

STATE OF NEVADA
Minutes for the
Nevada Occupational Safety and Health Review Board
Reno, Nevada

June 8, 2022

Rodd Weber (Management)
Frank Milligan (Public at Large)
William Spielberg (Labor)
Jorge Macias (Management)
Scott Fullerton (Labor)

On June 8, 2022, a meeting of the Nevada Occupational Safety and Health Review Board was convened. The meeting was duly noticed in compliance with the Nevada Open Meeting Law to take place at the Division of Industrial Relations offices, located at 4600 Kietzke Lane, Building F, Suite 150, Reno, Nevada 89502. Participating in person were Chairman Rodd Weber and members Frank Milligan, William Spielberg, Jorge Macias and Scott Fullerton. In accordance with the Nevada Open Meeting law, each Board member participating in the meeting either had before him all written materials to be considered during the deliberations or was obliged to refrain from voting if not in possession of the materials.

Chairman Rodd Weber called to order the meeting of the State of Nevada Occupational Safety and Health Board on Wednesday, June 8, 2022, commencing at 9:00 a.m. at the Division of Industrial Relations offices located at 4600 Kietzke Lane, Building F, Suite 150, Reno, Nevada.

1. Roll Call.

A full compliment of the Board was present consisting of Chairman Rodd Weber, Secretary William Spielberg, and members Frank Milligan, Jorge Macias and Scott Fullerton. As all of the members of the Board were present and in attendance for the meeting including two members representing labor and two members representing management, a quorum was present for the Board to conduct its business.

Also present by were 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, appeared personally.

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.

Notice of the meeting was posted or published, electronically or otherwise, consistent with the requirements of the Nevada Open Meeting Law as amended by AB 253.

Notice was posted at the following locations:

The Law Offices of Charles R. Zeh, Esq.
50 West Liberty Street, Suite 950
Reno, Nevada 89501

Division of Industrial Relations
4600 Kietzke Lane
Building F, Suite 150
Reno, Nevada 89502

This Notice was also posted at the following website addresses:

State of Nevada, Department of Business and Industry, Industrial Relations (DIR) website at <http://dir.nv.gov/Meetings/Meetings>

Nevada Public Notices at <http://notice.nv.gov>

2. Public Comment.

Chairman Weber called this item to be heard. There was no public comment offered at the meeting. Board Counsel advised no written public comment had been received at his office in advance of the meeting.

3. Contested Case Hearings.

Board Chairman called this matter to be heard. He pointed out that in advance of the meeting, the two Trivium Packaging USA, Inc., matters, RNO 22-2164 and RNO 22-2163, had settled. Additionally, Board Chairman advised that all other cases on the contested docket for the June meeting of the Board had either settled or otherwise been vacated before hearing on this date, June 8, 2022, with the exception of the Pokrajac matter, RNO 22-2152, Pokrajac Corporation.

The Chairman called the Pokrajac matter to be heard. Present on behalf of the State, the Complainant in this matter, was Salli Ortiz, Esq., Division Counsel. Present on behalf of Pokrajac Corporation was Legal Counsel, John Hunt, Esq., of the law firm of Clark Hill, PLLC, and Dan Pokrajac, an owner and officer of Pokrajac Corporation. Mr. Hunt advised the Board that just prior to the commencement of the hearing on this date, this matter was settled. Ms. Ortiz confirmed that this matter had been settled and, therefore, the case should be removed from the docket and dismissed, pending receipt of the actual settlement documents resolving this matter.

Accordingly, the hearing on RNO 22-2152, Pokrajac Corporation was vacated, pending receipt of the settlement documents in this case.

Board Chairman then moved to consider the Administrative portion of the meeting.

4. Administrative Meeting:

- (a) Review of the Board meeting minutes of May 11/12, 2022.

It was moved by William Speilberg, seconded by Frank Milligan to approve as read the minutes of the meeting of May 11/.12, 2022, as read. **Motion adopted.**

Vote: 5-0

The Board then took up the review of contested case settlements.

- 4(b) Review contested case settlements, motions, draft decisions, or procedural issues pending on status report, for approval and issuance of final orders:

- i. RNO 20-2038, Hyatt Corporation dba Hyatt Regency Lake Tahoe Resort, Spa & Casino.

