

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

Held at DEPARTMENT OF OCCUPATIONAL
SAFETY & HEALTH
4600 Kietzke Lane, Building B, Suite 111
Reno Nevada on
Wednesday, May 10, 2017
Commencing at 9:00 o'clock a.m.

PRESENT

James Barnes (public)
Nicole Baker (labor)
Sandra Roche (management)
Fred Scarpello, Esq., Legal Counsel

ABSENT

Steve Ingersoll (labor)
Rodd Weber (management)
Frank Milligan (alternate)

The Nevada Occupational Safety and Health Review Board convened the scheduled meeting of the board at approximately 9:00 a.m., May 10, 2017. 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 announced the contested hearing calendar and identified the cases set for hearing on the published public agenda notice. The Chairman noted settlement of docket RNO 17-1869, Occupational Safety and Health Administration, Division of Industrial Relations of the Department of Business and Industry, vs. Otis Elevator. Chairman Barnes further noted the matter would be included on the weekly status report and diaried for receipt of settlement documentation in accordance with the Board rules. The case will be included on the publically noticed agenda for approval review listed "for possible action" at the next public meeting.

The Chairman called the meeting to order for hearing of the remaining case on the contested hearing calendar, namely docket no. RNO 16-1851, Occupational Safety and Health Administration, Division of Industrial Relations of the Department of Business and Industry, vs. Reno Forklift. The chairman noted the appearance of division counsel Ms. Salli Ortiz, Esq. on behalf of the complainant, Chief Administrative Officer of the Occupational

Safety and Administration, Division of Industrial Relations of the Department of Business and Industry and Bruce Mundy, Esq. for respondent, Reno Forklift.

Documentary evidence and testimony were presented in the course of the hearing. After closing arguments of counsel, the hearing was concluded and the case submitted at approximately 11:45 a.m.

The Chairman noted time factors pertaining and inquired if members were prepared to debate and reach a decision on the contested matter, docket RNO 16-1851. After a brief review, the Board agreed to postpone deliberation and decision until receipt of the transcript. The Chairman and Board instructed the matter be rescheduled for final action on the administrative agenda at the next publically scheduled meeting on June 14 and 15, 2017.

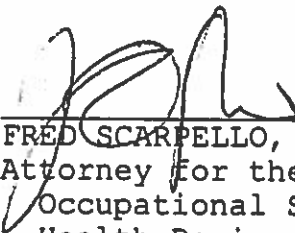
The Chairman and Board reviewed remaining matters on the published agenda. The chairman first referenced Item 4(c) on the agenda, identifying pending matters "for possible action". On motion, second and unanimous vote, Board members agreed to postpone a decision on the Motion to Dismiss filed in LV 17-1882, MMC Contractors West, and reschedule the matter for consideration before the full Board on the June 14 calendar. Counsel was instructed to reschedule the full hearing on the merits of that matter, which had been scheduled on the June calendar. The matter will be moved to the July 12 and 13 hearing date in consideration of fairness and convenience to parties in allowing for the potential of the motion being granted at the June 14 and 15 meeting.

The Board continued review of items at item 4(c) and discussed the settlement documentation for approval and advisory memorandum regarding same as to LV 17-1875, Riverside Resort and Casino. On motion, second and unanimous vote the Board approved the settlement agreement and instructed counsel to forward the final order to the chairman for signature, return and effectuation of service on all parties. The Chairman further noted at item 4(c) receipt by all Board members of the final Decision draft and legal research memorandum in docket LV 17-1879, DLP Services. Board members acknowledged and reviewed the draft Decision and noted counsel's references to the transcript review which was not yet complete. Board members agreed that subject to any findings of counsel on review for any inconsistencies in the reported transcript testimony and Decision testimonial references, that the Decision is subject to final approval. Board members approved the final draft Decision and authorized completion of same in final so long as no substantive changes are made. Counsel confirmed that unless any substantive changes are required after review of the transcript the

decision would be completed to Final and service effectuated on all parties.

The Chairman noted no other matters listed on the agenda for **possible action** under the Nevada Open Meeting Law. Chairman Barnes called for approval of the previous Board minutes as distributed. On motion, second and unanimous vote of members in attendance, the minutes were approved as distributed. Counsel briefly referenced that the weekly status report and other matters subject of advisories for follow up action had been subject of memoranda previously sent to Board members. Board members present had no questions with regard to the distributions received.

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 12:30 p.m.



FRED SCARPELLO, ESQ.
Attorney for the Nevada
Occupational Safety and
Health Review Board