

KENNY C. GUINN  
Governor

## STATE OF NEVADA



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### MEMBERS

KIM W. GREGORY  
*Chairman*  
DOUG CARSON  
MARGARET CAVIN  
DENNIS K. JOHNSON  
DEBORAH WINNINGHAM SHELTRA  
MICHAEL ZECH

## STATE CONTRACTORS' BOARD

### MINUTES OF THE MEETING FEBRUARY 24, 2000

The meeting of the State Contractors' Board was called to order by Chairman Kim Gregory at 8:40 a.m., Thursday, February 24, 2000, State Contractors' Board, Las Vegas, Nevada. Exhibit A is the Meeting Agenda and Exhibit B is the Sign In Log.

#### **BOARD MEMBERS PRESENT:**

Mr. Kim Gregory - Chairman  
Mr. Doug Carson  
Ms. Margaret Cavin  
Mr. Dennis Johnson  
Ms. Deborah Sheltra  
Mr. Michael Zech (Arrived at 8:50 a.m.)

#### **BOARD MEMBERS ABSENT:**

None

#### **STAFF MEMBERS PRESENT:**

Ms. Margi Grein, Executive Officer  
Mr. Robert Griffy, Legal Counsel (Haney, Woloson & Mullins)  
Mr. Dennis Haney, Legal Counsel (Haney, Woloson & Mullins)  
Mr. Bruce Robb, Legal Counsel (Robison, B.R & S)  
Mr. Hal Taylor, Legal Counsel  
Ms. Nancy Mathias, Licensing Administrator  
Mr. George Lyford, Director of Special Investigations Unit  
Mr. Rick Bertuzzi, Director of Investigations  
Mr. Frank Torres, Deputy Director of Investigations  
Mr. Ron Ramsey, Investigator  
Ms. Betty Wills, Recording Secretary

#### **OTHERS PRESENT:**

Barbara Kulish, Court Reporter, CSR Associates of Nevada; Mark Melson, Executive Vice President, Lehrer McGovern Bovis Inc (L M B); Jennifer Fletcher, Legal Counsel, Lehrer McGovern Bovis Inc; Sterling Kerr, Legal Counsel, R D C Custom Rock ( R D C); Jeff Whittle, President, R D C Custom Rock; Shawn Morris, Legal Counsel, Maui One; Karlene Canepa, Office Manager, Maui One Excavating Inc.; and Stuart Mason, Vice President of Development, Venetian,

Ms. Grein stated that Ben Sample and Greg Welsh, NSCB Investigators, had posted the agenda in compliance with the open meeting law on February 16, 2000, at the Sawyer State Building, Clark County Library, and Las Vegas City Hall. Additionally, the agenda had been posted in each office of the Board, Las Vegas and Reno, and on the Board's Internet web site.

### DISCIPLINARY HEARING

LEHRER MCGOVERN BOVIS INC. #35850 – DISCIPLINARY HEARING (Continued from January 10, 2000)

Mark Melson, Executive Vice President, Lehrer McGovern Bovis Inc (L M B); Jennifer Fletcher, Legal Counsel, Lehrer McGovern Bovis Inc; Sterling Kerr, Legal Counsel, R D C Custom Rock ( R D C); Jeff Whittle, President, R D C Custom Rock; Shawn Morris, Legal Counsel, Maui One; Karlene Canepa, Office Manager, Maui One Excavating Inc.; Stuart Mason, Vice President of Development, Venetian,

The notice of hearing and complaint, dated November 15, 1999 and consisting of pages 1-17, had been sent certified mail. The return receipt was dated November 18, 1999.

The notice of continued hearing and an amended complaint, dated December 2, 1999 and consisting of pages 1-36, had been sent certified mail. The return receipt was dated December 6, 1999.

Mr. Robb provided the Board with the background of events leading to the January 10, 2000 hearing, and announced that a resolution had been reached by R D C and L M B.

Mr. Kerr and Mr. Whittle confirmed that a resolution had been reached and formally withdrew R D C's complaint against L M B.

