

**MINUTES OF THE REGULAR MEETING OF THE
CONSTRUCTION INDUSTRIES BOARD
Conference Room
2401 NW 23rd Street, Ste. 2F
Oklahoma City, OK 73107**

April 19, 2017

CALL TO ORDER AND RECORDING OF MEMBERS PRESENT AND ABSENT

The regular meeting of the Construction Industries Board was called to order by Chair Tony Boevers at approximately 1:30 p.m. on Wednesday, April 19, 2017, in the Conference Room of the Construction Industries Board.

MEMBERS PRESENT: Tony Boevers, Mike Cooke, Paul Magdeburg, Jake Matherly, and Kevin Westmoreland.

MEMBERS ABSENT: Scott Tucker.

CIB STAFF PRESENT: Janis Hubbard, Administrator; Linda Ruckman, Board Secretary/Executive Assistant; Windy Nunnery, Office Manager; Gary Kirk, Mechanical Supervisor; Jim George, Plumbing Supervisor; Ron Morris, Electrical Supervisor; and Richard Hager, Roofing Supervisor.

OTHERS PRESENT: Bill Kite, MEPO of Oklahoma, Inc.; and Mike Liston, PHCC.

STATEMENT OF COMPLIANCE WITH THE OPEN MEETING ACT

This regular meeting of the Construction Industries Board, scheduled to begin at 1:30 p.m. on this 19th day of April, 2017, has been convened in accordance with the Oklahoma Open Meeting Act, Oklahoma Statutes Title 25, §§ 301 through 314.

Further, this meeting was preceded by advance public notice filed electronically with the Secretary of State specifying the time and place of the meeting here convened. The Agenda was posted and displayed in public view on the office site of the Construction Industries Board and notice of this meeting was given at least twenty-four (24) hours prior hereto. Fifty people have filed a written request for notice of meetings of this public body to date.

Read aloud this 19th day of April, 2017.

INDIVIDUAL HEARING ON TIMELY FILED REQUEST FOR APPEAL AND BRIEF OF PROPOSED ORDER FOR CITATION NO. 12703 ISSUED TO WAYNE REID.

- i. Review of Request for Appeal and Brief, and Brief in Response.
- ii. Hearing of Oral Arguments (limited to no more than 10 minutes for each side pursuant to OAC 158:1-5-13.1[c]) – Wayne Reid; CIB Special Counsel
- iii. Possible vote to convene into Executive Session pursuant to 25 O.S. § 307(B)(8) to engage in deliberations on the Appeal of the Proposed Order for Citation No. 12703.

- iv. **If Executive Session convened, vote to return to Open Session.**
- v. **Possible vote to Affirm or Deny and Remand, with or without instruction on the Request for Appeal of the Proposed Order for Citation No. 12703.**

Tony Boevers recused on this matter since he was the CIB designee for the trade Hearing Board.

The Board, with the exception of Tony Boevers who recused, was provided a copy of the following documents:

- Report of the Administrative Law Judge, Findings of Fact, Conclusions of Law and Proposed Order for Citation No. 12703.
- Request for Appeal and Brief filed by Wayne Reid
- Response to Appellant's Request for Appeal and Statement in Support filed by Marc Edwards, CIB special counsel
- Response to response to appeal filed by Wayne Reid.

The case was called, however the appellant, Wayne Reid, failed to appear. Mr. Dutton provided a brief explanation of the Appeal process. He noted that if Mr. Reid had been present, Mr. Reid would have been given time to make oral arguments first; however, since Mr. Reid did not appear, CIB special counsel would proceed with oral arguments. Eric Davis, CIB special counsel, was then given ten minutes for oral arguments. During Mr. Davis's oral argument, he presented a copy of the provisions found in OAC 158:1-5-13.1.

Following oral arguments, Mr. Dutton reminded the Board of its options for discussing the matter and taking action on the matter.

MOTION BY PAUL MAGDEBURG WITH SECOND BY JAKE MATHERLY TO UPHOLD THE PROPOSED ORDER FOR CITATION NO. 12703.

MOTION PASSED

Voting Aye: Mike Cooke
Paul Magdeburg
Jake Matherly
Kevin Westmoreland

Recused: Tony Boevers

Absent: Scott Tucker

BREAK

The meeting was recessed for a short break.

