

**DIVISION OF INDUSTRIAL RELATIONS ADVISORY COUNCIL**  
**Minutes of the Meeting, Wednesday, February 12, 2020**

**1. Call to Order and Roll Call**

At 10:00 a.m. February 12, 2020, the meeting of the Advisory Council for the Division of Industrial Relations (DIR) via videoconference between the Carson City DIR office and the Las Vegas DIR office was called to order by DIR Administrator Ray Fierro.

The council member present in the Carson City office was Paul McKenzie. Council members present at the Las Vegas Office were Raymond McAllister, William Spiegel and William Stanley. It was determined a quorum was present.

DIR staff present in the Carson City office were Ray Fierro and Jeff Bixler. DIR staff present in the Las Vegas Office were Victoria Carreon, Jess Lankford, Chuck Verre, Brennan Paterson, Todd Schultz, Donald C. Smith, and Amanda Guimont.

Members of the public present are listed on Attachment A.

Because there were members of the public present who wanted to speak, the Administrator took Item 14 out of order to conduct General Public Comment.

**14. General Public Comment** on any item not included on the February 12, 2020 agenda. The following are comments from the public:

Waylon Lowery with D&D Plumbing, a contractor in Northern Nevada: raised a concern about the changes being made to the Nevada Administrative Code in regard to boilers. Specifically about water heaters less than 200,000 BTUs and under 120 gallons, and how they are being addressed. He feels those should be exempt from the code. He feels there is confusion in the code.

Ken Green with Fresh & Clear Pool Service here in Las Vegas: We would like to visit the emergency status of the state code. We've been notified that there's been a change in the policy regarding to putting in an application for a boiler. So, we need clarification on if we are going to be able to move forward and have it changed to the emergency status. Currently we are waiting up to two months to be issued a construction permit for a pool heater which is putting us in conflict with the Southern Nevada Health Department regulations. So we would really like to be able to have an emergency status put in place for us to be able to pull permits in a timely manner.

Susy Vasquez, Executive Director of the Nevada State Apartment Association: Our organization represents close to 60 percent of the apartments and multifamily units in the state of Nevada. We are really concerned about the recent interpretation of pool heaters. Actually we are part of the group that met at length with the Southern Nevada Health District and were able to come to an agreement that we could swap out like for like on pool heaters. And now all of a sudden some of my members and also another trade association and I don't know if they're present the HOAs have been receiving letters and fines because we are following the process that we had

agreed upon with the Health District but now we're getting fined, so we just want further clarification. And we want, as the person before me spoke, to consider it as an emergency if it's a like for like swap out which was the agreement we had with the health district down here. We are just really concerned about the time that it's taking to get the permits and the time that the recirculation systems are down which leaves us occasionally with stagnant water unless we re-plumb which not everybody is able to do.

Johnny Ruelas, Contractor with ACS Pools: stated that he was the person to introduce the Health Department to the State Boiler people. I don't think it's fair for contractors to get fined when we are doing the right thing. We pull permits, we do everything right, then all of a sudden we get a fine for not pulling the state permit. State permits are taking like two months to get permits. I think that's crazy. I just wish you guys could help. Over the counter, I don't mind paying. It's just crazy. I have eight heaters on hold right now, and I can't do anything about it because if I do it, I'll get fined. I just hope you guys can help.

Ken Minster with Sun Devil Pools: I've been here for 57 years. I'm a contractor approximately 20 years. We just have a lot of the same concerns. Originally pool heaters aren't actually even boilers, and so these they called several years ago and said we would like you to start pulling permits. And so of course we are glad to do that. I'm glad to help the state. And just recently we are unable to get the permits processed. And so I actually met with the Director this morning and he has assured us that we're going to be working forward on that. I still feel like we're in a class with big boilers when we actually aren't installing boilers at all, and we aren't doing any construction. The places have already been permitted by the state and county in the past. We are simply taking a piece of equipment that was permitted and put in properly and replacing it with a like or something that is of that. And so we just want to see if we can get some help with that. We just need to get some movement going. If this is what's going on in the winter, in the summer, we're just going to be murdered and so if you guys could get a look at that, I appreciate that. Thank you.

