

STATE OF NEVADA

**Minutes for the
Nevada Occupational Safety and Health Review Board
Las Vegas, Nevada**

January 24 and 25, 2019

Present

**James Halsey (labor)
Sandra Roche (management)
Frank Milligan (public at large)**

January 24, 2019

On January 24, 2019, a meeting of the Nevada Occupational Safety and Health Review Board was convened. The meeting took place at the Department of Occupational Safety and Health, 3360 West Sahara Avenue, Suite 175, Las Vegas, NV 89102.

1. Roll Call.

Acting Chairman by acclamation, James Halsey called the Board meeting to order at approximately 9:06 a.m. Those Board members personally attending the meeting were Acting Chairman, James Halsey and members Frank Milligan and Sandra Roche. Absent from the meeting were Chairman Steve Ingersoll and Secretary Rodd Weber. The Notice of Meeting was duly provided under Chapter 618 of the Nevada Revised Statutes and in accordance with NRS Chapter 241 of the Nevada Open Meeting Law. A copy of the Notice is attached to these minutes and made a part hereof as though fully set forth herein. Also in attendance at the meeting in person was Board Legal Counsel, Charles R. Zeh, Esq., The Law Offices of Charles R. Zeh, Esq., and Salli Ortiz, Esq., Division Counsel, Division of Industrial Relations (DIR), as well as assorted observers.

As three Board members were present to participate on the meeting, one on behalf of labor and one on behalf of management, a quorum was present.

Notice of the meeting was posted or published, electronically or otherwise, consistent with the requirements of the Nevada Open Meeting Law.

2. Public Comment.

There was no public comment.

3. Contested Cases Hearings.

- a. **LV 19-1956, UNIVERSAL PROTECTION SERVICE, LP**
- b. **LV 19-1954, INTEGRITY MASONRY**
- c. **LV 18-1910, PLATINUM PLASTERING**

Board counsel advised that the contested hearings on the three remaining matters on the Agenda for today's meeting had been vacated prior to the hearing upon various motion granted by the Board Chairman. Cases LV 19-1956, Universal Protection Service, LV 19-1954, Integrity Management, and LV 18-1910, Platinum Plastering, will be rescheduled for hearing at a later date. In the case of Universal Protection Services, LP, the State's Motion to Vacate was granted. The motion of respondent to vacate and continue was denied. These motions were decided by Board Chairman Steve Ingersoll prior to the commencement of the Board meeting.

4. Administrative Meeting.

- a. **Approval of the previous Review Board minutes of December 12 and 13, 2018.**

Acting Chairman Halsey next called this matter to be heard, consideration of the minutes for the Review Board meeting of December 12 and 13, 2018. It was moved by Sandra Roche, seconded by Frank Milligan, to approve the minutes as written. **Motion adopted.**

Vote: 3-0.

- b. **Review contested case settlement, motions, draft decision, or procedural issues pending on status report, for approval and issuance of final order:**
 - i. **RNO 17-1929, RENO FORKLIFT, INC.**

Acting Chairman Halsey called this item to be heard. Acting Chairman Halsey asked Board Counsel to explain. He advised that the written decision resolving this matter was before the Board. The only issue was whether the decision, as written, comported, in the Board's opinion, with the action taken by the Board when it decided the case. Board counsel advised that the attorney for Reno Forklift, Bruce Mundy, Esq., had been informed that he could call into the meeting to participate in the deliberations by conference call. Mr. Mundy advised Board counsel that he elected not to take advantage of this opportunity. With this explanation of the matter as it stood before the Board, it was moved by Sandra Roche, seconded by Frank Milligan, to approve the decision as written as it comported with the disposition of the case by the Board. It was further moved, to authorize Board counsel to make any typographical corrections without further review of the Board. **Motion adopted.**

Vote: 3-0.

ii. RNO 18-1937, SAVAGE SERVICES

This item, 18-1937, Savage Services, was tabled briefly, to give counsel for Savage Services the opportunity to call in and participate in the deliberations on this matter.

iii. RNO 18-1917, NIKAM DEVELOPMENT

iv. RNO 18-1918, NIKAM DEVELOPMENT

The Board then considered the settlement and disposition of these two matters. It was accordingly moved by Frank Milligan, seconded by Sandra Roche, to approve the settlement and disposition of RNO 18-1917, Nikam Development. **Motion adopted.**

Vote: 3-0.

It was then moved by Sandra Roche, seconded by Frank Milligan, to approve the settlement and disposition of RNO 18-1918, Nikam Development. **Motion adopted.**

Vote: 3-0.

vi. Procedural Issues:

- 1. Direction to Board Counsel to make recommendation to amend Board procedural regulations.**
- 2. Direction to Board Counsel regarding the process for settling and dismissing cases including the amount of information provided the Board to support Board action.**

Acting Chairman Halsey then called these two matters to be considered. Item 1 entails a review by the Board of its civil procedure for hearing cases. Item 2 entailed the process by which the Board reviews and approves settled cases. In both instances, the item was on the Agenda for the Board counsel to review process and report back to the Board in due course with recommendations. It was accordingly so moved by Sandra Roche, seconded by Frank Milligan, to move forward through Board counsel on both items. **Motion adopted.**

Vote: 3-0.

At this stage, Frank LaForge, legal counsel for Savage Services, joined the meeting by phone. Acting Chairman Halsey then called this item, 4.b.ii., Savage Services, RNO 18-1937 to be heard. Board counsel explained, again, that the written decision resolving this matter was before the Board. The only issue was whether the decision, as written, comported, in the Board's opinion, with the action taken by the Board when it decided the case. Before the vote was taken on this matter, Acting Chairman Halsey gave Mr. LaForge the opportunity to address the Board within the parameters by which this matter was before the Board. Mr. LaForge indicated that he was on the phone simply to monitor the Board's action regarding this matter on this date.

The Board then proceeded to consider the Order as drafted by Board counsel, dismissing the Savage matter with prejudice for the want of jurisdiction due to Federal preemption. The Board concluded that the Order as drafted did, indeed, comport with the Board's disposition of the case. It was therefore moved by Sandra Roche, seconded by Frank Milligan, to approve the decision as written and to authorize the Acting Chairman to execute for the Board the decision, with Board counsel authorized to make any typographical corrections in the Order without further review of the Board. **Motion adopted.**

Vote: 3-0.

Mr. LaForge concluded his participation in the meeting after the vote on this matter.

The Board then moved to item 4.c.

c. General administration and/or procedural issues.

i. General matters of import to Board members;

There were no general matters of import to Board members discussed.

ii. Old and New Business; and

There was no old or new business discussed.

iii. Consideration of location for future Board meetings when conducted in Las Vegas.

For this item, Board counsel advised that the Board's meeting place in Reno was being relocated to a different office, still undetermined, but believed to be Building G, Suite 160, in the same office complex in Reno. General satisfaction was expressed by the Board for the meeting place and facilities in Las Vegas.

d. Schedule of hearings on pending cases.

The next scheduled meeting: **February 13 and 14, 2019**, at 4600 Kietzke Lane, Building G, Suite 160, Reno, Nevada.

5. Public Comment.

There was no public comment.

6. Adjournment.

Acting Chairman Halsey called this matter next. It was moved by Frank Milligan, seconded by Sandra Roche, to adjourn the meeting. **Motion adopted.**

Vote: 3-0.

/s/Charles R. Zeh, Esq.
Charles R. Zeh, Esq., Board Legal Counsel

S:\Clients\OSHA\Minutes\2019\January 2019 R5.wpd