

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

July 13-14, 2022

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

Participating in person were Chairman Rodd Weber, Vice-Chairman William Spielberg and members Frank Milligan and Jorge Macias. Member Scott Fullerton attended the meeting *via* video conference.

On July 13, 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, 3360 West Sahara Avenue, Suite 175, Las Vegas, Nevada, 89102. Chairman Rodd Weber called to order the meeting of the State of Nevada Occupational Safety and Health Board on Wednesday, July 13, 2022, commencing at 9:00 a.m. The Board convened at the Division of Industrial Relations offices located at 3360 West Sahara Avenue, Suite 175, Las Vegas, Nevada, 89102. 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.

1. Roll Call.

Board members present in person at the meeting were Chairman Rodd Weber, Vice-Chairman William Spielberg, and members Frank Milligan and Jorge Macias. Member Scott Fullerton appeared by video conference. As all of the members of the Board were present in person or by electronic means 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 video conference was Board Legal Counsel, Charles R. Zeh, Esq., The Law Offices of Charles R. Zeh, Esq. Salli Ortiz, Esq., Division Counsel, Division of Industrial Relations, was present in person. Allison Kheel, Esq., Fisher & Phillips LLP, attended by telephone. Dalton Hooks, Esq., Hooks Meng & Clement, was present in person.

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
3360 West Sahara Avenue, Suite 175
Las Vegas, Nevada, 89102

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.

Chairman Weber next called this matter to be heard. He explained that DCI Construction dba Design Concrete Nevada, LV 21-2109, Tarkanian Basketball Academy, Inc., LV 21-2113, Specialty Contractors Northwest, LLC dba Pacific Bath Company, LV 22-2146 and Logistical Solutions , LV 21-2117 were removed from the contested docket for this month for various reasons. The Board would, however, proceed to hear Sofidel America Corp., dba Sofidel America, LV 19-1991 for a Deliberations hearing. Also remaining on the contested docket to be heard, if possible, on this date were, LV 18-1940, Las Vegas Paving, LV 20-2115, Las Vegas Paving, and LV 21-2167, National Pipeline Contractor's, LLC.

The Chair accordingly called, Sofidel America Corp., LV 19-1991, to be heard. Allison Kheel, as indicated, was present by telephone on behalf of Sofidel America Corp. Salli Ortiz, Division Legal Counsel, was present on behalf of the State of Nevada. Chairman Weber advised that prior to the hearing on this matter to deliberate the disposition of the case, he had encountered additional information in a form of matters of which he believed he could take judicial notice. Under Nevada Revised Statutes 47.150, a Court or Judge may independently take judicial notice of matters. And, Nevada Revised Statutes NRS 47.160, also provides that under such circumstances, a party or parties to the proceedings are entitled to address the matter or

matters subject to judicial notice. Accordingly, after some discussion including the concurrence of Ms. Kheel, the Board decided to continue the deliberation hearing on the Sofidel matter until the hearings of the Board commencing on August 10, 2022. It was moved, therefore, by Frank Milligan, seconded by Jorge Macias, to continue the Sofidel deliberation hearing until August 10, 2022, at which time the issue of judicial notice will be heard as a part of the deliberation process. This will be formalized by further Order of the Board.

Board Chairman then called LV 18-1940, Las Vegas Paving Corporation, to be heard. Salli Ortiz, Esq., Division Counsel, represented the State in this matter and was personally present. Dalton Hooks, Esq., of Hooks Meng & Clement, appeared on behalf of Las Vegas Corporation, the Respondent. Admitted into evidence without objection were the State's Exhibits 1 through 4, consisting of pages 1 through 228. The State's supplemental exhibit packet was also admitted without objection. Additionally, admitted, without objection, were the Exhibits of Las Vegas Paving Corporation, consisting of Exhibits A through O, pages 1-656. Subsequently, during the hearing, Las Vegas Paving's additional Exhibit, Exhibit P, pages 657-658, was admitted into evidence without objection.

The State proceeded to present its case in chief. Ms. Ortiz called Aldo Lizarraga to the stand. He was examined and cross-examined and his testimony was concluded. Ms. Ortiz then called Benjamin Romero to the stand. Mr. Lizarraga was one of the investigators in this matter on behalf of the State. Mr. Romero was a safety manager on this project for Las Vegas Paving. Mr. Lizarraga's testimony was concluded and he was excused. Mr. Romero was still on the stand being cross-examined by Mr. Hooks at 5:00 p.m. when the meeting was concluded and the case continued until the next day commencing at 9:00 a.m.

Public Comment

Board Chairman Weber called for public comment. There was none and Board counsel advised no public comment had been received in his office during the course of the hearing on this date.

Adjournment

Board Chairman Weber called for a motion for adjournment. It was moved by, Frank Milligan, seconded by William Spielberg, to adjourn the meeting. **Motion adopted.**

Vote: 5-0.

The meeting was adjourned at approximately 5:03 p.m.