It was stated that everyone from the public should be sure to sign the attendance sheet for the meeting, and to be sure to include their contact information.

- 3. Selection of Chair and Vice Chair** – Bill Stanley nominated Paul McKenzie as Chair, seconded by Rusty McAllister. Unanimous vote to approve Paul McKenzie as Chair. Paul McKenzie nominated Bill Stanley for Vice Chair, seconded by Rusty McAllister. Unanimous vote to approve Bill Stanley as Vice Chair.
- 4. Approval of Minutes of Previous Meeting** – Bill Spiegel pointed out an inaccuracy in the minutes from the January 10, 2018 meeting. In the minutes, it was stated that the minutes from the previous meeting were approved unanimously. However, in listening to the recording, Rusty McAllister abstained from voting since he wasn't present at the prior meeting. All other members present voted to approve. Bill Stanley made a motion to approve the minutes from this meeting with the amendment. Bill Spiegel seconded the motion. Unanimous vote to approve the minutes. Motion carries. Bill Stanley made a motion to approve the minutes from

the September 4, 2019 meeting. Rusty McAllister seconded the motion. Unanimous vote to approve the minutes from the September 4, 2019 meeting. Motion carries.

**5. Administrator's Report**

DIR Administrator Ray Fierro introduced himself, Chief Administrative Officer of MSATS - Jeff Bixler, Deputy Administrator - Victoria Carreon, Chief Administrative Officer of MCS - Brennan Paterson, Senior Division Counsel - Donald C. Smith, Chief Administrative Officer of SCATS - Todd Schultz, Chief Administrative Officer of OSHA - Jess Lankford, Chief Administrative Officer of WCS - Chuck Verre, and Amanda Guimont - Administrative Assistant IV.

The public was made aware that since the boiler issue wasn't on the agenda, no action may be taken on it during this meeting.

Ray Fierro stated that we are putting forth regulation changes, and we are doing that with NAC 455C which is the Nevada Administrative Code that takes care of elevators and boilers. When we go through that process, there are public hearings where the public can come out and comment on their like or dislike of those changes. In addition to that, we at DIR are willing to meet with industry and address their concerns. At this particular meeting right here, anything raised under public comment can't be discussed because it hasn't been agendized.

A question was raised as to what change we implemented that is raising the concerns from the public. Ray Fierro replied that the best answer to that is enforcement of codes and regulations that already exist.

**6. Mine Safety and Training Section**

CAO Jeff Bixler stated that his section began in 1909, which is about 69 years before federal MSHA came into existence. We complete our mission with a staff of fourteen employees, located in Carson City, Elko, Winnemucca, and Las Vegas. We are now fully staffed, but still are not able to offer a competitive wage. Our beginning wage that we can offer an inspector is \$52,000 which can't compete with the average wage that a miner is paid in the Nevada mining industry which is \$95,000. Jeff Bixler gave a brief year in review report, including training statistics. There were no fatalities during 2019.

**7. Safety Consultation and Training Section**

CAO Todd Schultz gave a brief overview of the SCATS program and a summary of the services provided in the last quarter. He also referred to information in the binder about consultation surveys, hazards that were corrected, customer satisfaction ratings, and technical assistance consultations. He also discussed a new form that is now used when consultants receive calls. This helps track who we are talking to, and what the calls are about. Todd Schultz also talked about training and the Safety and Health Practitioner Certificate Program. He also spoke about the VPP and SHARP programs, as well as the Safe Partner award.

**9. Workers' Compensation Section**

CAO Charles Verre gave a summary of the last quarter. He mentioned the benefits of us participating in IAIABC. He mentioned that we partner with a number of state agencies: Department of Taxation, EMPLEO, and the Labor Commissioner. We recently established a working relationship with the Department of Employment Training and Rehabilitation to share information to ensure that people who are receiving unemployment benefits are not also receiving workers' compensation benefits at the same time.

