

KENNY C. GUINN
Governor

STATE OF NEVADA

REPLY TO:

MEMBERS

KIM W. GREGORY
Chairman
DOUG CARSON
DENNIS K. JOHNSON
JOHN LINDELL
DENNIS F. NELSON
DEBORAH WINNINGHAM SHELTRA
MICHAEL ZECH



STATE CONTRACTORS' BOARD

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MINUTES OF THE MEETING
MAY 11, 1999

The meeting of the State Contractors' Board was called to order by Vice-Chairman Dennis Johnson at 8:52 a.m., Tuesday, May 11 1999, State Contractors' Board, Reno, Nevada. Exhibit A is the Meeting Agenda and Exhibit B is the Sign In Log.

BOARD MEMBERS PRESENT:

Mr. Kim Gregory – Chairman (Arrived at 9:34 a.m.)
Mr. Dennis Johnson – Vice Chairman
Mr. Doug Carson
Mr. John Lindell
Mr. Dennis Nelson
Ms. Deborah Sheltra
Mr. Michael Zech

BOARD MEMBERS ABSENT:

None

STAFF MEMBERS PRESENT:

Ms. Margi Grein, Executive Officer (Arrived at 9:34 a.m.)
Mr. David Reese, Legal Counsel (Cooke, Roberts & Reese)
Mr. Dennis Haney, Legal Counsel (Haney, Woloson & Mullins)
(Arrived at 9:13 a.m., Exited at 11:37 a.m.)
Ms. Nancy Mathias, Licensing Administrator
Mr. Bill Rizzo, Director of Investigations
Ms. Gloria McDonald, Director of Finance
Ms. Kathy Stewart, Licensing Supervisor
Ms. Betty Willis, Recording Secretary

OTHERS PRESENT:

Lesley Clarkson, Court Reporter, Sierra Nevada Reporters; Richard Collings, Western Insurance Company, appearing for Advanced Asphalt; Tom Chew, Controller, Advanced Asphalt; Tim Davison, Owner, Tim Davison Tile; Ron Davison, Qualified Employee, Trade, Tim Davison Tile; Joe Barkowski, President, Pro Touch Inc.; Glenn Morrison, Owner, Reno Fence Works Co; Melvin Landberg, Sr., Owner, Landberg Construction Company; Justin Niles, Owner, Niles Construction & Development; Kathy Pruitt, Services Purchasing Supervisor, Nevada Department of Administration; and Gerald Hartman, Installation Technicians, Inc.

Ms. Mathias stated the agenda had been posted in compliance with the open meeting law, on May 5, 1999, by Gary Leonard, Investigator, at the Washoe County Court House, Washoe County Library, and Reno City Hall. In addition, it had been posted in both offices of the Board, Las Vegas and Reno.

Mr. Johnson called for a motion to approve the minutes of April 27, 1999.

MR. CARSON MOVED TO APPROVE THE MINUTES OF APRIL 27, 1999.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED.

The legislative discussion and the executive session were postponed until later in the day. There was no item for discussion under the enforcement advisory committee and the Executive Officer's Quarterly Report was postponed until the next board meeting in Las Vegas.

It was learned there were 40 items on the amended agenda, each item of an emergency nature. There was no objection to hearing the amended agenda.

The following motion closed the meeting to the public.

MR. LINDELL MOVED TO CLOSE THE MEETING TO THE PUBLIC.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED.

The meeting was then closed to the public pursuant to NRS 241.030 to discuss financial and other data, which is confidential under NRS 624.110 (2).

APPLICATIONS

ADVANCED ASPHALT DBA ADVANCED COMPANIES INC #35835A (A8,12,16 - Seal/Stripe Asphaltic Surfaces; Excavate Grade Trench Surface; Paving Streets, Driveways, Lots) RAISE IN LIMIT, BOARD DECISION

Richard Collings, Western Insurance Company, and Tom Chew, Controller, Advanced Asphalt, were present for the Board's decision to approve the raise in limit request.

MR. NELSON MOVED TO APPROVE THE RAISE IN LIMIT APPLICATION FOR \$1 MILLION WITH A \$15,000 BOND AND PERSONAL INDEMNIFICATION.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED.

