

STATE OF NEVADA

**Minutes for the
Nevada Occupational Safety and Health Review Board
Las Vegas, Nevada**

January 28, 2020

**Steve Ingersoll (Labor)
James Halsey (Labor)
Frank Milligan (Public)
Lance Semenko (Management)**

On January 28, 2020, 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 offices of the Department of Occupational Safety and Health, 3360 West Sahara Avenue, Suite 175, Las Vegas, NV 89102. Participating in person were Board Chairman Steve Ingersoll and members James Halsey, Frank Milligan and Lance Semenko. Board Secretary, Rodd Weber was absent. 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.

The Meeting was called to order at 9:00 a.m., by Board Chairman, Steve Ingersoll.

1. Roll Call.

Participating in person were Board Chairman Steve Ingersoll and members James Halsey, Frank Milligan and Lance Semenko. Board Secretary, Rodd Weber was absent. As four members of the Board participated in the meeting, including a representative of labor and a representative of management, a quorum was present to conduct the Board's business.

Also, personally in attendance 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 Board of Review Counsel, Charles R. Zeh, Esq., The Law Offices of Charles R. Zeh, Esq.

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.

2. Public Comment.

The Chairman called this item to be heard. As a matter of public comment, Ms. Meredith Tracy, the wife of the decedent, Russell Anthony Tracy, Jr., in the Olson Precast fatality case, next in order on the docket, and her attorney, Thomas W. Askeroth, Esq., appeared. He made clear that his client was there to show support for the process and to underscore the importance of these proceedings to her and her family. Concluding these remarks, they stayed in the hearing room to observe the presentation of the case.

There was no other public comment.

3. Contested Case Hearings.

a. LV 18-1939, Olson Precast Co. (Fatality)

The Chair called this matter to be heard, Olson Precast Co., docket number LV 18-1939. Appearing for the complainant, 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, was Salli Ortiz, Esq., and appearing for the respondent was Dalton Hooks, Esq., and Sami Randolph, Esq., of the law firm of Hooks Meng & Clement. Mr. Hooks was also accompanied by John F. Wiles, Esq., whose salary is also funded in part by Unified Construction Industry Council ("UCIC"). James Halsey, in his capacity as the business agent for IBEW Local 357, is a member of the Board of Trustees for UCIC. He disclosed this fact and advised that this would not prevent him from participating in the disposition of this matter.

Subsequently, during the course of the hearing, Frank Milligan learned that his employer, the Las Vegas Valley Water District, on occasion contracted with Olson Precast Co., but he did not think that would constitute a conflict of interest, and he would hear this matter.

After Board counsel set the case for this matter to be heard, the case was convened. The Board heard testimony for 3.5 hours, took a lunch break and continued, thereafter, to take more testimony. At about 3:30 p.m., member Halsey departed from the hearing to attend another, prior business commitment. The Board proceeded to take more testimony until 5:00 p.m., when the hearing was suspended and continued to be taken up when the Board reconvened the morning of January 29, 2020.

Board Chairman Ingersoll asked for any additional public comment. Seeing none, the Chairman asked for a motion to adjourn. It was accordingly moved by Frank Milligan, seconded by Lance Semenko to adjourn the meeting, continuing Olson Precast Co., until tomorrow, when the Board reconvenes. **Motion adopted.**

Vote: 3-0. (Halsey absent at this time.)

Before actual adjournment, however, Whitney Selert, Esq., of Garg Golden Law Firm, who represents Brady Linen, docket number LV 18-1943, also on the Agenda to be heard on the stacked docket for January 2020, was informed that his matter would not be heard on January 29, 2020, and therefore, he and his client were excused from the docket for January 2020.

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Chairman Ingersoll reconvened the meeting of the Board at approximately 10:00 a.m. The Board was scheduled to reconvene at 9:00 a.m., but because according to the Reporter Service utilized by the State, the scheduled court reporter became ill, arrangements made through Board legal counsel, and his assistant, Karen Kennedy, for a court reporter, Brandi Smith, to report the hearing by teleconferencing from the OSHA offices on Kietzke Avenue in Reno, Nevada. Ms. Smith was available to proceed at 10:00 a.m., and at that time Chairman Ingersoll called the meeting to order.

1. Roll Call.

Present Steve Ingersoll, Chairman, James Halsey, Frank Milligan, and Lance Semenko. Also, present, Charles R. Zeh, Esq., The Law Offices of Charles R. Zeh, Esq., Salli Ortiz, Esq., for the State, and Dalton, Hooks, Esq., Sami Randolph, Esq., and John Wiles, Esq., for Olson Precast Co.

2. Public Comment.

There was no public comment.

3. Contested Case Hearing.

The Chairman then called this item to be heard, the continuation of Olson Precast Co., LV 18-1939. The Chairman asked Board Counsel to discuss the status of the case. Board counsel wanted the parties to clarify the representation the parties made yesterday to streamline the hearing on the rest of the citations after Citation one, Item one. There are thirteen citations in number for this case. Citation one, item one carried a potential fine of \$70,000, whereas the rest of the case carried fines totaling in the aggregate, \$14,000. After much discussion, a recess and the opportunity for Mr. Dalton to confer with his client, complainant and respondent agreed and advised the Board that Olson Precast was withdrawing its contest to all citations other than Citation one, Item one. As to the rest, Olson Precast will accordingly be guilty of the charges and assessed the penalties as levied and totaling \$14,000.