Most recently, as a result of legislation and promotions, we have five open positions that we are attempting to fill. We are having trouble getting an adequate list, especially for the newly approved RN position. This position will be difficult to fill due to the salary we are able to offer. Charles Verre discussed forms that have been revised due to the new statutes. The medical fee schedule has also been adjusted, as well as the standard mileage reimbursement rate. The Occupational Disease Claims Report was completed and is now on our website. WCS trains as much as we are able to, and the most current training we will be providing is for the D-35. This form is what people submit to get their rating physician assignment.

Bill Stanley asked for clarification about the taskforce for misclassification. Charles Verre stated that one person from OSHA and two people from WCS will attend the initial meeting with the Labor Commissioner to determine what involvement will be required by us, and how we are going to implement what the Governor wants to accomplish with that.

#### **10. Occupational Safety and Health Administration**

CAO Jess Lankford summarized OSHA activities and referred the council to supporting documentation in the meeting binder. The fatality report and complaint log were discussed. Paul McKenzie asked questions about the complaint log, and Jess Lankford provided clarification on OSHA processes. The general duty citations were discussed.

#### **8. Mechanical Compliance Section**

CAO Brennan Paterson gave a brief summary of permit and accident activity for the Mechanical Compliance Section.

Bill Stanley questioned what portion of inspections are completed by third party inspectors. Brennan Paterson responded that annual and semi-annual inspections are performed approximately 99 percent of the time by third-party inspectors. MCS conducts annual inspections that coincide with alterations, and the inspections in rural areas where the third-party inspectors won't go.

Bill Stanley also asked about accidents, and when the Mechanical Compliance Section must be notified. Brennan Paterson responded that the NAC requires that we must be notified anytime an accident has occurred that may have been the result of a malfunction of the device. MCS responds to all accidents that it is made aware of. MCS's suspicion is that not all accidents that occur are reported. MCS investigates, on average, 108 accidents in a three-month period.

Bill Stanley mentioned that going into Legislative Session, it would be helpful to know the number of inspections being completed in order to help justify the need to hire more inspectors.

Rusty McAllister asked for clarification about what changed that there were so many people here from the public. Brennan Paterson said that the difference is that we have started to enforce some things that should have been enforced for a long time, and this has caused some panic in the industry. We are working with them to help them understand the requirements they need to abide by for their safety, and the safety of the public.

#### **11. Legal Section**

Donald C. Smith, Senior Division Counsel, gave a Regulation and Legislative summary. There are two sets of regulations that have been released to the Department of Business and Industry. One is for the Mine Safety and Training Section, and the other is for the Mechanical Compliance Section. Additionally, we are in the process of drafting regulations for OSHA and Workers' Compensation Section.

#### **12. Write-off Recommendations**

Paul McKenzie stated that he was the one who requested that the Controller's Office participate in the Division of Industrial Relations Advisory Council meeting. There seems to be a disconnect in how the two agencies are supposed to work together regarding debt collection. We would like to tighten up the process, so we have less debt going uncollected.

Lori Hoover, Chief Deputy of the Controller's Office, explained that there was a disconnect between what DIR and the Controller's Office should be doing to collect debt. Originally, the Controller's Office wanted to be in control of all debt collection. This was under the assumption that the debt collection group would grow. Unfortunately, that did not happen. They do not have the resources to handle all debt for the State of Nevada. She stated that they have not been going out and getting judgements on any debt sent into their office. Their expectation is that the agency has obtained the judgement and when they send in the debt that they no longer want to work on, the Controller's Office can assist in retaining that judgement and/or doing debt collection by sending it to a third-party debt collector. Unfortunately, looking at the list that was given to them, there was no judgement obtained on the items. There is no legal manner to go after debt items that are more than six years old.

Paul McKenzie would like to get clarification from the Attorney General about the Secretary of State renewing business licenses when debts are owed to other state agencies.

Lori Hoover stated that the Controller's Office does have a waiver right now with the Division of Industrial Relations, and it gives the agency 90 days to try to collect their own debts. Their goal is to revisit what areas DIR wants to work with, and true up the waiver to assist the agency to collect as much debt as possible.

Ray Fierro stated that our meetings with the Controller's Office have been very helpful to establish what each agency should be doing to support debt collection. We will be streamlining how each of our sections will be working to collect debt. Now that we are all working together, we can bring more businesses into compliance.

