateful for the partnership.

VIII. Safety Sensitive Position Removal – Energy, Minerals and Natural Resources Department

Alicia Lucero, HR Consultant, SPO presented the request for removal of designation of safety sensitive positions for the Energy, Minerals and Natural Resources Department (EMNRD). In accordance with Designation of Safety Sensitive Positions, Subsection D of 1.7.8.9 NMAC, the Energy, Minerals and Natural Resources Department (EMNRD) is requesting the Board's approval for an out-of-cycle request for deletion of 17 safety sensitive positions.

Per House Bill 2, 12 of the 17 positions have been eliminated and will no longer be necessary or budgeted. Five of the 17 positions will be reclassified and will no longer perform tasks that require safety sensitive designation.

Ms. Lucero recommended approval of removal of the Safety Sensitive Designation of the requested positions for the Energy, Minerals and Natural Resources Department.

Chairman Yarbrough asked if the proposal would result in employee's losing their jobs. Jerome Madrid, Deputy Director, State Parks Division, EMNRD said removal of these positions will not

result in anyone losing their job. Twelve positions were eliminated and no longer exist. The additional five positions will be transferred out of the State Parks Division and into other divisions.

Board Member Long moved to approve the removal of Safety Sensitive Positions for the Energy, Minerals and Natural Resources Department, seconded by Vice Chairman Romero. Motion carried.

IX. Classification

a. Spaceport Authority

Board Member Long moved to table the Spaceport Authority classification series, seconded by Vice Chairman Romero. Motion carried.

b. State Land Office Real Estate Appraiser

Cliff McNary, State Classification Manager, SPO presented the State Land Office (SLO), Real Estate Appraiser classification and pay bands. The classification stems from a 2010 audit from the Office of the State Auditor. The classification is necessary to deal with very complex real estate appraisal transactions. Mr. McNary provided the responsibilities for the job and said the certification is highly necessary in order to handle some of the lesser real estate transactions, but also the complex federal land transactions and land swaps.

Mr. McNary recommended adoption of the State Land Office, Real Estate Appraiser classification and assigned pay bands.

Don Britt, Assistant Commissioner, Commercial Resource Division, SLO, provided an overview of the State Land Office. The proposed classification will be utilized as an advisor for setting terms, conditions and rates for many different leases throughout the state.

Chairman Yarbrough expressed concern with creating a position that would impair the oil and gas industry and asked if there was a goal to take certain state land away from potential oil and gas production and giving it to green energy instead. He asked if the position would look at state lands that might otherwise might not be suitable for oil and gas production, but would be suitable for green energy. Mr. Britt said the position would not look at taking any production from the oil and gas industry.

Board Member Day moved to approve the State Land Office, Real Estate Appraiser classification and assigned pay bands, seconded by Board Member Long. Motion carried.

c. Enterprise Resource Planning

Board Member Long moved to table the Enterprise Resource Planning classification, seconded by Vice Chairman Romero. Motion carried.

d. Taxation and Revenue Department Managers

Cliff McNary, State Classification Manager, SPO presented the Taxation and Revenue Department, Managers classification and said it is part of an ongoing manager classification project. The positions are currently classified as General Manager I's.

Mr. McNary recommended adoption of the Taxation and Revenue Department, Managers classification series and pay bands and noted there is no cost impact.

Board Member Long moved to approve the Taxation and Revenue Department, Managers classification series and pay bands, seconded by Vice Chairman Romero. Motion carried.

e. General I Manager – Nursing

Cliff McNary, State Classification Manager, SPO presented the General I Manager – Nursing classification and pay band and said the classification is an ongoing manager classification study. The proposed classification is for the director of nursing in both the New Mexico Behavioral Health Institute and Ft. Bayard.

Mr. McNary recommended adoption of the General I Manager – Nursing classification and pay band and noted there is no cost impact. In response to Chairman Yarbrough, Mr. McNary said the classification currently only impacts the Department of Health.

Board Member Long moved to approve the General I Manager – Nursing classification and pay band, seconded by Vice Chairman Romero. Motion carried.

X. Executive Session

Vice Chairman Romero moved that the State Personnel Board meeting be closed. The authority for closing the meeting is under the Open Meetings Act NMSA 1978, Section 10-15-1 (H)(3), for deliberations in connection with an administrative adjudicatory proceeding, for the matters listed on the agenda; seconded by Board Member Long:

Director Moser called roll and all members voted in the affirmative. **Motion carried.**

The Board met in Executive Session from approximately 11:15 a.m. to 12:02 p.m. For the record, the matters discussed in closed session were limited to those specified in the Motion to close.