Mr. Robb commented how much the professionalism displayed by Mr. Kerr and Mr. Whittle in getting the matter resolved was appreciated.

Addressing the Maui One complaint, Mr. Robb said a signed stipulation had been entered into indicating that the claim presented through the disciplinary complaint had been paid in its entirety. Proof in the form of a check and a partial waiver and reduction of claim executed on behalf of Maui One had been forwarded to Mr. Robb by Ms. Canepa.

Mr. Robb then pointed out that the difference between the Maui One and the R D C resolution was L M B recognized that under the contractors' law there was a question as to whether investigative costs and attorneys fees could be awarded if there was a dismissal of the action or if the complaint was withdrawn. As part of the stipulation, it had been agreed that the Board could assess all or part of its investigative costs and fees incurred in the prosecution of the disciplinary action; therefore the Executive Officer and special counsel were recommending that the Board approve the stipulation. Mr. Robb recommended that an allocation be performed as to the costs incurred by the Board to differentiate between the costs incurred on Maui One as opposed to the other claimants. Mr. Robb reiterated that the complaint against L M B had started with five complaints. Three had been resolved early. R D C was now resolved, leaving only Maui One remaining.

Mr. Robb presented a request to Mr. Morris and asked Ms. Canepa, on behalf of Maui One, to sign the requested stipulation that he had prepared regarding submission of the settlement to the Board.

Mr. Morris pointed out that the dispute between Maui One and L M B was for approximately \$1 million. The stipulation that had been entered into by Mr. Robb and L M B represented approximately only \$300,000 of the amount owed. Due to continuing litigation and a

balance of \$700,000 remaining unpaid, Mr. Morris said his client was hesitant to sign the approval of the stipulation.

Mr. Robb then explained how the agreement had been reached, and said there were two claims that Maui One had reserved: change orders for work performed and any moneys that had been paid by the Venetian to L M B that should have been designated to Maui One but which Maui One did not receive.

Mr. Taylor clarified what was represented in the \$300,000 plus payment.

Ms. Canepa confirmed Maui One had been paid the full amount requested in the disciplinary complaint, clarifying that the original complaint was for the entire amount due. What came before the Board was the \$334,000. That had been paid in full.

Mike Zech arrived at 8:50, and abstained.

Ms. Canepa stated that Maui One reserved their right to come before the Board with the remaining invoices that were signed, and work had been performed for L M B.

Mr. Shawn said Maui One would not sign the stipulation.

Mr. Robb then summarized the two issues remaining before the Board. Discussion then focused on case costs and pending complaints.

Ms. Fletcher expressed L M B's appreciation for the professionalism of the special counsel and the Executive Officer, and addressed the case costs and sanctions.

**Mr. CARSON MOVED TO REFER THE MATTER TO FORMAL FINDINGS OF FACT, CONCLUSIONS OF LAW.**

**MS. SHELTRA SECONDED THE MOTION.**

**THE MOTION CARRIED.**

Mr. Carson and Ms. Sheltra withdrew the motion based on Ms. Fletcher's representation that L M B was prepared to sign the waiver of formal findings stipulation. Mr. Melson signed the stipulation.

The evidentiary was closed.

**MR. CARSON MOVED TO DISMISS ALL CAUSES OF ACTION #1-9 WITHOUT PREJUDICE AGAINST LICENSE #35850, LEHRER MCGOVERN BOVIS INC.**

**MS. CAVIN SECONDED THE MOTION.**

In further discussion of the motion, Ms. Sheltra and Mr. Johnson agreed there was guilt on the ninth cause of action. Mr. Johnson said he could agree with items 1-8, but not item 9. After further discussion, the motion was called.

**THE MOTION CARRIED. (MS. SHELTRA WAS OPPOSED)**

**MR. CARSON MOVED TO FIND LICENSE #35850, LEHRER MCGOVERN BOVIS INC., IN VIOLATION OF NRS 624.307 (3).**

**MR. JOHNSON SECONDED THE MOTION.**

**THE MOTION CARRIED.**

Penalty phase.