TIM DAVISON TILE (C20 - Tiling) NEW APPLICATION, RECONSIDERATION, BOARD DECISION

Tim Davison, Owner, and Ron Davison, Qualified Employee, Trade, were introduced to the Board. Ron Davison, father to Tim Davison, had agreed to personally indemnify the license. Ms. Stewart indicated Tim Davison had a prior arrest and conviction for battery, which was a misdemeanor. He had been sentenced to 30 days in jail. It had been suspended conditioned upon completing an anger management course, which had been satisfied in April, 1995. The license application had been denied on April 27, 1999.

Mr. Lindell asked Ron Davison if he was willing to switch positions with his son and take over the ownership of the company based on the financial situation of the younger Mr. Davison. Mr. Ron Davison then explained the financial situation of Tim Davison, indicating that many of his financial problems were due to a failed marriage wherein the former wife had suffered from drug abuse and had charged

all credit accounts to their limit.

Hereafter, Mr. Ron Davison agreed he would take over the ownership of the company and the license application was approved pending an amendment to the application.

MR. LINDELL MOVED TO APPROVE THE LICENSE APPLICATION WITH A LICENSE LIMIT OF \$50,000 AND A \$5,000 BOND, THE APPLICATION TO BE RESUBMITTED WITH RONALD J. DAVISON DESIGNATED AS OWNER AND WITH THE APPROPRIATE PAPERWORK FILED WITH THE STATE.

MS. SHELTRA SECONDED THE MOTION.

THE MOTION CARRIED.

E THREE CUSTOM ENERGY SOLUTIONS LLC (B – General Building) NEW APPLICATION, DURATION OF LLC – 9/11/2000, BOARD DECISION

Jeanette Bennion and Joe Berg were present and informed the license application had been approved with a license limit of unlimited, and a \$50,000 bond after the following motion was acted upon.

MR. NELSON MOVED TO APPROVE THE LICENSE APPLICATION WITH A LICENSE LIMIT OF UNLIMITED, AND A \$50,000 BOND.

MR. ZECH SECONDED THE MOTION.

Discussion occurred regarding the financial statement.

THE MOTION CARRIED. (MS. SHELTRA WAS OPPOSED)

PRO TOUCH INC. (C4A – Painting) NEW APPLICATION, BOARD DECISION

Joe Barkowski, President, was present, along with his wife Tammy Barkowski. The application had previously been denied at the last board meeting on April 27, 1999. Mr. Barkowski presented the board with new financial information, which Ms. Stewart pointed out had not yet been received by the board. Thereafter, a financial discussion ensued. When asked if he was currently working for someone, Mr. Barkowski said he was working as a painter with four different contractors on an hourly basis. Mr. Lindell asked for a current financial statement reflecting the home equity loan Mr. Barkowski was speaking to and the money that he indicated would go into the Pro Touch business.

A motion to table the license application for a revised financial statement was made, seconded, and withdrawn after further dialogue occurred. Ms. Sheltra suggested approving the license application upon Mr. Barkowski supplying the board with proof he had obtained the home equity loan he spoke of. Other board members concurred, indicating Mr. Barkowski was also to provide proof of payment of all credit card debt and of cash in the bank to operate the business. Additionally, Mr. Barkowski agreed to amend the license application to reflect a request in limit of \$25,000. The license application was then approved with a limit of \$25,000 and a \$5,000 bond, contingent upon receipt of the aforementioned items.

RENO FENCE WORKS CO (A21 – Fencing & Guardrails) NEW APPLICATION, BOARD DECISION

Glenn Morrison, Owner, was present and a financial discussion ensued. Mr. Morrison stated there were certain charges reflected on his credit report, which had been made by his former wife and were scheduled to be settled in family court. He had been advised by his attorney not to pay the disputed amounts until all property settlements and money amounts were finalized there. He then detailed the reason for the disputed amounts pertaining to medical bills. Mr. Morrison said he intended to primarily focus on residential fencing. A question

and answer period was then entered into.

MR. ZECH MOVED TO APPROVE THE LICENSE APPLICATION WITH A LIMIT OF \$50,000, A \$10,000 BOND, AND AN FS UPON RENEWAL.

MR. LINDELL SECONDED THE MOTION.

THE MOTION CARRIED. (MR. CARSON AND MS. SHELTRA WERE OPPOSED)

Mr. Gregory and Ms. Grein arrived at 9:34 a.m., and Mr. Gregory assumed the chair.

