

MINUTES OF THE MEETING OF
THE NEVADA OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD

Held at Enterprise Library
25 East Shelbourne Avenue
Las Vegas, Nevada
Commencing at 10:00 o'clock a.m.

June 8, 2016

PRESENT

Joe Adams (management)
James Barnes (public)
Steve Ingersoll (labor)
Sandra Olson (management)
Frank Milligan (public alternate)
Fred Scarpello, Esq., Legal Counsel

ABSENT

Nicole Baker (labor)

The Nevada Occupational Safety and Health Review Board convened the scheduled meeting of the board at approximately 10:00 a.m., June 8, 2016. 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.

The Chairman identified the cases noticed and set for contested hearings as follows, docket no. LV 16-1832, Occupational Safety and Health Administration, Division of Industrial Relations of the Department of Business and Industry, vs. Earth Resource Group and docket no. LV 16-1833 Occupational Safety and Health Administration, Division of Industrial Relations of the Department of Business and Industry, vs. Coyote Springs Golf Operations I, LLC.

The Chairman announced recent OSHES advisories informing the contested cases were settled. The subject scheduled hearings are vacated pending submittal of settlement documentation for Board review and approval.

Chairman Adams referenced the published Board agenda and called for the administrative meeting. The minutes of the May 11, 2016 meeting were approved as distributed on motion by Mr. Barnes and second by Ms. Olson. All members present voted in favor of the motion for approval of the previous minutes.

Board and counsel reviewed the schedule of hearings on the contested hearing calendar in conjunction with the status report. Reference was made to the listed cases awaiting action by OSHES, the Board and/or appellate courts. Discussion was conducted regarding matters on appeal for monitoring and prospective Board review for guidance based upon court decisions. The Board again discussed and reviewed the recent Supreme Court decision in Terra Contracting, former docket LV 13-1627 and the resulting positions adopted by the Nevada court clarifying the quantum of proof required to establish and support a finding of supervisory misconduct.

The chairman again noted the substantial reduction of contested matters coming to hearings before the Board and the apparent continuation of an expanded settlement posture by OSHES. Reference was made to the current cases pending on the contested calendar which now reflect the Reno setting on July 13th and Las Vegas August 10th. The chairman noted there was one additional case currently filed awaiting a responsive pleading on June 6th which would also be scheduled on the Las Vegas hearing docket unless early settlement occurs. The Board engaged in general discussions regarding case settlements and comparisons of the previous years extensive contested hearing calendars when six to eight cases were regularly set on the reserved two day hearing schedule and contested calendar settings six months or more in advance.

The chairman referenced the agenda and noted the matter for final action in docket LV 16-1821, Occupational Safety and Health Administration, Division of Industrial Relations of the Department of Business and Industry, vs. Apex Linen based upon the case resolution. Pursuant to counsel memorandum, including the pleadings and settlement documentation together with rationale to support reasonable negotiated settlement terms which sufficiently satisfied the minimum requirements for approval and issuance of a final order, the matter was open to a motion by a Board member. There were no objections to the negotiated settlement terms and supporting rationale provided. On motion by Ms. Olson, second by Mr. Ingersoll, and unanimous vote of Board members present, the Board agreed to issue the final order and complete final action in the subject case. Counsel was instructed to serve the final order, enter same on the status report and carry same for a period of 30 days unless any appeal or other action occurred.

The chairman referenced the agenda regarding the internal elections for Board chairman and secretary noting the annual requirement and that same were conducted at the previous meeting but subject of the current published agenda for final action. On motion of Mr. Ingersoll, second by Ms. Olson, all Board members voted to confirm the Board officer internal elections for Mr. Barnes as chairman and Mr. Ingersoll as secretary. The Board

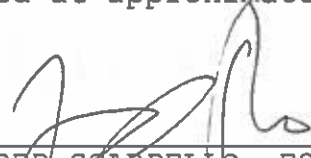
additionally confirmed the non-required position for acting chairman in the absence of the chairman as Ms. Olson.

The Board discussed general administration and procedural issues. Various comments were made and exchanged on current occupational safety and health law reflected on the guidance information distributed to Board members updating court and review commission decisions in general.

Board counsel inquired as to whether any Board member had any advance request for a particular matter that might be subject of possible final action for inclusion on the forthcoming agenda noting the timing for advanced posting and publication requirements. Counsel indicated that the next agenda will be formalized and distributed identifying the current contested case setting and any additional items that might timely be added together with any other matters that come before the Board prior to that time for administrative or other action.

The Board members discussed the potential final appearance of Mr. Adams as Board member and chairman given the expiration of his term on June 30th, 2016. Counsel referenced the matter being dependent upon action by the Governor's office to fill the position and inform the Board prior to the next meeting. The applicable law was referenced which provides that a member continues to serve beyond a term limit until such time as the vacancy is filled with a new appointment by the Governor. All Board members and counsel thanked Chairman Adams for his diligent, capable, and excellent "judicial temperament" in handling the hearings and managing the extensive responsibilities of chairman. Mr. Adams thanked the Board members for the opportunity of serving the State of Nevada and working with all. He conveyed best wishes for future operations.

There being no further business, on motion, second and unanimous vote, the meeting of the Nevada Occupational Safety and Health Review Board was adjourned at approximately 11:15 a.m.



FRED SCARPELLO, ESQ.
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Occupational Safety and
Health Review Board