Board Counsel read the proposed resolution and settlement into the record for this matter, for the Board to then decide whether to accept or reject the proposed disposition of the case. It was moved by Frank Milligan, seconded Scott Fullerton, to approve the settlement as proposed by the parties in this matter. **Motion adopted.**

Vote: 5-0.

- ii. RNO 20-2039, Hyatt Corporation dba Hyatt Regency Lake Tahoe Resort, Spa & Casino.

Board Counsel read the proposed settlement into the record. The Board considered it the proposed settlement and upon a motion of Frank Milligan, seconded by William Speilberg, approved the settlement as presented. **Motion adopted.**

Vote: 5-0.

- iii. RNO 21-2086, Wright Brothers, The Building Company Eagle, LLC.

Board Counsel presented the settlement proposal to the Board and upon a motion of Frank Milligan, seconded by William Speilberg, the Board approved the settlement as presented. **Motion adopted.**

Vote: 5-0.

iv. RNO 21-2083, Hilbers, Inc.

Board Counsel presented the proposed settlement to the Board. It was moved by Frank Milligan, seconded by Scott Fullerton, to approve the settlement as presented. **Motion adopted.**

Vote: 5-0.

v. RNO 21-2090, Western Partitions, Inc. dba WPI.

Robert B. Nichols, Esq., appeared on the phone on behalf of Western Partitions to monitor the disposition of this matter by the Board. It was moved by Frank Milligan, seconded by Scott Fullerton, to approve the settlement in this matter. **Motion adopted.**

Vote: 5-0.

Mr. Nichols then concluded participation in the meeting.

Chairman Weber called for consideration under Item 4(c) General administration and/or procedural issues.

i. General Matters of import to Board members.

A discussion was held with Tori Carreon, DIR Administrator, concerning the Board's Legal Counsel. Ms. Carreon was on the phone and advised the Board that Board Counsel's current contract ends shortly but has been extended to September 30, 2022, with the State finding an additional \$40,000 to provide for legal representation by Board Counsel through September 2022. She advised further that she had been directed by the Governor's Finance office to issue an RFQ to give other legal counsel the opportunity to apply to represent the Board going forward after September 2022. She said, however, this was not required by State law. The Board members questioned the necessity of an RFQ and through Chairman Weber made clear that the choice of legal counsel for the Board belongs to the Board and no one else under State Law and Regulations. Moreover, it has been handled for 20 years this way since through the term of Fred Scarpello, Esq., and that contracts previously had been issued for four years rather than two years as is being proposed. The Board concluded this discussion with Ms. Carreon by making it clear that the Board, and, no one else, chooses the Board's legal counsel. There was no other discussion under general matters of import to Board members.

ii. Old and New Business.

There was no old or new business to discuss.

iii. Discussion of Board's Status Report.

There are approximately 188 cases pending in various forms before the Board at the present time. Progress is being made, however, addressing the back log of cases that were settled and the matter vacated, but then settlement documents were yet to be submitted to the Board to clear these matters off the Board's docket. The Board expects that the status reports will continue for each meeting.

iv. Discussion about Legal Counsel's Contract.

The Board revisited this issue, discussing various approaches to this situation, the product of Ms. Carreon's comments. It was decided that the Board should have a special meeting to consider an approach to Ms. Carreon and the State concerning the Board's position that the Board is the party that decides who will be the Board's legal counsel. The Board wanted to take action in that regard in advance of the July 13 and 14, 2022 meeting of the Board in Las Vegas. Accordingly Board Counsel was instructed by the Board to put information together about the law and history with respect to the Board's selection of Legal Counsel, so that the Board could take action between now and July in order to present the Board's clear cut position on this matter with Ms. Carreon during the July 2022 meeting of the Board. Board Counsel's assistant was instructed to canvas the Board for a special Board meeting on this subject in advance of the July meeting in order to have the Board's presentation in place by then regarding Board Legal Counsel.

(d) Schedule of hearings on pending cases.

The current schedule as reflected in the agenda for this meeting remains in place.

5. Public Comment.

Chairman Weber called this matter to be heard. There was no public comment offered at this time. Board Counsel advised that no written public comment had been received during the course of the meeting.

6. Adjournment.

It was moved by William Spielberg, seconded by Scott Fullerton to adjourn the meeting.
Motion adopted.

Vote: 5-0.

Dated this 14th day of July, 2022.



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