RECORDING OF MEMBERS PRESENT AFTER SCHEDULED BREAK

MEMBERS PRESENT: Tony Boevers, Mike Cooke, Paul Magdeburg, Jake Matherly, and Kevin Westmoreland.

MEMBERS ABSENT: Scott Tucker.

ADMINISTRATOR'S REPORT

Ms. Hubbard reported on legislative meetings, trade meetings, and other meetings she has attended since the last Board meeting and recent staff changes in the office.

FINANCIAL REPORT FOR MONTH ENDED MARCH 31, 2017

The Board reviewed the written financial reports for the month ended March 31, 2017.

LEGISLATIVE UPDATE

Ms. Hubbard briefly reported on legislation which would directly impact the CIB.

MECHANICAL DIVISION REPORT

The Board was provided a written report on field contacts, citations, complaints, renewals, and applications received and new licenses processed during the month of March. Mr. Kirk reported on activities of the Mechanical Division since the last Board meeting.

PLUMBING DIVISION REPORT

The Board was provided a written report on field contacts, citations, complaints, renewals, and applications received and new licenses processed during the month of March. Mr. George reported on activities of the Plumbing Division since the last Board meeting.

ELECTRICAL DIVISION REPORT

The Board was provided a written report on field contacts, citations, complaints, renewals, and applications received and new licenses processed during the month of March. Mr. Morris reported on activities of the Electrical Division since the last Board meeting.

ROOFING DIVISION REPORT

The Board was provided a written report on written warnings, citations, complaints, renewals, and applications received and new registrations and endorsements processed during the month of March. Mr. Hager reported on activities of the Roofing Division since the last Board meeting.

CONSENT AGENDA FOR UNCONTESTED CITATIONS PAID, HEARING WAIVED -- REVIEW AND POSSIBLE VOTE TO APPROVE ALL FINES, PENALTIES AND FEES ASSESSED AND COLLECTED ON UNCONTESTED MATTERS WHERE ADMINISTRATIVE HEARING WAS WAIVED AND FINES HAVE ALREADY BEEN PAID, AS REFLECTED ON THE MANAGEMENT STATEMENT OF ACTIVITIES BY TRADE REVOLVING FUND.

Mr. Dutton stated that this consent agenda item is related to individuals who paid their fine and waived their right to a hearing.

MOTION BY JAKE MATHERLY WITH SECOND BY PAUL MAGDEBURG TO APPROVE THE CONSENT AGENDA FOR UNCONTESTED CITATIONS PAID, HEARINGS WAIVED.

MOTION PASSED

Voting Aye: Tony Boevers
Mike Cooke
Paul Magdeburg
Jake Matherly
Kevin Westmoreland

Absent: Scott Tucker

Due to action taken on this item, Agenda Items 8(I) and 8(J) were not needed.

DISCUSSION AND POSSIBLE VOTE ON THE MINUTES OF THE REGULAR MEETING OF THE CONSTRUCTION INDUSTRIES BOARD HELD MARCH 22, 2017.

The Board was provided a draft of the Minutes of the Regular Meeting of the CIB held in March.

MOTION BY PAUL MAGDEBURG WITH SECOND BY KEVIN WESTMORELAND TO APPROVE THE MARCH 22, 2017, BOARD MEETING MINUTES AS PRESENTED.

MOTION PASSED

Voting Aye: Tony Boevers
Mike Cooke
Paul Magdeburg
Jake Matherly
Kevin Westmoreland

Absent: Scott Tucker

DISCUSSION WITH POSSIBLE VOTE ON RENEWAL OF THE FOLLOWING CONTRACTS FOR FY 18:

- | | |
|---|------------------|
| i. Phillips Murrah PC | (Legal Services) |
| ii. Michael Mitchelson | (ALJ Services) |
| iii. James A. Slayton PC | (ALJ Services) |
| iv. Oklahoma Legislative Consulting Group Consulting) | (Legislative |

Ms. Hubbard reported that all of these contracts expire June 30, 2017. All these renewals for FY 18 would be at the same rate/cap as the current year contract.

