

**Final Minutes**  
**LSRPA Board of Trustees Conference Call**  
**November 7, 2011**  
**9:00 – 10:50 am**

**ROLL CALL**

N. DeRose, R. Katz, S. Boyle, K. Goldstein, S. Posten, G. Martin, D. Toder, M. Fisher, S. Senior, J. Oberer, J. Davies, J. Scagnelli, L. Watson

**PRESIDENT'S REMARKS**

J. Scagnelli will join the call at 10 am to discuss the confidentiality breach by a Licensing Board member. N. DeRose and S. Boyle spoke with M. Pisauero and J. Held, Licensing Board members, regarding outreach to environmental groups. Meeting went well and consideration will be given to the environmental groups that should be included in dialogue. A follow up call is scheduled for November 18.

**OLD BUSINESS**

- Nominations Review

K. Goldstein updated Board on his conversation with BV Rao, who intends to provide a proposed slate of candidates prior to the Nov 17 Steering Committee meeting. The two top nominees will be presented, possibly a third, depending upon the status of Sue Boyle's nomination as Executive Director.

Due to scheduling conflicts, it was suggested by S. Boyle and unanimously agreed upon, that the BOT and Steering Committee meetings be held on December 1, 2011. The Steering Committee meeting will be held from 9 am until 12 noon, with an in-person BOT meeting from 12 noon to 1 pm. The slate of candidates will be presented by the Nominating Committee during this meeting. The Regulatory Outreach Committee meeting will follow from 1 – 3 pm. S. Senior will check on the availability of the Riker offices for these meetings. (Ed. Note: Meeting later set for Environ in Princeton)

K. Goldstein will request BV Rao have information distributed before meeting.

- Executive Director Status

K. Goldstein and G. Martin previously discussed the Executive Director contract. G. Martin will review the sample contracts received and will send K. Goldstein the sample received from the MA LSP Program. G. Martin advised that a contract must be in place for the Jan 1 date to stand.

- Bylaws Status

K. Goldstein, J. Hochreiter, J. Oberer and R. Katz met on suggested changes to the Bylaws. A

draft will be available shortly to the Board for review and approval by the January meeting. A paragraph was added regarding the Association hiring professional staff. It is not necessary to add language on former Board Presidents attending Board meetings in an ex-officio capacity. Provisions were also added to hold the annual meeting within 60 days either side of the end of the calendar year to provide more flexibility in scheduling.

Language will also be added to clarify the terms of office for Board members. It was felt that the present two-year terms were too stringent and a one-year term for Board members is proposed. The Bylaws will also state that any changes desired by the Board will take place at this time. This will be the opportunity to replace any officer. Further discussion will take place during December meeting.

- Licensing Board

The LSRP Job Task Analysis Committee met on November 3-4. It was a relatively diverse group of 12 individual that developed a list of tasks “typically” performed by LSRPs and the skills, knowledge and abilities (SKA) needed to perform those tasks. A survey based on those discussions will be sent to all LSRPs shortly to refine the areas to be included in the test. A new committee will then develop the questions. Since the LB has decreed that no one involved in question writing will be permitted to take the test (certainly in the initial go-around and possibly forever), questions will be developed by non-LSRPs. N. DeRose asked for the names of possible question writers to be provided to the contractor.

The Cut-Score Committee will look at all questions and come up with an average number of testees who should get each question correct, which will establish a passing number.

R. Katz suggested that, prior to adding someone’s name to the list of individuals qualified for question writing, contact be made with the individual to discuss their interest in participating. Send names of any interest individual to N. DeRose.

G. Martin indicated that the survey would be released shortly with the goal of responses from at least 100 LSRPs. Fewer responses could leave the test in an indefensible position should litigation be initiated in the future. Looking for various organizations, such as DEP and LSRPA to publicize the need for responses to all LSRPs. Buck Chafee of Caviart – the testing service - was asked to provide language that will be circulated to membership. G. Martin will follow up. It is in our interest to get as many people as possible in order to clarify role of the LSRP.

S. Boyle suggested an email blast announcing that the survey is being developed be circulated shortly and the importance of getting as many LSRPs as possible to participate in the process. Additional information will follow at a later date.

A second email blast will follow after the survey is released with possible distribution through DEP’s ListServ.

- Annual Meeting

K. Goldstein reported that the Annual Meeting will be held at the Holiday Inn Conference Center in East Windsor. An e-mail notice was recently circulated to the membership. The

program for the Annual Meeting will be discussed during the December meeting. Registration for the Annual Meeting will be tracked.

- DEP Follow up

The IPSC meeting was held in October. Discussed guidance being enforceable and a concern expressed that the non-enforceability be reflected in all rules and guidance documents. Conversation held with T. Cozzi and D. Haymes that some policy issues aren't coming from top down, as espoused by the Commissioner. T. Cozzi asked N. DeRose to put together some examples, which was done with input from K. Goldstein, S. Senior and others who attended the IPSC meeting. Feedback not yet received from DEP. N. DeRose will follow up.

Still seeking input on limited immunity, discharge reporting and NFA validity. Memo on "major policy issues facing LSRPs" to be posted on website and S. Boyle will develop email blast to membership.

Safe Harbor clarification – how Department provides protection to LSRPs work when standard of care is met. Feedback may come during upcoming Compliance Attainment Committee meeting.

- 2012 LSRPA Steering Committee

Four members officially representing LSRPA on Committee – N. DeRose, R. Katz, J. Oberer and J. Davies and unofficially, S. Senior. S. Senior is willing to remain on the Committee. N. DeRose would like to continue for at least another year in an ex-officio position representing the Association. Representation on the Committee by the LSRPA is recommended and suggested President, External Regulatory Outreach Chairman and Internal Vice President as representatives. J. Davies suggested the President and Ex-officio member, with any BOT member considered for one-year membership. He reiterated the importance of retaining a former President on the Committee for continuity.