LANDBERG CONSTRUCTION COMPANY (B2 – Residential & Small Commercial) NEW APPLICATION

Melvin Landberg, Sr., Owner, was present and explained that he had certain potential clients who wanted him to remodel and expand room additions. He said when he left Western Nevada Properties a year ago, he started a handyman business. To date, all of his work had been by referral. He later learned he needed a license to perform the type of work he was doing.

MR. ZECH MOVED TO APPROVE THE LICENSE APPLICATION WITH A LICENSE LIMIT OF \$50,000, A \$5,000 BOND, AN FS UPON RENEWAL, AND A BID LETTER.

MS. SHELTRA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

NILES CONSTRUCTION & DEVELOPMENT (B2 – Residential & Small Commercial) NEW APPLICATION

Justin Niles, Owner, was present and entered into a financial discussion wherein Mr. Niles provided information that he had paid off his credit debt. He explained he had received a home equity loan and had paid off all credit card debt, as well as truck payments. He intended to perform remodeling and to build garages until he could build up his capital. Once he was able to obtain a higher limit, he intended to build custom homes. A motion to approve the license application for \$150,000 was made, seconded, but did not carry. It was amended to the following:

MR. JOHNSON MOVED TO APPROVE THE LICENSE APPLICATION WITH A LIMIT OF \$100,000 AND A \$10,000 BOND.

MS. SHELTRA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

SUNLINE MARKING #43637 (A8 – Seal/Stripe Asphaltic Surfaces) BROADENING OF CLASSIFICATION, ADDITIONAL QUALIFIER,

WOUDENBERG ENTERPRISES INC (C6D – Erecting Painted Signs) NEW APPLICATION

Ms. Mathias explained that Woudenberg Enterprises Inc license application was being withdrawn in lieu of broadening the existing license #43637. The company did not install signs as described in the C6 categories, they only did highway work: highway markers and signs and guardrails, all of which were covered within the A21 category.

The remainder of the applications on the agenda were reviewed and discussion occurred on the following: Nos. 4, 8, 9, 12, 16, 22, 29-30, 33-34, 37-42, 45, 47, 49-52, 54-55, 64, 71, 74-75, 77-78, 80-81, 85, 88, 90-91, 93, 95, 99, 110-111, 120, and 123. Amended agenda: Nos. 3, 6-7, 11, 13-14, 17-19, 21, 25, 29, 31, 35, 37, and 39-40.

Chairman Gregory asked for a motion to amend the agenda to review Rhodes Homes financial statement.

MR. LINDELL MOVED TO REVIEW THE FINANCIAL STATEMENT OF RHODES HOMES.

MR. NELSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

In the financial discussion, it was determined that the financial statement, which had been provided, was a personal financial statement, not a corporate one. Staff was directed to request a current, corporate financial statement for Rhodes Design & Development Corporation unless Mr. Rhodes opted to reindemnify the corporation. The financial statement was to be provided by May 20, 1999 for the purpose of review at the next Las Vegas meeting on May 25, 1999.

MR. JOHNSON MOVED TO REOPEN THE MEETING TO THE PUBLIC.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

MR. JOHNSON MOVED TO APPROVE ALL APPLICATIONS NOT DISCUSSED IN CLOSED SESSION PER STAFF RECOMMENDATION.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE SESSION

CASH DISBURSEMENT AND TRANSFER APPROVAL

MS. SHELTRA MOVED TO ACCEPT THE DISBURSEMENTS AND TRANSFER OF THE BANK OF AMERICA COMMERCIAL CHECKING ACCOUNT, CHECK #'S 16904 THROUGH 17374.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

MS. SHELTRA MOVED TO APPROVE THE BANK OF AMERICA MONEY MARKET ACCOUNT, TRANSFERS OF CHECK #1246 THROUGH 1251, TRANSFER #9827 THROUGH 9833.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

MS. SHELTRA MOVED TO APPROVE THE WELLS FARGO BANK PAYROLL ACCOUNT, CHECK #16017 THROUGH #16448.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

FINANCIAL STATEMENT

MS. SHELTRA MOVED TO APPROVE THE FINANCIAL STATEMENT.

MR. ZECH SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

LEGISLATIVE DISCUSSION

Ms. Grein distributed copies of AB633, AB634 and AB636, which had passed out of the Senate Committee on Commerce and Labor. She noted her testimony and attendance at the hearing in company of both Mr. Gregory and Mr. Haney. She then explained she had submitted an amendment to SB423, deleting the duplicate items, which resided in AB633 or AB634.

