

STATE OF NEVADA
Minutes for the
Nevada Occupational Safety and Health Review Board
Reno, Nevada
November 12 and 13, 2020

Via teleconferencing and audio conferencing (WebEx)

November 12, 2020

Steve Ingersoll (Labor)
Rodd Weber (Management)
James Halsey (Labor)
Frank Milligan (Public at Large)
Lance Semenko (Management)

On November 12, 2020, 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 as modified by Governor Sisolak's Emergency Directive 006, permitting meetings to be conducted by Teleconferencing and Audio conferencing (WebEx) and providing for a refined publication process for posting and the publication of Agendas or Notices of the Meeting. This meeting took place by Teleconferencing. 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.

The meeting was called to order at approximately 9:00 a.m., on November 12, 2020 by Chairman Steve Ingersoll.

1. Roll Call.

Present by Video Conferencing were Chairman Steve Ingersoll, who was physically located in the Law Offices of Board Legal Counsel Charles R. Zeh, Esq., at 50 West Liberty, Suite 950, Reno, Nevada, 89501. Board Secretary Rodd Weber and Board members James Halsey, Frank Milligan and Lance Semenko were also present *via* Video Conferencing. As all five members of the Board participated in the meeting, including a representative of labor and a representative of management, a quorum was present to conduct the Board's business.

Also present *via* Video Conferencing was Board counsel, Charles R. Zeh, Esq., The Law Offices of Charles R. Zeh, Esq. Further, present at various times throughout *via* video conferencing were Jess Lankford, Chief Administrative Officer of Nevada OSHA, Salli Ortiz, Esq., Deputy Counsel to the State OSHA Administration, Frank Davis, Esq., counsel to the Respondent Aimbridge Hospitality LP of the Law Firm of Ogletree, Deakins, Nash, Smoak & Stewart, P.C., and Erica Chee, Esq., of the same law firm.

Mr. Davis was located in Dallas, Texas and Ms. Chee participated from Las Vegas, Nevada for the hearing. Both participated *via* Tele-conferencing.

The hearing on this date was reported by Court Reporter Kelly Jackson. The entire proceeding was conducted *via* Tele-conferencing and Audio Conferencing (WebEx). Tristan Dressler, Program Coordinator, State of Nevada, was present as the host on WebEx for the meeting.

Also in attendance by Audio Conferencing, only, was William Curphey, Esq., Curphey & Badger, and Allison Kheel, Esq., of Fisher Phillips. Both represented Sofidel in LV 19-1990. The decision in that matter was to be considered under the Administrative Meeting portion of the Agenda. Mr. Curphey and Ms. Kheel were advised by Board Counsel that it was unlikely the Board would get to any of the Administrative matters, including the approval, rejection or modification of the draft decision in Sofidel America., dba Sofidel America, LV 19-1990. The Board may find itself clear to hear the Administrative matters the next day, November 13, 2020. Both were, therefore, excused for the day and were informed that they would be advised if and when the decision in LV 19-1990 would be reviewed by the Board on November 13, 2020.

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, as modified through the Governor Sisolak's Emergency Directives. 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 further modified by the Governor's Emergency Directives 006.

2. Public Comment.

Board Chairman Ingersoll called this item to be heard. Board counsel advised that there was no written public comment received by his office in advance of the meeting. There was also, no public comment offered at this time during the course of the meeting.

3. Contested Hearings:

Contested matters shall be heard in a quasi-judicial forum pursuant to Chapter 618 of the Nevada Administrative Code and applicable Nevada's Revised Statutes conferring jurisdiction. The hearing proceedings will be transcribed by a certified Court Reporter.

Chairman Ingersoll called to be heard, LV 19-1995, the Aimbridge Hospitality, LP. The State or Complainant was represented by Salli Ortiz, Esq., Deputy Legal Counsel to the State OSHA Administration. The Respondent, Aimbridge Hospitality LP (Aimbridge), was represented by Frank Davis, Esq., and Erica Chee, both of Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

Exhibits were admitted into evidence and testimony was taken. The Board proceeded until around 1:00 p.m. when the matter was recessed for a lunch break. The Board reconvened at approximately 2:00 p.m. and continued to hear testimony in this case until 5:00 p.m., when the matter was continued for further testimony to be taken on November 13, 2020.

