

Minutes
Steering Committee Meeting
September 20, 2012
GEI Consultants

ROLL Call – K. Goldstein, J. Davies, G. Martin, N. DeRose, L. Voyce, R. Ferguson, K. Stetser, R. Katz, R. Ferguson, T. Toskos, J. Oberer, S. Boyle, M. Fisher, B. Call, D. Bonas, D. Morris, J. Postorino, S. Drew, J. Hochreiter

On Phone: B. Alter, BV Rao, S. Posten

PRESIDENT’S REMARKS

K. Goldstein reported that the meeting scheduled with Assistant Commissioner Sweeney was postponed until first week in October. Agenda items for the meeting will be added throughout the Steering Committee meeting.

A meeting was held with NJ Concrete and Aggregate along with DEP and stakeholders on clean fill issue.

A discussion was held about 18 months ago regarding getting DEP’s concurrence before posting documents of value to members on the LSRPA website. Policy is less than successful since documents sent to DEP have not been reviewed and returned to LSRPA. K. Goldstein suggested adding a disclaimer to document and post rather than send to DEP.

K. Goldstein encouraged committees begin focusing on next year’s budget.

SECRETARY’S REPORT

J. Oberer reported the revisions to the August BOT call notes will be made and circulated for e-mail approval. Updates to the list of BOT members will be done and placed on website and archives will be updated.

TREASURER’S REPORT

G. Martin reported a current balance of \$183,834; year-to date income of \$194K, expenses of \$91,000. Tax exempt status – accountant advised there is not a threshold for nonprofits that will change status. The balance will be reviewed and if there is no activity, this will trigger a full review. Revenue is generated through membership dues, sponsorships and exam prep courses. S. Boyle reported the Sept. Exam Prep Course generated \$32,000 in revenue with \$19,000 in expenses. The September Exam Prep Course cost \$61 per person, with Bergen Co. Community College and the Burlington County Enterprise Center being the most economical.

Responding to a question by L. Voyce on any feedback from sponsors at Exam Prep courses, it was noted that most feel exhibiting is worthwhile. Currently there are two sponsorship categories, Gold and Silver, with consideration to adding another category that would entail more than three events per

year. The Sponsor survey concluded the sponsors don't want to be in a separate area from an event. Possibility for an after-event gathering at future event.

EXECUTIVE DIRECTOR'S REPORT

S. Boyle reported that Elaine DeWan has not yet been contacted regarding Data Miner issue.

Reporting on whether sponsorships should coincide with the calendar year or from date of sponsorship, S. Boyle explained that it would be easier to base sponsorships on the calendar year. Sponsor exhibiting is tracked and once event exhibiting is fulfilled, the sponsor logo will still remain on the website for the rest of the calendar year. Considering the inclusion of a sponsorship between the \$1000 and \$5000 levels. AWT would be interested in sponsoring at the \$5000 level. There has been a second inquiry for this level from a company not currently sponsoring.

Decided to continue providing food at DEP/LSRPA training sessions, since the cost is minimal and is a good-will effort.

Discussed using LinkedIn page for remediation trust companies. Linked-in page would list without endorsement, technical assistance grants and remediation trust funds. Linked-in page is used to post questions and job openings.

Sue and Ken Goldstein were interviewed by Commerce Magazine on LSRP program, which will be published in the November issue.

S. Boyle should be blind copied on messages regarding scheduling committee meetings.

Volunteers are needed to help staff the LOM booth. There are six complimentary badges for volunteers staffing the LSRPA booth during the League of Municipalities conference. A LSRP consultation table will be available on Tuesday during the Conference and a panel to discuss the Licensing Site Remediation Program will be shared with Dave Sweeney, Lew Goldshore and a representative from the City of Trenton. (Note: Conference cancelled due to storm impacts).

COMMITTEE REPORTS

Continuing Education Committee

Currently 95 people are registered for the Ethics course and five enrolled in the October 30th Exam Review Course. Discussed proper presentation format and decided to use K. Goldstein's format for all presentations. Possibly use Mercer County Special Services School for photocopying upcoming presentations with a contribution to their scholarship fund.

Attendees at previous Exam Prep courses will be notified that certificates will be posted on private section of website for attendees to access and print. Could be used as reminder to renew membership.

The possibility of using webinar for future Exam Prep Courses will be discussed with the Continuing Education Committee.

It is important to get an announcement to membership that the next ethics course will be held in North Jersey. It is proposed that the course will be offered once per year and held in various areas of NJ.

D. Toder reminded everyone that the Ethics Course is scheduled for October 22, Exam Prep Course on October 30 and Business Practices Breakfast on December 5, Exam Prep Course on January 3 and the Annual Meeting on January 10 at the National Conference Center, Holiday Inn, East Windsor .

Committee needs to focus on 2013 programs.

