

KENNY C. GUINN
Governor

State Of Nevada

Reply To:

RENO
9670 Gateway Dr., Ste. 100
Reno, Nevada 89511
(775) 688-1141
Fax (775) 688-1271
Investigations: (775) 688-1150



LAS VEGAS
4220 S. Maryland Pkwy., #D-800
Las Vegas, Nevada 89119
(702) 486-1100
Fax (702) 486-1190
Investigations: (702) 486-1110

MEMBERS
Kim W. Gregory, Chairman
Doug Carson
Dennis K. Johnson
John Lindell
Dennis F. Nelson
Deborah Winningham Sheltra
Michael Zech

STATE CONTRACTORS' BOARD

MINUTES OF THE MEETING JANUARY 20, 2000

The meeting of the State Contractors' Board was called to order by Chairman Kim Gregory at 10:20 A.M., Thursday, January 20, 2000 at the Offices of the State Contractors' Board, Las Vegas, Nevada, EXHIBIT A is the Meeting Agenda; EXHIBIT B are the Sign-In Logs; EXHIBIT C is the Proposed Emergency Regulation; EXHIBIT D is 14 page letter addressed to Senator Ann O'Connell from the Legislative Counsel EXHIBIT E is a letter and an addendum addressed to the Attorney General from the State Contractors' Board requesting an opinion for clarification on NRS 338.1389 and NRS 338.147.

BOARD MEMBERS PRESENT IN LAS VEGAS:

CHAIRMAN KIM GREGORY
MR. DOUG CARSON
MR. MICHAEL ZECH

BOARD MEMBERS PRESENT IN RENO:

MR. DENNIS JOHNSON
MR. JOHN LINDELL
MS. DEBORAH SHELTRA

BOARD MEMBERS ABSENT:

MR. DENNIS NELSON

STAFF MEMBERS PRESENT:

MS. MARGI GREIN, EXECUTIVE OFFICER
HAL TAYLOR, GENERAL COUNSEL
DAVID REESE, ESQ., LEGAL COUNSEL
MS. NANCY MATHIAS, LICENSING ADMINISTRATOR
MR. GEORGE LYFORD, DIRECTOR, SIU
MR. RICK BERTUZZI, DIRECTOR, INVESTIGATIONS
MS. BETTY WILLS, RECORDING SECRETARY
MS. JEANNE REYNOLDS, RECORDING SECRETARY

OTHERS PRESENT:

BARBARA KULISH, COURT REPORTER, CRS ASSOCIATES ; MARK J. LENZ, BIBLE, HOY & TRACHOK; GREG GERHARDT, GERHARDT & BERRY CONSTRUCTION; CHERYL BLOMSTROM, ASSOCIATED GENERAL CONTRACTORS; JOHN MADOLE, ASSOCIATED GENERAL CONTRACTORS; MARI BOCHANIS, SOUTHERN NEVADA WATER DISTRICT & LAS VEGAS VALLEY WATER DISTRICT; MARK STANIER, OAKVIEW CONSTRUCTION; GREG HERLEAN, CITY OF LAS VEGAS; STEVE HOLLOWAY, ASSOCIATED GENERAL CONTRACTORS, SOUTHERN CHAPTER; GEORGE OGILVIE, MC DONALD, CARANO; HOLLY GORDON, CLARK COUNTY DISTRICT ATTORNEY'S OFFICE; RUTH BOOTHE, CLARK COUNTY SCHOOL DISTRICT; RICH BROWN,

CLARK COUNTY SCHOOL DISTRICT; DAMILLE WRIGHT RUDICIL, SOUTHERN NEVADA NECA/IBEW LMCC; DAN GILL, LAS VEGAS VALLEY WATER DISTRICT; JESSE L. PAULK, AGC/TAB CONTRACTORS; GARY MILLIKEN, AGC; DAVID T. SLIGHT, RAFAEL CONSTRUCTION, INC.; WARREN HARDY, ASSOCIATED BUILDERS & CONTRACTORS.