The hearing on the rest of Citation one, Item one, then resumed. The Board heard this matter continuously without stopping for lunch, and taking only two nominal breaks. It became clear to the Board that after the conclusion of the testimony of the Respondent's expert witness, James Stanley, that there would not be enough time left in the day for the Respondent to finish its case in defense. The Board, thus, concluded hearing further testimony and evidence, once Mr. Stanley, stepped down from the witness stand.

The balance of this case will be rescheduled to be heard at a later date.

Given that there was a little time left in the day, the Board proceeded ahead, and heard the administrative portion of the Agenda.

4. a. Approval of the Previous Review Board Minutes of September 11 and 12, 2019 and December 11, 2019.

September minutes. It was moved by Lance Semenko, seconded by Frank Milligan, to approve the minutes as read. Motion adopted on a vote of 3-0-1 (Ingersoll abstaining as he was not in attendance for the meeting).

December minutes. The December minutes were tabled as there was not a proper quorum to consider these minutes.

4. b. Review contested case settlements, motions, draft decisions, or procedural issues pending on status report, for approval and issuance of final orders.

(i) **Sierra Packaging, RNO 14-1684.** Board counsel advised this had to be tabled for the want of a proper quorum for this matter.

(ii) **RNO 19-1988, Sierra Products, Inc.** Chairman Ingersoll called this item to be heard, a settled case. It was moved by Frank Milligan, seconded by Lance Semenko, to approve the disposition of this case. **Motion adopted.**

Vote: 4-0

(iii) **RNO 19-1989, Sierra Products, Inc.** Chairman Ingersoll called this item to be heard, a settled case. It was moved by Lance Semenko, seconded by Frank Milligan, to approve the disposition of this case. **Motion adopted.**

Vote: 4-0

(iv) **LV 19-1976, Hirschi Masonry, LLC.** Chairman Ingersoll called this item to be heard, a settled case. It was moved by Frank Milligan, seconded by Lance Semenko, to approve the disposition of this case. **Motion adopted.**

Vote: 4-0

- (v) **LV 19-1969, Barney Family, LTD.** Chairman Ingersoll called this item to be heard, a settled case. It was moved by James Halsey, seconded by Frank Milligan, to approve the disposition of this case. **Motion adopted.**

Vote: 4-0

- (vi) **LV 19-1970, Mammoth Underground, LLC.** Chairman Ingersoll called this item to be heard, a settled case. It was moved by James Halsey, seconded by Frank Milligan, to approve the disposition of this case. **Motion adopted.**

Vote: 4-0

- (vii) **RNO 19-1983, XL Concrete Masonry, LLC.** Chairman Ingersoll called this item to be heard, a settled case. It was moved by James Halsey, seconded by Frank Milligan, to approve the disposition of this case. **Motion adopted.**

Vote: 4-0

4. c. General administration and/or procedural issues.

i. General Matters of Import to Board members.

There were no comments from the Board members.

ii. Old or New Business.

There was no old or new business discussed.

4. d. Schedule of Hearings on Pending Cases, Calendar and Status Report.

The schedule stands as stated in the Agenda. However, it was agreed to try and reset the balance of Olson Precast Co., at the head of the April 2020, stacked docket, and to see if the March docket could be shifted to Las Vegas on March 10, 11 and/or 12, 2020, to pick up the remaining cases such as Brady Linen which were bumped due to the length of Olson Precast.

The Board has scheduled the following meetings:

- * **February 11 and 12, 2020**, 25 E. Shelbourne Avenue, Las Vegas, Nevada 89123.
- * **March 11 and 12, 2020**, 4600 Kietzke Lane, Building G, Suite 160, Reno, Nevada.
- * **April 8 and 9, 2020**, 3360 West Sahara Avenue, Suite 175, Las Vegas, Nevada 89102.
- * **May 13 and 14, 2020** - 3360 West Sahara Avenue, Suite 175, Las Vegas, Nevada 89102

- * **June 10 and 11, 2020** - 4600 Kietzke Lane, Building G, Suite 160, Reno, Nevada.
- * **July 8 and 9, 2020** - *Location to be determined.*
- * **August 12 and 13, 2020** - *Location to be determined.*
- * **September 9 and 10, 2020** - *Location to be determined.*
- * **October 14 and 15, 2020** -4600 Kietzke Lane, Building G, Suite 160, Reno, Nevada.
- * **November 11 and 12, 2020** - *Location to be determined.*
- * **December 9 and 10, 2020** - *Location to be determined.*

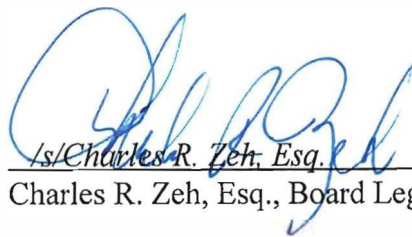
5. Public Comment.

There was no public comment.

6. Adjournment.

It was moved by James Halsey, seconded by Lance Semenko, to adjourn the meeting.
Motion approved.

Vote: 4-0.



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

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