

**STATE OF NEVADA
Review Board for the
Nevada Occupational Safety and Health**

Meeting Minutes for June 29, 2018

Present

Steve Ingersoll (labor)
James Halsey (labor)
Sandra Roche (management)
Rodd Weber (management)
Frank Milligan (public at large)

On June 29, 2018, 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 Department of Occupational Safety and Health, 4600 Kietzke Lane, Building B, Suite 111, Reno, Nevada. Participating in person was Chairman Steve Ingersoll. Participating by phone from Las Vegas, Nevada were James Halsey, Rodd Weber, Frank Milligan and Sandra Roche. In accordance with the Nevada Open Meeting Law, each Board member participating in the meeting either had before him or her all written materials to be considered during the deliberations or was obliged to refrain from voting if not in possession of the materials.

Roll Call:

Chairman Ingersoll called the Administrative meeting to order at 10:00 a.m. Participating by phone from Las Vegas, Nevada were James Halsey, Rodd Weber, Frank Milligan and Sandra Roche. Participating in person was Chairman Steve Ingersoll. As the Board consists of five members and at least one management member and one labor member of the Board were present, a quorum of the Board was present to enable the Board to conduct business.

Notice of the meeting was duly provided under Chapter 618 of the Nevada Revised Statutes and in accordance with the Chapter 241 of the Nevada Revised Statutes (the Nevada Open Meeting law (OML)). A copy of the notice is attached to these minutes and made a part hereof as though fully set forth herein. The Notice includes the places where either physically or electronically the Notice was published consistent with the requirements of the OML.

Also in attendance at the meeting in person were Fred Scarpello, Esq., retiring Board legal counsel, Salli Ortiz, Esq., Division Counsel, Division of Industrial Relations (DIR) Ray Fiero, acting Director, DIR, and Charles R. Zeh, Esq., The Law Offices of Charles R. Zeh, Esq. John Wiles, Esq., appeared by telephone from Las Vegas.

1. Legal service contract.

The Chairman called this item to be heard. Fred Scarpello, Esq., the former Board legal counsel, is retiring after decades of service to the Board as its legal counsel. His

retirement left a vacancy to be filled as the Board cannot function without independent legal counsel. Chairman Ingersoll reviewed with the Board the history of the search for legal counsel. Initially, the Board had voted to retain former Board Chairman, James Barnes, Esq., as legal counsel but negotiations with him did not result in his employment as legal counsel in place of Mr. Scarpello. The Division of Industrial Relations, it was discovered, already had an independent attorney contract with Charles R. Zeh, Esq., to perform legal services that included representation on behalf of the Nevada OSHA. He was approached and expressed a willingness to take on this position in light of the breakdown in discussions with Mr. Barnes. Mr. Zeh's resume was circulated to the Board by the Chairman who noted for the Board Mr. Zeh's extensive background and existing contract with the State which would permit him to immediately start as legal counsel to the Board. Without further discussion, it was moved by James Halsey, seconded by Rodd Weber, to employ Mr. Zeh as the new Board legal counsel, effective immediately, leaving the matter of compensation to be addressed between Mr. Zeh and the Division of Industrial Relations. The motion was adopted. Mr. Zeh was retained, therefore, to immediately commence as Board legal counsel.

Vote: 5-0.

2. Additional Items to be discussed at the administrative Portion of the Review Board Meeting are as follows:

Additional items considered at the administrative portion of the Review Board Meeting as duly noticed. The Chairman then called the following items in the order below:

a. Approval of the previous Review Board minutes.

It was moved by Mr. Halsey, seconded by Mr. Milligan to approve the minutes of April 20, 2018, as read. **Motion adopted.**

Vote: 5-0.

b. Schedule of hearings on pending cases, calendar and status report.

Due to a preexisting conflict between Mr. Zeh's schedule and the meeting for the Board previously scheduled for July 11 and 12, 2018, the July 2018 meeting of the Board scheduled for those dates, was cancelled and the next meeting of the Board was scheduled for Reno on August 8 and 9, 2018.

c. General administration and/or procedural issues.

Other than the cancellation of the July 2018 meeting of 2.b., above, there was none discussed.

d. Review contested case settlements, motions, or procedural issues pending on status report for approval and issuance of final orders LV 18-1931, Gary

Steven Markewich, M.D., LV 18-1925, Blitz Development and LV 17-1906, Restoration and Recovery.

- e. Review of completed draft decisions for approval and issuance. LV 17-1874, Performance Builders, LV 17-1900, Xtreme Manufacturing, LV 18-1912, BMC West and LV 17-1907.**

It was moved by Mr. Halsey, seconded by Mr. Weber, to approve and accept each of the draft decisions and final orders, aforementioned under Items 2.d and 2.e. **Motion adopted.**

Vote: 5-0.

- f. Review Board legal services options/alternatives.**

This matter was subsumed and decided by Item 1, above.

- g. Discuss matters for next scheduled meeting.**

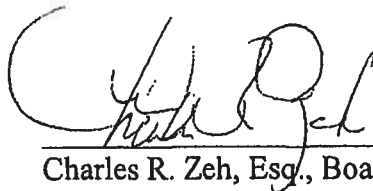
There was no discussion.

- h. Public comment.**

As this was the last meeting of out-going Board legal counsel, Fred Scarpello, Chairman Ingersoll thanked him for his invaluable service to the Board as its first and only legal counsel for the past 44 years. The Chairman was then followed by Mr. Halsey, Mr. Weber, Mr. Milligan and Ms. Roche, each of whom praised Mr. Scarpello for his years of service to the State and the people of Nevada, and lauded him for his commitment to excellence and dedication to the principles of law for which the Board of Review stands. Mr. Scarpello, in turn, humbly thanked the Board for their praise and applauded the Board members for their dedication and commitment to service as members of the Board of Review.

Adjournment. There being no further business, it was moved by Mr. Weber, seconded by Mr. Halsey, to adjourn the meeting. Board Chairman thereupon adjourned the meeting as the Board's business according to the Agenda had been concluded. **Motion adopted.**

Vote: 5-0.



Charles R. Zeh, Esq., Board Legal Counsel