MOTION BY JAKE MATHERLY WITH SECOND BY PAUL MAGDEBURG TO RENEW THE CONTRACTS WITH PHILLIPS MURRAH PC, MICHAEL MITCHELSON, JAMES A. SLAYTON PC, AND OKLAHOMA LEGISLATIVE CONSULTING GROUP FOR FY 18.

MOTION PASSED

Voting Aye: Tony Boevers
Mike Cooke
Paul Magdeburg
Jake Matherly
Kevin Westmoreland

Absent: Scott Tucker

DISCUSSION ONLY ON PROPOSED SECTION 2 OF A CIB EMPLOYEE HANDBOOK

The Board was provided a draft of the proposed Section 2 of a CIB Employee Handbook.

Ms. Hubbard stated that Section 2-5, Outside Employment, appears be more involved than what was first thought. The draft was emailed to staff for review, and several comments and requests/suggestions for changes were received. Since this is the first time for setting a written policy, she wanted the Board to have an opportunity to provide input before presenting a final

version at a future date. She noted that all CIB field staff have a trade license, either an inactive contractor or journeyman license, plus their inspector license. All staff are bound by the State Ethics Rules and by the licensing laws the CIB regulates. Ms. Hubbard stated the purpose of the discussion today is to determine if there is anything more strict than the State Ethics Laws that the Board feels would be required for CIB employees.

Mr. Dutton stated that he has questions about how much outside employment can or cannot be restricted. Some questions have been posed to the Ethics Commission, and he is waiting on a response. He stated that a policy and procedure manual needs to be written in such a way it is effective, but not in such minute detail that it can cause problems on the back end where an employee can point to something and say "you didn't tell me I couldn't do this."

There was discussion about employees being able to consult their supervisor or some higher authority to determine if a particular situation would create a conflict of interest or otherwise be prohibited by law. The need for consistency across the agency as a whole in such determinations was discussed. There was also discussion about the need for a disclosure policy regarding anything an employee thinks may be, or perceived to be, a conflict of interest or otherwise prohibited by law. It was discussed that such disclosure should be in writing and that if there is a change in personnel, an employee is not at risk of suddenly being told they cannot do something that they were previously told would not be a problem.

It was the consensus that the Ethics Commission rules/laws and licensing rules/laws should be the standard at this point. If situations arise that are not a conflict of interest or otherwise prohibited by law but give the appearance of impropriety, then the Board can address it at that time. It was discussed that legal counsel or the Ethics Commission should be consulted for guidance on conflict of interest issues that fall into a "gray area," and that a policy should provide that management have the authority to make a determination if it is an issue that obviously is, or is not, a conflict of interest.

DISCUSSION AND POSSIBLE VOTE ON ADOPTING PROPOSED SECTION 10 OF A CIB EMPLOYEE HANDBOOK.

The Board was provided a draft of the proposed Section 10 of a CIB Employee Handbook. Ms. Hubbard explained this is a continuation of the handbook we have been working on that she along with Windy Nunnery and Linda Ruckman prepared and Jon Dutton reviewed. Ms. Hubbard stated the draft was emailed to staff for review, and there were no requests for changes received.

MOTION BY MIKE COOKE WITH SECOND BY JAKE MATHERLY TO ACCEPT SECTION 10 OF THE CIB EMPLOYEE HANDBOOK AS PRESENTED.

MOTION PASSED

Voting Aye: Tony Boevers
Mike Cooke
Paul Magdeburg
Jake Matherly
Kevin Westmoreland

Absent: Scott Tucker

PUBLIC COMMENTS

There were no public comments.

NEW BUSINESS

There was no new business discussed.

ADJOURNMENT

MOTION BY JAKE MATHERLY WITH SECOND BY MIKE COOKE TO
ADJOURN THE MEETING.

MOTION PASSED

Voting Aye: Tony Boevers
Mike Cooke
Paul Magdeburg
Jake Matherly
Kevin Westmoreland

Absent: Scott Tucker

The meeting was adjourned at approximately 2:15 p.m.

Minutes approved in Regular Session on the 24th day of May, 2017.

/s/ Tony Boevers
Tony Boevers, Chair

/s/ Linda Ruckman
Linda Ruckman, Board Secretary