1. *Hayden v. NM Department of Workforce Solutions; Docket No. 12-013;*
2. *Garcia v. NM State Board of Licensure for Professional Engineers and Professional Surveyors; Docket No. 12-075;*
3. *Hollis v. NM Taxation and Revenue Department; Docket No. 12-108;*
4. *Nance v. NM Corrections Department; Docket No. 12-083;*

5. *Kowach v. NM Department of Transportation*; Docket No. 12-094;
 6. *Gutierrez v. NM Public Regulation Commission*; Docket No. 12-043;
 7. *Baptiste v. NM Corrections Department*; Docket No. 12-059;
 8. *Soherr-Hadwiger v. NM Higher Education Department*; Docket No. 12-051 [Tabled]; and
 9. *Carr v. New Mexico Regulation and Licensing Department*, Docket 13-024 - Appeal of Hearing Officer's Determination on Appellee's Motion for Designated Hearing Officer.
- After careful consideration of the proceedings and the Administrative Law Judge's recommendations in *Hayden v. NM Department of Workforce Solutions*; Docket No. 12-013, **Board Member Long moved to adopt the Administrative Law Judge's recommended decision, seconded by Vice Chairman Romero. Motion carried.**
 - After careful consideration of the proceedings and the Administrative Law Judge's recommendations in *Garcia v. NM State Board of Licensure for Professional Engineers and Professional Surveyors*; Docket No. 12-075, **Vice Chairman Romero moved to adopt the Administrative Law Judge's recommended decision, seconded by Board Member Long. Motion carried.**
 - After careful consideration of the proceedings and the Administrative Law Judge's recommendations in *Hollis v. NM Taxation and Revenue Department*; Docket No. 12-108, **Board Member Day moved to adopt the Administrative Law Judge's recommended decision, seconded by Board Member Long. Motion carried.**
 - After careful consideration of the proceedings and the Administrative Law Judge's recommendations in *Nance v. NM Corrections Department*; Docket No. 12-083, **Board Member Long moved to table the Administrative Law Judge's recommended decision, and have this matter come before the Board at the next scheduled meeting, seconded by Board Member Day. Motion carried.**
 - After careful consideration of the proceedings and the Administrative Law Judge's recommendations in *Kowach v. NM Department of Transportation*; Docket No. 12-094, **Vice Chairman Romero moved to adopt the Administrative Law Judge's recommended decision, seconded by Board Member Day. Motion carried.**
 - After careful consideration of the proceedings and the Administrative Law Judge's recommendations in *Gutierrez v. NM Public Regulation Commission*; Docket No. 12-043, **Board Member Day moved to adopt the Administrative Law Judge's recommended decision, seconded by Vice Chairman Romero. Motion carried.**
 - After careful consideration of the proceedings and the Administrative Law Judge's recommendations in *Baptiste v. NM Corrections Department*; Docket No. 12-059, **Vice Chairman Romero moved to adopt the Administrative Law Judge's recommended decision, seconded by Board Member Long. Motion carried.**
 - After careful consideration of the Motion for Leave to Amend Notice of Appeal to Request Reinstatement to Another Agency in *Soherr-Hadwiger v. NM Higher Education Department*; Docket No. 12-051, **Board Member Day moved to deny the motion, seconded by Board Member Long. Motion carried.** After careful consideration of the proceedings and the administrative law judge's

recommendations in the same case; **Board Member Long moved to adopt the Administrative Law Judge's recommended decision, seconded by Board Member Long. Motion carried.** Ms. Valicenti noted for the record, Director Moser was not present for deliberations and recused himself from any participation.

- After careful consideration of the proceedings and appeal of the hearing officer's determination in Appellee's Motion for Designated Hearing Officer in *Carr v. New Mexico Regulation and Licensing Department*, Docket 13-024, **Board Member Long moved to deny the motion, seconded by Board Member Day. Motion carried.**

XI. Litigation Update

None.

Leonard Padilla, Chief Administrative Law Judge, SPO indicated that this was his last meeting and expressed his pleasure and honor serving the Board. Chairman Yarbrough thanked Mr. Padilla on behalf of the Board for serving as the Chief Administrative Law Judge for the SPO.

- XII. Other Business - Next Meeting Date:** The State Personnel Board meeting originally scheduled for September 27, 2013, is rescheduled for October 28, 2013, in Santa Fe beginning at 9:00 a.m.

XIII. Adjournment

With no further business, **Board Member Day moved to adjourn the State Personnel Board meeting at approximately 12:20 p.m., seconded by Board Member Long. Motion carried.**

Approved by:


Chairman Yarbrough
State Personnel Board

Attest:


Eugene Moser, Director