Ms. Grein stated the Agenda had been posed in compliance with the Open Meeting Law on January 13, 2000 at the Las Vegas City Hall; Sawyer State Building' Clark County Library; Reno City Hall; Washoe County Courthouse; Washoe County Library; Offices of the State Contractors' Board in Reno and Las Vegas and the State Contractors' Board Web site.

Ms. Grein explained the provisions of NRS 233B.613 concerning the adoption of Emergency Regulations, the effective date of the regulation and the duration of an Emergency Regulation.

Mr. Gregory clarified that the Board will continue the normal rulemaking process to put into place the permanent regulations concerning Certificates of Eligibility to receive preference in bidding on certain public works projects.

Mr. Gregory requested the Board's Legal Counsel, Hal Taylor, explain the contents of a copy of a letter addressed to Senator Ann O'Connell from the Legislative Counsel which addressed the Board's questions relating to legislative intent in NRS 338.1389 and NRS 338.147 (Exhibit "E"). Mr. Taylor summarized the contents of the correspondence which is attached hereto as Exhibit "D."

Mr. Gregory asked if there was any Board discussion.

Mr. Johnson moved that the regulation be amended and that the term prime contractor be substituted for the term general contractor in the regulation wherever applicable. Mr. Lindell seconded the motion.

Mr. Carson indicated that although he philosophically agreed with Mr. Johnson, adding the language requested by Mr. Johnson would go beyond the scope of the language in the statute.

Mr. Gregory added that adding the language would be a major amendment to the regulation and that the matter should be noticed for comment and public hearing.

Mr. Gregory and Mr. Zech indicated they agree philosophically with the language proposed by Mr. Johnson but noted that this meeting was noticed for the purpose of adopting the Emergency Regulation before the Board.

After extensive discussion, a vote on the motion to include language in the emergency regulation that the term prime contractor be substituted for general contractor was taken. Board members Carson, Zech and Chairman Gregory opposed the motion Ms. Sheltra concurred with the motion. Since the vote was 3-3, the motion died.

Mr. Zech moved that the Emergency Regulation as written be adopted and that Notice of further hearings and request for comments be issued for the permanent regulations concerning Certificates of Eligibility for Bidders Preference. Mr. Carson seconded the motion; Mr. Lindell and Chairman Gregory concurred; Mr. Johnson and Ms. Sheltra dissented.

PUBLIC COMMENT

Greg Gerhardt, Gerhardt and Berry commented on the Carson City bid opening that was held on Wednesday, January 10, 2000. He indicated that he did not think that contractors were given enough time to submit applications for Certificates of Eligibility and have them processed by the Board.

Mr. Steve Holloway, Associated General Contractors, Las Vegas Chapter, commended the Board for moving forward with adoption of the Emergency Regulations. He indicated that he will appear at the hearing on the permanent regulation to present the views of his organization's membership.

Mr. Mark Lenz representing Greg Gerhardt asked if there was a provision in the law for a transitional period wherein a public entity could use a contractors previous bidders preference qualification. Mr. Taylor indicated that there was no provision in the law for a transitional period.

Mr. John Madole, Associated General Contractors, Northern Nevada, commented on the issue of the term prime contractor being included in the regulation. He indicated that he would like to see it addressed in the final regulation.

Mr. Gregory asked that Ms. Grein send another letter to the Legislative Counsel requesting clarification of the Legislative intent in NRS 338.1389 and NRS 338.147 concerning prime contractors. Mr. Madole requested a copy of the letter that is sent by Ms. Grein.

Mr. Greg Herlean, City of Las Vegas commented that he appreciated the Board's action in adopting the Emergency Regulation and asked about the length of time required for processing Applications for Certificates of Eligibility. Mr. Herlean was advised that the applications are being processed as quickly as possible.

Mr. George Ogilvie, McDonald, Carano law firm commented that the Board is not required to include the language regarding the five-year rule based on the letter prepared by the Legislative Counsel (Ex. "D").

There being no further business to come before the Board, the meeting was adjourned at 12:10 P.M.

Respectfully Submitted,

Jeanne Reynolds, Recording Secretary

APPROVED:

MARGI A. GREIN, EXECUTIVE OFFICER

KIM GREGORY, CHAIRMAN