Don Smith explained NRS 232.605, subsections 2 and 3, and discussed the process of getting write-off recommendations approved.

There was discussion about a task force to help ensure that in the future companies with debt will no longer be able to renew their business licenses with the State of Nevada.

Bill Stanley made a motion to write off all debt that is currently older than 72 months. Seconded by Bill Spiegel. Motion carries with a unanimous vote. Bill Stanley made a subsequent second motion that all debt younger than 72 months be identified. That debt which needs to be sent to the Controller's Office, be sent there, and the debt that should be sent to the agency be sent to the agency, and that at our next meeting this report should be in front of us so we know where this debt that needs to be collected sits. Seconded by Bill Spiegel. Motion carries with unanimous vote.

### **13. Agenda items for next scheduled meeting**

Bill Stanley distributed documentation on the following item he would like to see on the next agenda:

Pursuant to NRS 232.600 the Division of Industrial Relations Advisory Council ("Council") is charged with the following powers and duties:

The council shall act in an advisory capacity to the Administrator and may, on its own initiative or at the request of the Administrator, conduct studies or investigations concerning the organization and administration of the Division and make recommendations to the Administrator based on the results of such studies or investigations.

The council shall review on a quarterly basis the records or oral complaints compiled by the Division pursuant to NRS 618.336. Upon completing its review, the Council shall submit any comments or recommendations regarding the complaints or the records to the Administrator.

In addition, pursuant to NRS 232.605 the Council is charged with requesting that the State Board of Examiners remove debts that the Division determines are impossible or impractical to collect.

Accordingly, during this agenda item, the Council will:

- Determine what studies or investigations concerning the organization and administration of the Division, or any section of the Division (Mine Safety, OSHA, Safety Consultation & Training and Workers' Compensation) the Council will undertake
- Determine what reports or information is necessary for the Council to fulfill its statutory duties, or any study or investigation undertaken by the Council
- Examine and study the Division's debt collection process and make appropriate recommendations

- Determine if the Council will request the assignment of a deputy attorney general from the Nevada Attorney General to represent the Council during Council meetings and as otherwise needed

Paul McKenzie also mentioned that he would like something to be added to the agenda to discuss the frequency of the DIR Advisory Council meetings.

**2. Public Comment related to February 12, 2020 agenda items**

No public comment

**15. Adjournment**

Meeting adjourned at 12:08pm.

## Attachment A

### DIVISION OF INDUSTRIAL RELATIONS ADVISORY COUNCIL Public Attendees, Wednesday, February 12, 2020

#### Las Vegas

1. Ronald Lingley, CO2 Monitoring
2. Scott Sims, NuCO2
3. Chaz Fernandez, AGC
4. Jeremy Harper, SNHD
5. Brian Sarald, Wyndham
6. Rich Greenis, PoolCorp
7. Ken Minster, Sun Devil Pools
8. Ken Green, Fresh & Clear
9. Conan Turner, PoolCorp
10. Johnny Ruelas, ACS Pools
11. Paul Franks, Jockey Club
12. Stacey Jackson, Neport Lofts
13. Jazz Carter, Tricom Management
14. Susy Vasquez, NV State Apartment Association
15. John Wiles, United Construction Industry Council
16. Daray Waterhouse, First Service Residential
17. Lisa Jaegel, The Ogden
18. Scott Jaegel, First Service Residential
19. Dennis Tyson, First Service Residential
20. Joe Harris, Pyro Combustion
21. Metrius Fair, First Service Residential
22. Sharon Taggart, First Service Residential
23. Larry Calavan, Calavan's
24. Sean Murphy, Hayward
25. Kati Calavan, Calavan's
26. Brian Heller, Tricom
27. Mike Paradis, Paragon Pools

#### Carson City

1. Kerrie Dalton, Department of Business and Industry
2. Lisa Jones, Department of Business and Industry
3. Haydee Meeker, Controller's Office
4. Lori Hoover, Controller's Office
5. Waylon Lowery, D&D Plumbing