4. Public Comment.

Before adjourning for the day, Board Chairman Ingersoll called for Public Comment. There being none, he called for a Motion to Adjourn for the day. It was moved by Rodd Weber, seconded by James Halsey, to adjourn for the day, reconvening the next day, November 13, 2020 with the hearing on this matter. **Motion adopted.**

Vote: 5-0.

The meeting was adjourned for the day.

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

November 13, 2020

Via teleconferencing and audio conferencing (WebEx)

Rodd Weber (Management)
James Halsey (Labor)
Frank Milligan (Public at Large)
Lance Semenko (Management)

On Friday, November 13, 2020, at approximately 9:00 a.m. the continued meeting of the Nevada Occupational Safety and Health Review Board of Review was re-convened. As Board Chairman, Steve Ingersoll, was absent from the meeting because of a prior business commitment, Board Secretary Rodd Weber, chaired the meeting as the acting Chair of the Board. The meeting was again conducted by Teleconferencing and Audio Conferencing *via* WebEx.

The Court Reporter, Nicole Hansen, unfortunately experienced login difficulties, delaying her participation in the meeting to be conducted by Audio and Video Conferencing. It was eventually determined that her reporting equipment was incompatible with the Teleconferencing equipment. She was, therefore, unable to report the hearing. Kelly Jackson was contacted and she agreed to Report the rest of the hearing on November 13, 2020. After she was able to setup her equipment, the Board was able to convene the meeting at 10:00 a.m.. on November 13, 2020.

1. Roll Call.

Acting Chairman (Chairman) Rodd Weber reconvened the meeting at 10:00 a.m. Board members present were James Halsey, Frank Milligan, and Lance Semenko. Board Chairman Steve Ingersoll was absent due to a prior business commitment. As four members of the Board participated in the meeting, including a representative of labor and a representative of management, a quorum was present to conduct the Board's business.

Also present on this date *via* Video Teleconferencing was Board Counsel Charles R. Zeh, Esq., The Law Offices of Charles R. Zeh, Esq., Salli Ortiz, Esq., Deputy Legal Counsel to State OSHA Administration, Frank Davis, Esq., and Erica Chee, Esq., of the law firm Ogletree, Deakins, Nash, Smoak & Stewart, P.C., representing respondent, Aimbridge Hospitality LP and Tristan Dressler, Program Coordinator, State of Nevada, who is the WebEx host for the meeting, also appeared by Teleconferencing.

Notice of the meeting on this day was duly provided under Chapter 618 of the Nevada Revised Statutes and in accordance with Chapter 241 of the Nevada Open Meeting Law, as modified through Governor Sisolak's Emergency Directives. A copy of the Notice is attached to these minutes and made apart hereof as though set forth fully herein.

Notice of the meeting was posted or published electronically or otherwise, consistent with the requirements of the Nevada Open Meeting Law for the meeting of the Board on this date as further modified by the Governor's Emergency Directive 006.

2. Public Comment.

Chairman Weber called this item to be heard. Board Counsel advised that there was no written public comment received by his office in advance of the meeting. There was also no public comment offered at this time during the course of the meeting.

3. Contested Matters.

Board Chairman Weber called to be heard the continuation of LV 19-1995, Aimbridge Hospitality LP. The hearing of this matter was commenced on November 12, 2020. Additional testimony and the taking of evidence continued on November 13, 2020. Witnesses appeared and were sworn in, evidence was taken, exhibits were admitted or examined and the hearing proceeded to 11:45 a.m., on November 13, 2020, at which time the matter was recessed for a lunch break. The hearing was reconvened at 12:45 p.m. whereupon the remaining witnesses were presented, exhibits reviewed and testimony taken. Both sides rested at approximately 5:00 p.m. on November 13, 2020.

No closing arguments were made. Instead, the Board elected to direct the parties to file simultaneous briefs of no longer than 15 pages with the Board by January 8, 2021, setting forth their respective positions regarding this matter. The Board will deliberate on the briefs and schedule this matter for hearing to decide the matter upon review of the evidence, testimony and the parties' simultaneous briefs. The evidentiary portion of the case was, therefore, concluded. Board deliberations will follow.

5. Adjournment

Given the lateness of the hour, no further business was conducted save and except that Board Chair Weber called for public comment. There was no public comment and accordingly, Chairman Weber called for a motion to adjourn. It was moved by Frank Milligan, seconded by Lance Semenko, to adjourn the meeting. **Motion Approved.**

Vote: 4-0.

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

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