Regulatory Outreach Committee

- NJ DEP Technical Guidance Committees - M. Fisher

M. Fisher reported on the creation of six new technical guidance committees with good representation by LSRPA. ROC involved in selecting Committee topics and getting placed on Committee. Guidance topics and Committee membership will be posted. Will advise when feedback is received on new policy issues that can be taken to the Interested Party Steering Committee (IPSC). Liaison on each Committee who will advise ROC of any issues needing review or follow up. Through liaisons on subcommittee, we can bring policy issues to M. Fisher who, in turn, will give to ROC IPSC representatives who will funnel to DEP. Liaisons had their first conference call. Any comments on policy issues can be brought to IPSC reps for their first meeting and ROC can review from technical aspect. Prescriptive issues should not be included. Get names of people on the ROC to J. Oberer, who will send to George Nicholas. ROC will schedule conference call with Technical Guidance members to discuss agenda items.

L. Voyce reported that a list of issues we want to include as the focus of the Technical Guidance IPSC.

Discussed how the comingled plume issue was addressed.

J. Oberer reported on the Licensing Board's concern with possible insufficient numbers of LSRPs. Therefore, Licensing Board asked our assistance in reminding temporary LSRPs they have until February to convert to permanent licensure. Licensing exams will be held once every six months after completion of the already scheduled exams. K. Goldstein recommended that a link to the reminders on the Licensing Board be included in our email blasts.

Risk Management and Loss Prevention Committee

- Email from J. Scagnelli on OPRA-ability.

Letter of definitive statement from DEP or Licensing Board stating LSRPs are not subject to OPRA is needed. OPRA applies to government and LSRPs are not agents of the state. Final documents submitted by LSRPs to DEP are subject to OPRA. If questions from the public aren't answered by the Responsible Party (RP) or LSRP, then litigation might be used. Information cannot be released without client's approval. Be helpful in order not to create an OPRA-able situation. J. Oberer advised that the Licensing Board recognizes the lack of understanding of RP responsibilities on community outreach. DEP

is preparing a clarification. K. Goldstein suggested adding this to agenda for on upcoming meeting with Assistant Commissioner Sweeney and also request Legal Committee address issue.

Discussed a situation that included negotiation with DEP over a document submittal and approval. During a public meeting, a case manager threatened the LSRP with rescission of the Response Action Outcome (RAO) if the Remedial Action Workplan(RAW) request was not met. It is alleged that LSRPs are being threatened with RAO rescission if certain things requested historically by the Case Manager are not done. Rescission of RAO is warranted only when human health or environment is impacted. Since this scenario occurred several times, the Steering Committee was urged to submit names to S. Boyle of individuals alleging threats. The Association will take to Len Romino or Dave Sweeney.

Include issue on agenda with Assistant Commissioner Sweeney meeting.

- Insurance

B. Call reported the Committee is looking at two different tracks –sample endorsement for mid-to large firms to help protect LSRP, but is not burdensome on employer, and LSRP insurance.

- Best Practices Seminar

Best Practices Breakfast Seminar is scheduled for December 5th. It will have a three -hour format with speakers' panel including S. Senior, J. Scagnelli, D. Borgna and P. Falcigno, D. Christen plus one or two practicing LSRPs.

Meeting with NJ Inspectors/Reviewers

M. van der Heijden reported that the October 3rd meeting with M. Champion and enforcement personnel was cancelled and will be rescheduled to November. Met with Reviewers to discuss how submittals are set up, process, approvals, etc.

- Update on Quarries/LSRPA/DEP September 11 Meeting

R. Ferguson provided an update on the Quarries/LSRPA/DEP Sept 11 meeting stating that the meeting was productive and discussed the problems with quarries testing for clean fill. Meeting included representatives of Concrete and Aggregate Association, RPs, LSRPs and contractors, which were represented by Tracy Straka and Assistant Commissioners Kosinski and Sweeney. DEP agreed to take under advisement and bring information to work group. Protection of human health and environment are important components of LSRP's Standard of Care. Concrete and Aggregate Association was asked to appoint a representative to workgroup to deal with clean fill issue going forward. Discussed safe harbor extension to LSRP, builder and developer.

When fill material from quarries is brought in, documentation is needed. Contractors are concerned with the definition of clean fill.

K. Goldstein indicated that the workgroup will get direction from DEP and existing committee, who is in charge of revising the Alternate Fill Guidance. Suggest sharing meeting notes on Risk Management tabs on website after sending to all meeting attendees. LSRPA position was not included in RF's letter, therefore meeting notes and summary paragraph are needed. Circulate notes for review by other stakeholders and post letter, meeting notes and summary. Nothing to indicate that quarries don't need to sample and mention that some quarries are providing sampling test data.

The combination of a certified clean fill definition and a clean premium product would be beneficial for those quarries with the documentation.

--LSRP Licensing Board Liaison Updates – J. Oberer

The Licensing Board is concerned that there may be an inadequate number of certified LSRPs and asked our assistance in reminding temporary LSRPs they have until February to convert into permanent licenses.

