

VOSHA REVIEW BOARD SPECIAL MEETING MINUTES
13 Baldwin Street, Montpelier, VT 05633

May 21, 2019

The Board (VRB) Meeting began at 9:03 a.m. and was attended by Leigh Keyser Phillips (Chair), Benjamin R. O'Brien (Member), Mark J. Gregoritsch (Board Member) and Carolyn Desch (Clerk). Also in attendance were Vermont Department of Labor (DOL) representatives Commissioner Lindsay Kurrle and DOL General Counsel Dirk Anderson, both of whom joined the meeting at around 10:30 a.m.

ADDITIONS OR DELETIONS TO THE AGENDA

None

APPROVAL OF MINUTES

RESOLUTION PASSED: After discussion and upon motion made by Benjamin O'Brien, and seconded by Mark J. Gregoritsch, the Board unanimously voted to approve the February 13, 2019 VRB meeting minutes as amended. - PASSED

CLOSED CASELOAD REVIEW

The VRB reviewed the Case Tracking Sheet (attached), noting that Eustis Cable Enterprises (VRB987) had a hearing officer decision in FY17, VRB and Superior Court decisions in FY18 and Supreme Court decision in FY19.

OPEN CASELOAD REVIEW

The VRB reviewed the Docket Summary (attached) and discussed Durocher Carpentry (VRB1007) in which the required certification of posting has not yet been submitted. Carolyn Desch explained that she has reached out to the employer several times already, by phone, mail and email. The VRB and Dirk Anderson discussed alternate ways to reach out to encourage Durocher to submit this documentation, including allowing certification using email.

FINANCIAL

Carolyn Desch shared the Actuals to Budget spreadsheet (attached) for end of April and explained that May will see a few additions including the Voice Over Internet Phone (VOIP) bill for which we have been waiting over a year. In addition, the ADS Customer Support bill was approximately \$500.00 more than expected and will likely be an annual cost. She also explained that we no longer receive revenue from transcript sales, because the costs of the transcription services are now broken down between the parties requesting a transcript and invoiced to them directly. Lastly, there was discussion around the carry forward and that while the carryforward amount will be reduced by expenses not covered by the budget, it is not likely to be taken away in future fiscal year budgets. (See attached the Clerk's report.)

MEETING WITH DEPARTMENT OF LABOR COMMISSIONER KURRE AND ATTORNEY DIRK ANDERSON

The information on the VRB's history, recently closed cases and current case load were reviewed. (See the Clerk's report and related attached documents.) Commissioner Kurre discussed how the VOSHA program is really working hard to close cases through settlement, both before and after the VRB has received the case. There was also discussion of how any funds that are spent by the VRB were matched and allotted from the federal grant received by DOL for its VOSHA program. Commissioner Kurre and Attorney Anderson agreed to check with Stephen Monahan at DOL to clarify this issue.

E-SIGNATURE AND FILING

After reviewing and discussing the memo on electronic filing and electronic signatures and the proposed agreement to be signed by parties to allow for electronic filing and service (attached), the VRB agreed that moving forward with electronic signatures for any documents filed with it was acceptable. Dirk Anderson agreed that VOSHA could move forward with e-signature on DOL's side with settlements. After editing the Electronic Filing and Service Agreement, the new agreement will replace the existing one moving forward. Also discussed was the most efficient process for getting the parties to sign the agreement.

RULES OF PROCEDURE UPDATE

The VRB and Dirk Anderson discussed the procedures for filing a settlement agreement with a certification of its service by posting for employees to see. (See Clerk's report.) Carolyn Desch reported that the OSHA Review Commission (OSHRC) recently changed their rules of procedure, including the elimination settlement review. There was further discussion on the VRB's review of settlement agreements and shifting the responsibility for following up on certification of service of such an agreement to VOSHA, which would be filing the certification with any settlement agreement. Until the VRB Rules being revised to reflect this change, Carolyn Desch and Dirk Anderson agreed that they would work out the logistics for handling settlement agreements and the related certificates of service outside of the Board meeting.

HEARING OFFICER AND TRANSCRIPTIONIST CONTRACTS

Carolyn Desch explained that Capitol Court Reporters, which was the only one to submit a bid to provide transcription services, has been assigned that contract. Having provided those services to the VRB in the past, there should be no change or need for transition. Alan Rome was also the only attorney to submit a bid of \$125.00/hour for the Hearing Officer position. As this was the only bid and the rate is comparable to or even less than the rates charged by hearing officers at other state boards, the VRB determined that it was a reasonable rate and decided that a contract for hearing officer services should be offered to Mr. Rome. The VRB discussed the need to have at least one additional hearing officer, and it was agreed that Carolyn Desch would follow up with a possible candidate, who had withdrawn her response to the RFP to see if she might still be interested. If that candidate is still not interested or acceptable, another RFP should be sent out with a wider distribution, as previously only existing hearing officers and two other candidates had received the RFP.

BOARD REAPPOINTMENTS

Leigh said that she would likely retire in December or shortly hereafter. There was no other discussion.

SCHEDULING OF BOARD MEETINGS

The next Board meeting is scheduled for September 17, 2019 at 9:00 a.m.

ADJOURN

Upon motion duly made by Benjamin O'Brien and seconded by Mark J. Gregoritsch, the meeting of the VOSHA Review Board was adjourned at 11:50 A.M. - PASSED