

**MINUTES FOR BOARD MEETING OF THE NEVADA STATE BOARD OF ARCHITECTURE,  
INTERIOR DESIGN AND RESIDENTIAL DESIGN  
Telephone Conference Call  
April 28, 2017**

**Friday, April 28, 2017**

Chairman James Mickey called the meeting to order at 10:05 a.m.

Roll Call: James Mickey, Chairman; George Garlock; John Klai; John Morelli; William Snyder; Nathaniel Waugh. Kimberly Ciesynski, Secretary/Treasurer; Gregory Erny, Ann Fleming; and John Klai were excused.

Also in attendance: Monica Harrison, Executive Director; Louis Ling, Legal Counsel; and Ginger Hahn, Public Information Coordinator.

**AGENDA ITEM 1                      Public Comment**

There was no public present.

**AGENDA ITEM 2                      Approval of Agenda**

**Motion:** Waugh moved to approve the agenda. Motion seconded by Snyder.

**Vote:** All in favor. Motion passes.

**Agenda Item 3                      Review and Possible Approval of Mr. Ling's Proposal for  
Independent Contract with NSBAIDRD for Legal Services**

**Motion:** Waugh moved to approve Mr. Ling's proposal for independent contract with the NSBAIDRD for legal services. Motion seconded by Garlock.

Harrison said a copy of Ling's *Proposal for Independent Contract for Legal Services* was included in the board meeting Ebook.

She explained that, if passed, Assembly Bill 328 of the 2017 Nevada Legislative Session would prohibit Ling from being employed by more than one board and that the board would only be able to retain his services on an independent contract basis. She said Ling's scope of services would remain the same if the board chose to accept his proposal, but there would be a slight increase in his hourly fee to cover overhead expenses that he does not have as an employee.

Ling said that if the bill passes, approval of this contract would allow him to continue to serve the board. The bill would become effective on July 1, 2017. If the bill does not pass, Ling would like to continue as an employee of the board.

**Vote:** All in favor. Motion passes.

#### **Agenda Item 4**

#### **Review and Possible Decision of Potentially Retaining Private Legal Counsel for Defense in the Matter of Rusk vs. NSBAIDRD**

Ling thanked the board members and staff that were present at the hearing of Rusk's Petition for Issuance of a Writ of Mandamus on March 20, 2017. He said the judge did not rule that day and had ordered an Evidentiary Hearing to be held on May 8, 2017. The hearing was ordered to determine if Ling made any misrepresentation of fact to the NSBAIDRD in regard to the Schirmer Engineering Report in NSBAIDRD Case Numbers 08-080R and 11-019R.

Ling said he will end up being a witness in the case so he will no longer be able to serve entirely as board counsel on the case. Ling requested that the board give Harrison and himself the authority, if necessary, to negotiate with private counsel to represent the board and himself. He said approval of fifty thousand dollars (maximum amount allowed without appearing before the Board of Examiners) would be necessary.

Ling said Brett Kandt from the Office of the Nevada Attorney General was currently serving as co-counsel on the case. Ling said he did not feel that outside counsel was currently necessary. His request for outside counsel is a precautionary measure in the event that the judge's ruling warrants the need for private counsel to protect the NSBAIDRD and himself.

Garlock asked if the Office of the Nevada Attorney General (AG's Office) has the authority to prohibit the NSBAIDRD from obtaining private counsel. Ling said that they do not have that authority, but the NSBAIDRD would need to seek approval from the Board of Examiners if fees for private counsel exceeded fifty thousand dollars.

Ling further explained that the AG's Office has to represent the board and its agents unless they determine that an act was committed outside the scope of the board's position with the state. He assured the board members, as individuals, that they will have representation from the AG's Office because they were within their scope, sitting as judges on the case.

Ling said he is not absolutely immune because he was the prosecutor. He explained that if the judge decides he committed prosecutorial misconduct, the AG's Office could say that he had worked outside the scope of his job.

No matter the ruling, Ling believes that this matter will reach the appellate courts.

Ling told the board to contact him immediately if they were contacted by Rusk or his legal team.

Mickey asked Ling if the board or staff needed to do anything to prepare for the Evidentiary Hearing.

Ling said there was nothing that the board or staff needed to do in preparation.

Garlock asked Ling if there was an issue with those that recused themselves (Garlock and Snyder) from the original hearing being present at the Evidentiary Hearing. He also wanted to know if the presence of a board member at the Evidentiary Hearing would prevent that board member from being allowed to participate in a rehearing.

Ling said there was nothing that prohibits the recused members from attending, and that he would ask Kandt about the latter.

Garlock asked if the recused parties would have to recuse themselves again if the case were to be reheard by the board.

Ling said there were two things to be considered within Garlock's question. The first is if the board would even want to retry a case in which the incidents occurred over ten years ago and recollections are over ten years old. The second thing to consider would be that, depending upon how the judge structured the order, any board member that sat on the first hearing may not be allowed to sit on the second hearing. He said the governor could choose to appoint an ad-hoc board.

**Motion:** Waugh moved to approve authority for Harrison and Ling to potentially retain private legal counsel for defense in the matter of Rusk vs. NSBAIDRD at a maximum of fifty thousand dollars.

**Vote:** All in favor. Motion passes.

#### **Agenda Item 5**

#### **Items for Future Agenda**

- update on 2017 Nevada Legislative Session

#### **AGENDA ITEM 6**

#### **Public Comment**

There was no public present.

Chairman Mickey adjourned the meeting at 10:32 a.m.

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Monica Harrison, Executive Director

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Kimberly Ciesynski, Secretary/Treasurer