

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

October 9, 2024

Jorge Macias (Management)  
William Spielberg (Labor)  
Tyson Hollis (Alternative)  
Gled Bautista (Management)

The meeting of the State of Nevada Occupational Safety and Health Review Board was called to order by Chairman Jorge Macias on October 9, 2024 at approximately 9:10 a.m. The meeting was duly noticed in compliance with the Nevada Open Meeting Law to take place at the Division of Industrial Relations, 4600 Kietzke Lane, Building F, Suite 150, Reno, NV 89502. 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 at the meeting were Board Chairman Jorge Macias, Secretary William Spielberg, and Board members Tyson Hollis and Gled Bautista. Member Scott Fullerton was absent. There is one vacancy on the Board. As four members of the Board were present for the meeting, including one member representing labor, one member representing the public at large and two members representing management, a quorum was present for all matters for the Board to conduct its business on this date.

Also present were Salli Ortiz, Esq., Counsel to the Chief Administrative Officer of the Occupational Safety and Health Administration of the Division of Industrial Relations of the Department of Business and Industry, State of Nevada and Charles R. Zeh, Esq., the law offices of The Law Offices of Charles R. Zeh, Esq., Legal Counsel to the Board.

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  
2300 West Sahara Street, Suite 740  
Las Vegas, NV 89102

This Notice was also timely posted at the following website addresses:

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

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

## **2. Public Comment.**

Chairman Macias called this matter to be heard. There was no public comment offered at that time. Board Legal Counsel advised that his office had not received any public comment as of the start of the meeting.

## **3. Contested Case Hearings.**

Board Chairman called item 3 to be heard, Contested Case Hearings.

Legal Counsel advised that all items listed under this heading on the Agenda had either been reported to be settled or were otherwise vacated, leaving only contested Case RNO 23-2224, Nevada Paving, to be heard on this date.

The Complainant, the State, was represented by Salli Ortiz, Esq., counsel for Chief Administrative Officer of the Occupational Safety and Health Administration of the Division of Industrial Relations of the Department of Business and Industry, State of Nevada. Kevin R. Warren, Business Manager for Nevada Paving, appeared on behalf of the Respondent. Board counsel, Charles R. Zeh, Esq., the law firm of The Law Offices of Charles R. Zeh, Esq., was also present for the hearing on this matter.

Ms. Ortiz signaled that she had a motion she wished to present to the Board. She advised that she just learned that the translator for her three or four Spanish speaking witnesses in this matter was not a certified court translator. Three or four of her key witnesses were Spanish speaking. Ms. Ortiz requires a certified court translator to be provided in order to proceed with the case. William Gardner, from the State, advised the State was in the process of attempting to work with the court interpreter service to locate a court certified translator to assist in this matter. A 30 minute recess was granted the State to pursue the services of a court certified translator.

At the conclusion of the 30 minute recess, the State advised that the best the court translator service could do was to provide a court certified translator, perhaps, after 2:00 o'clock p.m., tomorrow. There was no assurance, however, that a court certified translator could even be supplied after 2:00 o'clock p.m. tomorrow. Also, the interpreter could not be personally present to interpret. Counsel for the Complainant and Respondent advised the Board Chairman that between the two of them, they anticipated calling 10 to 11 witnesses to be heard on this matter.

This number of witnesses would necessitate an extreme bifurcation of the hearing and in all likelihood, under these circumstances, the matter would have to be continued for several weeks in order to arrange schedules to be heard in this case. It was also unclear whether the certified court translator that might be provided tomorrow after 2:00 would be available in person and would be attempting to interpret via Zoom or some other form of video conferencing. Ms. Ortiz advised the Board that type of arrangement would be unacceptable. It had been tried before and did not generate a complete, accurate and clean transcript of the proceedings. For that reason, she moves to vacate and continue the hearing on this matter until a certified court translator could be located to be in attendance throughout the hearing on this case. Board counsel concurred with Ms. Ortiz and Mr. Warren about the problematic nature of continuing to hear the case under these kinds of circumstances without the assurances that a certified court translator could be present throughout the entire hearing on this case. The motion to continue was granted by the Chairman.

Board Counsel advised that in light of the revelation that the parties expected to call 11 witnesses to be heard in this matter, it was obvious that hearing this case would take two full days. It could, therefore, not be paired with or placed upon the docket with other cases and other administrative matters because the hearing in this case would absorb the full two days, at the very least.