**MS. SHELTRA MOVED TO IMPOSE THE INVESTIGATIVE COST OF \$47,269.00, TO BE PAID WITHIN 30 DAYS OR THE LICENSE WOULD BE AUTOMATICALLY SUSPENDED.**

**MR. JOHNSON SECONDED THE MOTION.**

**THE MOTION CARRIED.**

### **EXECUTIVE SESSION**

Mr. Robb was commended for his fine representation of the Board in the Lehrer McGovern Bovis hearing.

### **INVESTIGATIONS DEPARTMENT REPORTS**

1. Rick Bertuzzi provided the Board with the Las Vegas Investigations Department Report, detailing how cases were now being assigned in order to distribute the caseload more evenly per investigator.
2. Frank Torres provided the Board with the Reno Investigations Department Report.
3. George Lyford provided the Board with the Las Vegas Special Units Investigations Department Report. Mr. Lyford requested recovery of costs for complex background investigations. He was informed that request would have to be made of the Legislature.

The Board requested that staff keep close watch on the money owing complaints; to schedule summary suspension hearings when it was in the best interest of the public health, safety, and welfare; to set up investigative phone logs, as well as standard telephone return-calls procedures; and to review a methodology to substantiate proof of service.

Mr. Carson recommended utilizing Mr. Nelson and Mr. Lindell on the Enforcement Advisory Committees to assist in resolving the backlog of complaints.

It was recommended that staff notice carpet companies reminding them of their responsibilities as a contractor.

### **LICENSING DEPARTMENT REPORTS**

Ms. Mathias provided the Board with the Licensing Department Reports. A discussion followed regarding the number of applications, conducting workshops to update examinations, and possibly reviewing license categories, as well as reviewing definitions.

### **REQUEST FOR CONSIDERATION OF RE-HEARING OF DENNIS LONG COMPLAINT AGAINST BLADES CONSTRUCTION #23397**

The request for re-hearing in the matter of the Dennis Long complaint against Blades Construction was approved.

### **EXECUTIVE OFFICER'S QUARTERLY REPORT – 12/31/99**

Ms. Grein presented the Board with the Executive Officer's Quarterly Report.

**MS. SHELTRA MOVED TO ACCEPT THE EXECUTIVE OFFICER'S QUARTERLY REPORT.**

**MR. JOHNSON SECONDED THE MOTION.****THE MOTION CARRIED.**

The Management Letter from the last audit was addressed, and the Board discussed the procedure for the transfer of funds.

In discussion, the Board expressed their desire to move forward with document imaging and requested staff to look into the cost and feasibility of adopting a system.

Addressing a request for advisory opinion regarding prison labor, the Board said the issue was outside of its jurisdiction, and requested Mr. Haney to prepare a response.

**STRATEGIC PLANNING SESSION**

The Board was reminded of the committees each member was assigned to, and Ms. Cavin was advised of committee openings and appropriately assigned to committees.

**CONSIDERATION OF ADOPTION OF PROPOSED REGULATIONS – NRS 338.147 AND 338.1389 – CERTIFICATE OF ELIGIBILITY FOR BIDDERS PREFERENCE; NRS 624.265(4) – FEES FOR PROCESSING FINGERPRINTS, NRS 624.282 .6(A)(B)(C)-APPLICATION AND RELATED FEES FOR INACTIVE LICENSE**

Ms. Grein informed the Board she had received a fax from the office of the Northern Nevada Associated General Contractors. She was still awaiting an opinion from the AG's office in response to her requests of January 7, January 11, and January 24, 2000.

**PUBLIC COMMENT**

No one from the general public was present to speak for or against any items on the agenda.

There being no further business to come before the Board, the meeting was adjourned by Chairman Gregory at 10:40 a.m.

Respectfully Submitted,

Betty Wills, Recording Secretary

APPROVED:

Margi Grein, Executive Officer

Kim Gregory, Chairman