Mr. Haney commented that Senator Townsend wanted to attend the June 8, 1999 board meeting, suggesting it was a good idea. Additionally, it was suggested that all members of the Commerce committee be invited to attend because the legislators wanted feedback before the next legislative session convened. Mr. Haney then detailed the legislative process, which would now follow, indicating that all parties had agreed upon the bills as amended, which had passed out of committee this day. Communication between the Senate and the Assembly committees had been maintained throughout the process.

Mr. Haney gave the Board an overview as to what the statutes gave them a right to do, pointing out that the board was out of the process in relation to construction defects. Ms. Grein noted that Southern Nevada Homebuilders indicated they did not have a problem removing the provision of construction defects, NRS 624.300, so it was removed.

Mr. Gregory suggested incorporating at some level, possibly the CMS exam, the minimum code requirement. This gave rise to the comment there was now a requirement that every licensee have minimum continuing education and Ms. Grein detailed the amendment she had submitted to that section of the bill.

Ms. Grein pointed out the Assembly must concur with the Senate amendments to AB633, and AB634. She noted the possibility that AB259 would be indefinitely postponed.

Mr. Haney left the meeting at 11:37 a.m., and the Executive Session was continued until later in the day.

ADVISORY OPINIONS

1) NEVADA DEPARTMENT OF PRISONS (NDOP), Satellite TV Services – License Requirement

Mr. Rizzo introduced Ms. Kathy Pruitt, Services Purchasing Supervisor, Nevada Department of Administration.

Ms. Pruitt explained that the issue was the State Purchasing Division had been in the process of trying to procure television satellite services for the Department of Prisons throughout the state. It involved new equipment and rewiring and installation of equipment. An RFP had been released and the question had arisen regarding the need for a contractor's license. She requested clarification as to who the deciding authority was with respect to licensing requirements and added the Attorney General's office had advised the Purchasing Division that it would not be in the state's best interest to enter into a contract with a contractor that did not have a contractor's license, which was the avenue that Purchasing wanted to take but they needed clarification from someone as to whose decision it was to make, and the requirements then that would go with that.

Ms. Pruitt was informed by Mr. Gregory that it was the board who determined licensure requirements. He added, if the decision was not followed, then the use of an unlicensed contractor was in direct violation of state statutes and any contract entered into with an unlicensed contractor would be void. Mr. Nelson then opined that the licensee should hold a C2D and E to perform the low-voltage work, if the licensee

installed, they needed to have a full C2 license. He said a full C2 license would cover everything.

Ms. Pruitt asked if the state of Nevada had reciprocal agreements with other states. It was explained it had limited reciprocal agreements with certain states.

2. INSTALLATION TECHNICIANS, INC. Sprint Project, Rio Vista Street, Las Vegas, NV – License Requirement

Ms. Mathias stated that the City of Las Vegas had questioned the license categories when a type of pavement permit had been applied for. EXHIBIT C, a letter from the City of Las Vegas to Installation Technicians was distributed to the board members. It specifically set forth the type of work being performed on the project. Installation Technicians had appeared before the Board on January, 1998 with a similar request. That project had also been for Sprint, although the scope of work had been somewhat different.

Gerald Hartman was present and indicated the project was an on-going project for Sprint. Work orders were issued within a master contract whenever work needed to be performed. He believed their A22 license allowed them to install all phases of telephone and fiber optic cable, including installation and placing all accessories that were involved to complete the job. He listed what he believed he understood he was able to perform with the A22 license. He said the results of the previous board meeting were that these accessories and incidentals were incidental items and approved under the license. That was the understanding the company had operated under for the last 16 months.

Mr. Gregory explained the permitting entity had the right to ask for a more stringent review of a license requirement. He then explained that the A22 was a designated license for the scope of work represented at the time of licensure. Discussion then focused on what the company had originally represented as the type of work they would be performing. It now appeared the company had expanded their work to include digging ditches and trenches, and installing conduit. Ditches, trenches, and conduit were not incidental to the A22 designated license classification. The company was now extending into other license classifications, either the A or the full C2.

Mr. Hartman then asked what he needed to do. Mr. Nelson suggested that if the company qualified, he should consider applying for a full A and a full C2 license. If the company did not qualify, he recommended the C2F or the A19.