Board Chairman, therefore, directed that a special two day meeting of the Board be convened to hear the Nevada Paving case, RNO 23-2224. Board counsel advised that his assistant will contact the parties and board members for dates when two days can be set aside for a special meeting to hear Nevada Paving. Sufficient advance notice will be given in order for the State to make the arrangements to have a commitment of a certified court translator available, in person, for both days that will be reserved for this special meeting to hear this case to its conclusion.

It took the Board until approximately 10:00 a.m. to make these arrangements and come to a final conclusion about whether to proceed with Nevada Paving on this date or during a special hearing/meeting of the Board. As indicated, a special two day session will be called, coordinated, and arranged by the office of Board counsel.

That concluded the contested docket portion of the agenda for this date's meeting and Board Chairman then called Item 4, the Administrative meeting beginning with Item 4a., the consideration of the meeting minutes of September 11, 2024.

It was moved by Tyson Hollis, seconded by William Spielberg, to approve the minutes as read. Motion adopted.

Vote: 4-0.

Next, Chairman Macias called 4.b. to be heard, a review of contested case settlements, motion draft decisions, or procedural issues pending status conferences. The Chairman began by calling Aimbridge Hospitality, LV 19-1995.

The issue here was whether the decision drafted by Board counsel was consistent with the Board's disposition of the case. It was moved by Jorge Macias, seconded by Tyson Hollis, to approve the draft decision as consistent with the action taken by the Board in this matter. Motion adopted. Vote: 3-0-1 (Bautista abstaining).

Next Board Chairman called Complete Demo, LV 23-2216, to be heard. The issue was the same here, review and approval if possible of the draft decision Complete Demo if consistent with the action taken by the Board. It was moved by Tyson Hollis, seconded by Jorge Macias to approve the decision as consistent with the action taken by the Board. Motion adopted. Vote: 3-0-1 (Bautista abstaining).

Next Board Chairman called Ross Co. Construction, Inc., LV 23-2187 to be heard. This was a withdrawal-settlement of this matter before the Board. It was moved by Gled Bautista, seconded by Tyson Hollis to approve the settlement as read to the Board. Motion adopted. Vote: 4-0-1 (Fullerton absent).

Next Board Chairman called KBL Reinforcing, Inc., LV 23-2190 to be heard. This was another withdrawal-settlement matter. It was moved by Tyson Hollis, seconded by Gled Bautista, to approve the settlement-withdrawal as presented to the Board. Motion adopted. Vote: 4-0-1 (Fullerton absent).

Board Chairman, next called Sierra Concepts to be heard, case number RNO 22-2141. This was an order presented to the Board as drafted by Board legal counsel memorizing the action taken on the settlement of this matter before the Board, on a dispute that had arisen over the terms of the settlement as modified by the Board. A contested hearing was held to give the parties a chance to explain their position to the Board as to why they felt the Board was mistaken in its revision of the settlement agreement. On March 13, 2024, the Board affirmed its revision of the Settlement Agreement. The question was whether the draft order was consistent with this action taken by the Board. It was moved by Tyson Hollis, seconded by William Spielberg, to approve the order as consistent with the action taken by the Board when this matter was heard March 13, 2024. Motion adopted. Vote: 3-0-1 (Bautista abstaining).

The Board Chairman then called James F. Thomson, Jr. dba American Southwest Electric, Arizona Inc., case number LV 23-2218 to be heard. This was another withdrawal-settlement. It was moved by Gled Bautista, seconded by Tyson Hollis, to approve the settlement upon withdrawal. Motion adopted. Vote: 4-0-1 (Fullerton, absent).

The remaining six cases were status conference matters beginning with Dillard's, LV 14-1704. Salli Ortiz, Esq., appeared on behalf of the complainant and Lisa Alstead, Esq., from McDonald Carano appeared on behalf of the respondent. The respondent was not the prevailing party. This case was brought up on appeal and while the appeal was pending, then counsel for Respondent, Tim Rowe, Esq., past away. Neither counsel was aware of the status of this case. Both will check with the State District Court where the matter is lingering on appeal and report back to the Board in one month at the next Board meeting with an explanation of the status and have a suggested action plan. The matter is set over for 30 days, then to the meeting of November 13, 2024.

