

PERSONNEL ADMINISTRATION BOARD
OF KENT COUNTY, DELAWARE
Meeting Minutes
February 23, 2022

A meeting of the Personnel Administration Board of Kent County was held on Wednesday, February 23, 2022 at 6:00 p.m. at the Kent County Administrative Complex at 555 Bay Road in Dover.

Members present: Chair Anna Owens, Vice- Chairman Ronald Taylor Jr., Jack Barnhardt, Monica Enrique, Richard Locke, and Penny Vlach.

Members absent: Margie Macleish

Also in attendance for the hearing were: Board Attorney Fred Townsend, Board Secretary Allan Kujala, County Attorney Craig T. Eliassen, Recorder of Deeds Betty Lou McKenna, Deputy Recorder of Deeds Vanessa Laughman, Director of Information Technology Kimberly Crouch, and the former employee [name withheld].

1. Call to Order

The meeting was called to order at 6:00 p.m. by Chair Owens.

2. Roll Call and Determination of Quorum

The Roll was taken and the Board Secretary reported that six members were present with one absent. Chair Owens declared a quorum was secured.

3. Additions to and Approval of the Agenda

A motion was made by Mr. Taylor seconded by Mr. Locke, and carried by a 6-0 roll call vote to approve the agenda as presented.

4. Approval of the Minutes of the Previous Meeting and Actions Thereon

a) October 24, 2016

A motion was made by Mr. Locke, seconded by Ms. Vlach, and carried by a 6-0 roll call vote to approve the minutes as presented for the October 24, 2016 meeting/hearing.

5. Old Business

None.

6. New Business

a) Election of Chairman

A nomination was made by Mr. Locke that Chairwoman Anna Owens be reelected as Chair. No other nominations were received. The election was approved unanimously.

b) Election of Vice-Chairman

A nomination was made by Ms. Vlach that Richard Locke be elected as Vice-Chairman, but Mr. Locke declined and announced he intended to retire from the Board in the near future due to declining health.

A nomination was made by Ms. Vlach that Ronald Taylor be elected as Vice-Chairman. No other nominations were received. The election was approved unanimously.

c) Rules of Procedure

Personnel Administration Board
of Kent County, Delaware
Hearing Rules of Procedure

1) Testimony, questions, cross examinations, summations, and comments must be relevant to the subject matter before the Board for consideration. Repetitive, vague, lengthy, overly complex or argumentative questions, and/or inappropriate statements will be ruled out of order by the Chairman.

2) Order of Business

- A) Introduction of Board
- B) Introduction of County Representatives/Appellants
- C) Open Hearing
- D) Secretary's Report
- E) Presentation by County
- F) Cross Examination
- G) Redirect
- H) Board Questions
- I) Presentation by Appellant
- J) Cross Examination
- K) Redirect
- L) Board Questions
- M) Rebuttal
- N) Board Questions
- O) Appellant Summation
- P) County Summation
- Q) Close Hearing

- 3) Board Deliberation – Discuss the facts of the hearing & make a motion as follows to:
- A) Sustain and Uphold the decision of the Department Head
 - 1) Each board members individually states why the action was justified

or

 - B) Reverse and Overturn the decision of the Department Head
 - 1) Finding the adverse personnel action is erroneous as a matter of law, or
 - 2) The adverse personnel action is arbitrary and capricious, or
 - 3) Otherwise unsupported by preponderance of evidence
(the employee shall be reinstated without loss of pay/tenure of service).

or

 - C) Modify and Amend the decision of the Department Head
 - 1) Find the adverse personnel action was too severe and substitute with
 - a) Suspension without pay for a specified # of days, or
 - b) Demotion to a lower grade/pay, or
 - c) Written reprimand, or
 - d) Other similar action admonishing the employee for misconduct

or

 - D) Dismiss the appeal as frivolous and/or outside the jurisdiction of the Board.
- 4) Board Decision in Writing within 10 Working Days

A motion was made by Mr. Locke, seconded by Mr. Taylor, and carried by a 6-0 roll call vote to adopt the Hearing Rules of Procedure as presented.

d) Hearing on Written Appeal
1) Filed 12/30/2021

Chair Owens asked the appellant if she wanted the hearing to be closed or open to the public.

The appellant asked that the hearing be open to the public.

Chair Owens asked the County and appellant if either wanted to sequester witnesses.

Neither the appellant nor the County asked that witnesses be sequestered.

Chair Owens opened the hearing.

Following introductions, the Board Secretary submitted the following report

certifying that the various deadlines and notifications required by Kent County Code were met:

SECRETARY’S REPORT
Termination Appeal filed on 12/30/2021 by former employee
[NAME WITHHELD]

1. On or about November 17, 2021, employee was notified by letter that a pre-termination hearing would be held on November 24, 2021 with reasons for the proposed disciplinary action listed. The employee was also placed on administrative leave with pay pending the hearing decision.
2. On November 24, 2021, a pre-termination hearing was held by the employee’s Department Head. The employee attended said hearing and requested a postponement. A new hearing date was scheduled for December 9, 2021. The employee was placed on administrative leave without pay pending the rescheduled hearing decision.
3. On or about November 24, 2021, employee was notified by letter that an additional concurrent pre-termination hearing would be held on December 9, 2021 with reasons for the proposed disciplinary action listed.
4. On December 9, 2021, a concurrent pre-termination hearing was held by the employee’s Department Head. The employee attended said hearing.
5. On or about December 10, 2021, the employee was notified by letter that her employment was terminated with reasons for the adverse disciplinary action listed.
6. On or about December 15, 2021, the former employee filed a request for modification with the Personnel Director.
7. On or about December 16, 2021, the Personnel Director issued a written response denying the request for modification.
8. On or about December 30, 2021, the former employee filed an appeal of the adverse disciplinary action (termination) to the Personnel Administration Board.
9. On or about January 13, 2022, a hearing was scheduled for February 23, 2022 and notice sent to the parties involved on the same date along with documentation related to the adverse disciplinary action to date and by this reference said documentation is hereby included in the official hearing record. A draft copy of the Hearing Rules of Procedure was also provided.

/s/ Allan Kujala
Board Secretary

Chair Owens directed the County to proceed with its presentation in support of the termination. It did.

Chair Owens provided the Appellant opportunities to question witnesses, cross-examine witnesses, give testimony, and make statements in her defense. She did.

Chair Owens closed the hearing after the parties concluded their presentations and summations.

After due deliberation, a motion was made by Mr. Taylor, seconded by Mr. Locke, and carried by roll call of 6 votes in favor (Barnhardt, Enrique, Locke, Owens, Taylor, Vlach) to 1 absent (MacLeish) to uphold the decision to terminate the employment of [NAME WITHHELD] because the Department Head has demonstrated just cause by a preponderance of the evidence that the former employee violated County ordinances, administrative regulations, and department rules and no evidence was presented by the former employee that the decision was erroneous as a matter of law, arbitrary and capricious or otherwise unsupported by substantial evidence. Each member specifically stated her/his reason(s) for voting in favor of the motion.

Chair Owens advised that a written decision would be prepared within 10 days and copies sent to the parties.

7. A motion was made by Mr. Taylor, seconded by Mr. Locke, and carried by a 6-0 roll call vote to adjourn the meeting. Meeting was duly adjourned at 9:15 p.m.

Minutes were prepared by Board Secretary Allan Kujala and are unofficial until approved at a future meeting of the Board.