DISCIPLINARY HEARING

SWAN DEVELOPMENT #40366 – DISCIPLINARY HEARING (Continued from 2/9/99 and 3/9/99)

Stephen Swanson, Owner, was not present for the hearing and no one was present to represent him.

Swan Development had been requested to appear at the April board meeting but they had asked for a continuance, which had been granted. The company had then filed for a judicial review of the board's decision and a stay of that decision. A renewal was pending but a current bond had not been posted.

Mr. Reese then detailed the status of the case, indicating he too had filed a response to the petition for stay, claiming it was moot with respect to the workmanship because that had already been done. Mr. Reese then outlined what would now follow. He said the only thing now pending was Swan Development's application for renewal and whether or not the Board would take any further disciplinary action with respect to the money owing. A general discussion was

then entered into.

MR. CARSON MOVED TO CONTINUE THE HEARING PENDING THE OUTCOME OF THE LITIGATION.

MR. NELSON SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Mr. Gregory stated that if anyone had knowledge Mr. Swanson was working as an unlicensed contractor, that information was to be provided to the investigative division.

MR. CARSON MOVED TO DENY THE LICENSE RENEWAL APPLICATION FOR SWAN DEVELOPMENT, #40366, DUE TO LACK OF BOND.

MR. LINDELL SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Mr. Gregory directed staff to write a letter to Mr. Swanson indicating his license renewal had been denied, and if he was still in the construction business, doing any work bid after October 5, 1999, he was acting in the capacity of an unlicensed contractor and the board intended to prosecute to the fullest intent of the law.

EXECUTIVE SESSION (Continued)

POLICY DISCUSSION

In review of the board's policy regarding financial statement requests, the Board moved as follows:

MR. JOHNSON MOVED TO REVISE THE EXISTING POLICY TO REQUIRE A FINANCIAL STATEMENT FROM THE LICENSEE AFTER RECEIPT OF ONE VALIDATED MONEY OWING COMPLAINT, OR RECEIPT OF THREE VALIDATED WORKMANSHIP COMPLAINTS RECEIVED WITHIN A 30-DAY PERIOD. THE REQUESTED STATEMENT WAS TO BE CPA OR PA PREPARED (SUPPLEMENTED BY A SUBSTANTIATED IN-HOUSE STATEMENT IF NECESSARY) AND DUE WITHIN 15 DAYS OF THE REQUEST. DISCRETION WAS TO BE USED BY THE DIRECTOR OF THE DEPARTMENT WHEN A MATTER AROSE THAT DID NOT FALL WITHIN THE AFOREMENTIONED PARAMETERS. IF THE FINANCIAL STATEMENT WAS NOT RECEIVED OR IF IT INDICATED A BOARD HEARING WAS NECESSARY, THE LICENSEE WAS TO BE CHARGED WITH FINANCIAL RESPONSIBILITY AND A BOARD HEARING SET IMMEDIATELY.

MR. LINDELL SECONDED THE MOTION.

THE MOTION CARRIED.

In further discussion, Mr. Gregory pointed out the necessity to review the last financial statement of record to determine the current financial status of the company and Ms. Mathias was directed to perform this review.

INVESTIGATIONS DEPARTMENT REPORT

Mr. Rizzo presented the Investigations Department Report wherein each investigator had prepared a summary of each case which was 90 days or older. All cases were in various stages of resolve. Mr. Rizzo asked if it was necessary to follow up with the financial statement request if the licensee paid the outstanding amount owed. It was noted that the matter had been discussed during the Executive Session and a motion had been made which addressed the issue.

Ms. Sheltra asked Mr. Rizzo to have the investigators provide the date of the aged

complaints. She then addressed the McBride complaint, using it as an example to discuss some of the complaints she had received regarding the attitude of board investigators when dealing with complainants. She pointed out that if a complaint was over 90 days old it needed to be brought before the board. Mr. Zech concurred, stating policies and procedures had been set, and if staff did not follow those policies and procedures, drastic measures had to be taken. A breach of procedure or policy could not be tolerated. Further dialogue ensued regarding the length of time it was taking to follow-up on the aged complaints.

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 1:23 p.m.

Respectfully Submitted,

Betty Wills, Recording Secretary

APPROVED:

Margi Grein, Executive Officer

Kim Gregory, Chairman