The issue of continuity is a concern with one-year terms. Flexibility is necessary in terms of service, since some members may not be sufficiently involved through participation or longevity as other members, which could be detrimental to the Committee's influence. Another suggestion was to rotate only one person per year in order to retain key people from the previous year. Rotating once per year will expand enough for BOT members to take the opportunity to participate in Steering Committee, while at the same time not losing continuity.

J. Oberer echoed the need for continuity and someone who has history has more influence, but a new voice could be beneficial in getting across a message that is not being heard.

N. DeRose suggested that early next year we need to revisit representation by LSRPA on the DEP Steering Committee and work through details and identify constraints we need in place. Further discussion after election.

December meeting may be held at either Riker or Environ offices. S. Posten to investigate possibilities and contact members. (Ed. Note: To be held at Environ)

## **NEW BUSINESS**

- Continuing education course on ethics

D. Toder advised that David Abbott of AIPG conducts an ethics course for geoscientists and geologists. A course description was previously circulated. There is concern about course attendance since CEUs are not yet given. The Licensing Board is considering evaluating credits within one year of licensing renewal cycle, but a Licensing Board approval process is not yet in place. The suggestion that LSRPA conduct an ethics course was raised during a Continuing Education Committee meeting.

K. Goldstein requested that D. Toder speak with L. Dodge on the Licensing Board's schedule to start approving courses before the Association pursues issue further. May want to contact David Abbott requesting a course outline for review and approval by the Licensing Board.

It was suggested that the Continuing Education Committee identify whether delivery would be an LSRPA proprietary course or team with Rutgers University.

- League of Municipalities Conference

S. Boyle reported that arrangements for League participation are complete, L. Watson is compiling volunteer schedule and two tables are reserved for the consulting period on Tuesday from 2-4 pm. S. Boyle will develop an e-blast indicating the Association's booth number and is finalizing the brochure for handout during the League conference. Members were encouraged to contact S. Boyle if attending the Conference.

- Disciplinary Actions – LSRPA's coverage and reporting and RM&LP's responsibility

J. Oberer reported on the three disciplinary complaints before the Licensing Board. Two actions have been completed and one is still pending.

A process for addressing disciplinary actions is in draft, has not yet been written into rule but is in Rulemaking Committee. The draft will then complete rulemaking process. Attorney General's Office advised the Licensing Board that in the absence of a rule the current draft is the model.

One \$500 penalty and letter of reprimand from the Licensing Board was decided in one case. Identity of the LSRP will not be released until the fine is paid or license relinquished. At present, no details have been formally released by the Board with information limited to the penalty itself and the matter is referenced only as Complaint #2.

No information is available on terms of the second decision, which is known as Complaint #1.

S. Senior is potentially counsel to the affected LSRP and has recused himself from all BOT activities related to this matter. J. Scagnelli indicated that S. Senior should stay out of any role in advocating the Association's position related to disciplinary matters to avoid issues of perceived conflict of interest.

J. Scagnelli stated that a big concern is the confidentiality of the process until final

determination has been made. Overstepping by a Licensing Board member to advertise his own company undermines the entire concept of Board oversight. Board members are State Officers and have the responsibility to be objective, impartial and deliberative in handling all issues. The recent announcement by the Licensing Board member is problematic.

Discussion followed on the letter drafted by Risk Management to the Licensing Board regarding the Association's comments on the disciplinary action announcement by a Board member that was seen as a breach of confidentiality. Process was undermined by a company revealing a disciplinary action and presenting details known only to the Disciplinary Committee and Licensing Board.

Commenting on the proposed letter to the Licensing Board, J. Scagnelli indicated that the Association assumes the appropriate action will be taken and, by requesting a retraction and apology, we are asking that action be taken to address this issue. The letter addresses the process, not the individual. N. DeRose is comfortable with the letter and a suggestion made to change the word "aghast" to "concerned" (R. Katz's recommendation to use "flabbergasted" or "stunned" was roundly ignored). K. Goldstein will deliver public comments on the letter to the Licensing Board at its Nov. 14 meeting. J. Scagnelli also may attend the Board meeting. It was suggested sending the letter before the November 14 meeting so the Licensing Board can review beforehand, with comments by the LSRPA during the public comment period of the meeting. K. Goldstein to reaffirm the Association's commitment to the comments in the letter and J. Scagnelli's presence, background and understanding of legal due process would be very beneficial.

N. DeRose and K. Goldstein will reread letter and decide if any additional comments are needed. S. Senior's name can appear on the letterhead used for this letter. N. DeRose will follow up with S. Senior.

Everyone on the Board call unanimously (excluding the recused S. Senior) supports sending the letter to the Department. R. Katz will make the necessary edits and send to N. DeRose.

S. Posten suggested changing "gross breach" to "breach." R. Katz suggested inserting "undermining the integrity of the process is potentially destructive to the entire program." N. DeRose will contact J. Scagnelli for his comments on these changes. J. Oberer to send email to Risk Management individuals informing what was agreed upon regarding the letter.

S. Boyle asked whether a policy exists regarding our position when an individual approaches the Board for its involvement in a disciplinary action. Generally, we are not involved in individual issues. K. Goldstein advised that the process or protection of the profession would warrant our intervention. Issue for future discussion.

### **SECRETARY'S REPORT**

- October BOT notes

K. Goldstein has comments on draft and requested that vote be tabled until revisions are made, then vote by email.

Meeting adjourned at 10:50 am.