Chairman Macias then called Platinum Plastering, Inc., LV 18-1910 to be heard for a status conference. Ms. Ortiz, Esq., appeared for the Complainant. No one appeared for the respondent though clearly noticed. The record before the Board shows the case was heard, a decision was written by Board counsel at that time, and, according to the practice of the Board at that time, the State, as the prevailing party was directed to draft Findings of Fact and Conclusions of Law consistent with the decision of the Board. There is no record that any Findings of Fact were ever served on the Board by the Complainant, who had been ordered by the Board to provide Findings of Fact. Counsel for the State, Salli Ortiz, Esq., advised the Board that the Findings of Fact had been served on the Board. The Board has no record of the receipt of any Findings of Fact from the State. Both the parties are to report back to the Board in 30 days at the next Board meeting on November 13, 2024, regarding the status and a plan of action. Otherwise the Board will provide direction to the parties for the final disposition of this matter.

Board Chairman then called EyeFi Holdings, LLC, case number LV 19-1965. Ms. Ortiz, Esq., appeared for the Complainant. In this matter, a complaint was filed but no answer had been filed in the matter. The complaint was filed and served on October 18, 2018. The case has been languishing, according to the record of the Board, since then. Robert Ayers, Esq., Holland & Hart, LLP, appeared and advised that a settlement was in the works. The matter was set out by the Board for two months until the meeting of December 11, 2024, when it will appear again on the administrative calendar. The parties are to report the status at that time. Failing a satisfactory report of the status of this matter, it will be set on the contested docket, trial or dismissed for the want of prosecution.

Chairman Macias then called Bridgestone Hosepower, LLC, RNO 20-2046 to be heard in a settlement conference. Julie O'Keefe, Esq., appeared on behalf of the respondent. She said her firm was only recently hired to represent the Respondent. She said, she hadn't, had enough time to process the case and to determine what action, if any, should be taken in this stale matter. The complaint was filed and served on June 12, 2020. The Board set this matter out for two months to the December, 2024 meeting for another status conference at which time the Board will take appropriate action based upon the nature of the report. According to Ms. Ortiz, the parties are in the process of settlement with the exchange of offers. Nonetheless, the case has been languishing and needs to be moved. The Board will take appropriate action if the case continues to languish.

Board Chairman Macias, then called Dayton Valley Tire and Services LC, RNO 21-2091 to be heard. Ms. Ortiz, Esq., appeared for the State. No one appeared for the Respondent though duly noticed in writing of this status conference. The complaint in this case was filed on October 27, 2020. As of this date, no answer has been filed and served. Ms. Ortiz, Esq., reported that settlement documents are being exchanged. As the case was filed on October 27, 2020, with no answer being filed, the case has been languishing long enough. The matter is set out for two months to be placed on the December 11, 2024, administrative docket for a further settlement conference and direction, including, possible dismissal, depending upon the explanation of the matter reported to the Board during the status conference in December.

The Board Chairman then called Item 4.c., General Administration and/or procedural issues for consideration.

i. General matters of import to Board members. Board member Hollis asked the Chairman if he had heard back on the exchange of correspondence that had been copied to the Board members. Chairman Macias advised that he had not received any reply.

ii. Old and New Business. Board Chairman called this item to be heard. It was pointed out once, again, that the Board is one member short. In the meantime, Board member Hollis will continue to sit for matters as an alternate appointee and he will submit an application for full appointment to the Board. Meanwhile there must be a continued pursuit of the appointment of the sixth member in order to have a full compliment of Board members to handle the workload of the Board.

Chairman Macias called for item 4.d., to be heard, this list of scheduled hearings dated on through May, 2025. The hearing dates listed for the Board in the Agenda will remain intact. No Board member had an objection to any of the dates of the meetings as listed on the Agenda for the months of November 2024 through May 14 and 15, 2025. Board counsel advised, however, that Nevada Paving it appears, will require a separate, special 2-day hearing given the revelation that the parties anticipate calling 10 to 11 witnesses to be heard. A hearing of that magnitude and nature will take the air out of the room leaving no time for any other matter to be considered. Hence, a special 2-day session devoted to nothing but Nevada Paving, may well be in order. Counsel's office will contact Board members and counsel for the parties to find a date in the near term of 2 days for the special hearing on the Nevada Paving, case number RNO 23-2224.

It will be the responsibility of the State to make the arrangements sufficiently far in advance to ensure the presence of a certified court translator in order for the hearing on this matter to proceed. The State will notify Board counsel that the arrangements for certified court translator have been made for the dates for the hearing on this matter.

Chairman Macias then called Item 5, public comment to be heard. He stated that there was no public comment. Board counsel then advised that his office had received no public comment during the course of the meeting.

## 6. Adjournment.

It was moved by Tyson Hollis, seconded by Gled Bautista, to adjourn the meeting of the Board. Motion adopted. Vote: 4-0.

Dated this 5<sup>th</sup> day of December, 2024.

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

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