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July 14, 2022

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

On July 14, 2022, at 9:00 a.m., Chairman Rodd Weber reconvened the meeting of the Nevada Occupational Safety and Health Review Board which had commenced on July 13, 2022. The continuation of the meeting on July 14, 2022, of the Board was duly noticed in compliance with the Nevada Open Meeting Law to take place at the Division of Industrial Relations, 3360 West Sahara Ave, Suite 175, Las Vegas, Nevada, 89102.

Participating in person for the continuation of the meeting on July 14, 2022, were Chairman Rodd Weber, Vice-Chairman William Spielberg, and members Frank Milligan and Jorge Macias. Member Scott Fullerton appeared by video conference. 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.

1. Roll Call.

Board Members present in person at the meeting were Chairman Rodd Weber, Vice-Chairman William Spielberg, and members Frank Milligan and Jorge Macias. Member Scott Fullerton appeared by video conference. As all members of the Board were present in person or by electronic means 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 Video Conference was Board Legal Counsel Charles R. Zeh, Esq., The Law Offices of Charles R. Zeh. Salli Ortiz, Esq., Division Counsel, Division of Industrial Relations, was present in person. Dalton Hooks, Esq., Hooks Meng & Clement, was present in person.

2. Public Comment.

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

3. **Contested Hearings.**

The Chairman called for the continuation of the hearing in case LV 18-1940, Las Vegas Paving Corporation. Salli Ortiz, Esq., Division Legal Counsel, was present to represent the State in this matter. Dalton Hooks, Esq., of Hooks Meng & Clement, was present on behalf of the Respondent. The case continued with the examination of Benjamin Romero and the cross examination by Mr. Hooks. Counsel for both parties continued and concluded their examination of Mr. Romero. Chris McNamara was then called to testify by the Respondent. After the examination of these two witnesses, both parties rested. Given the lateness of the hour, it was decided that closing arguments and deliberations would be postponed to commence at the outset of the Board's Hearing on Contested matters scheduled for October 12, 2022. This concluded the Hearing on the Contested Docket portion of the Agenda.

Board Chairman Weber then called the Administrative portion of the Agenda.

4. **Administrative Hearings.**

a. **Approval of the previous Review Board meeting minutes of June 8, 2022 and July 6, 2022.**

Chairman Weber called this matter to be heard, consideration of the Minutes of June 8, 2022 and July 6, 2022. It was moved by Frank Milligan, seconded by William Spielberg to approve the minutes as read. **Motion adopted.**

Vote: 5-0

b. **General administration and/or procedural issues.**

i. **General matters of import to Board members.**

There was no discussion under this heading.

ii. **Old and New Business.**

There was no discussion regarding this matter.

iii. **Discussion about Board Legal Counsel's Contract, Select and Employment of Board Legal Counsel.**

Chairman Weber called this matter to be heard, the retention of incumbent Board Legal Counsel. Victoria Carreon advised the Board that the decision regarding who would represent the Board as its legal counsel was hers to make. She informed the Board that a decision had been made to appoint the Plat Law Group as Legal Counsel to the Board, taking the position, that the selection of Board Legal Counsel is not the Board's to make but hers to make for the Board. She also informed the Board that upon the advice of her Legal Counsel, Chris Eccles, she could not provide the Board with a Resume or background information about the Plat Law Group, even though the Plat Law Group would be stepping into the shoes of Incumbent Legal Counsel to

represent the Board. So, the Board, in short, had no choice in the selection of Legal Counsel to represent it and further, the Board was precluded from receiving information about the lawyers that Ms. Carreon has chosen to represent the Board. Additionally, it became clear the Board had no real input as to the choice of its legal counsel. And, the choice of Board Counsel had been made before the start of this meeting, even though at the July 6, 2022 meeting of the Board, Ms. Carreon advised that no decision would be made about Board Legal Counsel until the Board had the opportunity for input at this meeting of the Board.

The Board, in short, took umbrage with this turn of events. The Board pointed out to Ms. Carreon, to no avail, that selection of Board Counsel was not to have taken place until the Board had the opportunity for input in the selection process. Board members reiterated that the decision was the Board's to make regarding the selection of its Legal Counsel to represent it in any proceedings. The Board indicated generally that further action will be taken by the Board in opposition to the position taken by Ms. Carreon that she gets to choose for the Board, the Board's legal counsel without any input, whatsoever, from the Board. Ms. Carreon pointed out that the choice of Board Counsel will be presented to the Board of Examiners at its meeting on September 28, 2022.

iv. Discussion of the Board's Status Report, Disposition of Decisions and Findings of Facts.

The Chairman called this item to be heard. The Board observed that the status report remained unchanged with the lion's share of the pending matters awaiting action by the State.

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

There were no changes made in the schedule of hearings. Board members were encouraged to keep the Board informed if there was a change in their schedules that might impact on the availability of a quorum at one or more of the meetings scheduled for the Board.

5. **Public Comment**


The Chairman called this item 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.**

The Chairman called this matter to be heard. It was moved by Frank Milligan, seconded by William Spielberg, to adjourn the meeting. **Motion adopted.**

Vote: 5-0

Dated this 8th day of August, 2022.



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