Reminded the Committee that two Licensing Board meetings are scheduled per month. During the first meeting a vote is taken on whether a second meeting is needed. Requested volunteers to attend these meetings whenever possible. Board meeting schedule was distributed along with the rotation of volunteers covering meetings.

Updated Board on status of incoming complaints – Three complaints were decided, with one being repealed, one under investigation. In August the Board indicated three more inbound complaints.

- Permanent license generic information for LSRPA website – J. Davies

J. Davies reported that DEP distributed an information package to recently permanent LSRPs. Suggest posting generic parts of the package on website for information purposes with link to the Licensing Board website. J. Oberer will request Licensing Board posting.

- Clarification of Inspection and Review and Audit Process

The Licensing Board and DEP discovered that people are not clear on the Inspection and Review Audit Process. DEP will issue clarification on what constitutes the Licensing Board's audit and the Department's review.

Membership Committee

It was agreed that any new membership after October 1 would be extend through 2013. T. Toskos reported there are currently 599 members, with 430 LSRPs and 10 students and the challenge is to retain those members. Would like to hold a breakfast in October to begin a dialogue on what members want from the Association. Possibly a survey on membership suggestions will be included in the membership renewal announcement. Explained the possibility of a monthly forum on selected topics. Committee will develop a forum format, which must be different from forums by other organizations. This would be included on our calendar.

- North Jersey Outreach – L. Voyce

There is a need in 2013 to start holding events in North Jersey. Communications Committee may begin this effort. Already reached out to ANJEC and submitted an article for their winter ANJEC Report. S. Boyle agreed that when events are held more than once, a North Jersey location needs to be identified, but if an event is held only once, it will be held in Central Jersey. Suggestion to post locations of all upcoming events on website.

T. Toskos will have the membership database plotted by zip codes to determine what areas of the state members are located.

- Young member mentoring subcommittee program – J. Postorino

Reporting on the Young Member Mentoring Subcommittee program, J. Postorino stated that young people want to become LSRPs; therefore, Ben Alter will pursue the student outreach program and Joe would work with young working individuals who want to become LSRPs. Develop a forum to track the members. Emailed Membership Committee for volunteers to get involved. Send any ideas to Ben Alter or Joe Postorino.

Bylaws Committee

R. Katz, J. Hochreiter, J. Oberer and K. Goldstein reviewed issue of whether the Association should do anything on its own when the LSRP Board terminates a license. Decided that it is not our responsibility as an association, rather support the actions of the Licensing Board. J. Hochreiter read the current Section 2.03 of the Bylaws titled “Termination of Membership” and the proposed revisions. Proposed language concerns the LSRP Licensing Board terminating a LSRP’s license based on failing moral character or technical performance and the position of the LSRPA in those scenarios. It is proposed that when the Licensing Board terminates a license based on failing moral character, membership in the Association is terminated. When the Licensing Board terminates a license due to failing technical performance, it is proposed their LSRPA membership status change from Regular Member to Associate Member. N. DeRose suggested in place of “failing technical performance” substitute “for reasons other than ethical”.

Discussion followed on mechanism for the Association to change a membership status based on the Licensing Board’s decision. Since guidance was developed in the Membership Termination section of the Bylaws and following the lead of the Licensing Board, who has the responsibility for regulating licenses, we are addressing the issue, being responsible as a Board, following the lead of the Licensing Board and not adjudicating.

Discussed mechanism for handling membership if an LSRPA officer is involved in this situation. Decided to address this scenario next year.

It is the function of the Licensing Board to make termination decisions and we pattern our subsequent actions based on the Board's decision. The proposed revisions will be circulated to the Steering Committee for review.

The Committee also reviewed the President's term of office as set forth in the Bylaws. Looked at the President position as a two-year commitment rather than a shorter term in order to rotate people through leadership positions quickly. The present scenario allows an officer to serve two terms, thereby taking many years for a person to go through the officer ranks before serving as President. This will be the primary focus of the October BOT call and J. Hochreiter should be invited to participate.

J. Davies presented the scenario that having two-year terms helps with stability in terms of outside perception. For the first five or six years of the organization's existence, two-year terms for the President are suggested and afterwards suggest one-year terms to help move qualified individuals through the ranks.

Also discussed rotating existing BOT members through positions with the more-seasoned members moving through the Executive Committee earlier. This way it gives people opportunity to go through Executive Committee and the younger members would have a longer time frame to progress through the Committee.

This is not a Bylaw issue. Proposed changes will be circulated.

Nominating Committee

- Schedule for 2013 BOT nominations – BV Rao

BV Rao reported that the Call for Nominations went out and deadline for responses may be extended to Oct. 7th with October 15th as the deadline for candidate questions. A slate of candidates will be defined at the end of November. The slate of candidates will be provided to the Board by December 1st with Board approving the slate of candidates during the December 6th meeting.

The following Board members have terms ending 2012 – D. Toder, M. Fisher, J. Oberer, S. Senior and L. Voyce. Greg Martin decided to resign at the end of the 2012 calendar year, leaving a vacancy for his one-year remaining term. He is willing to assist during the transition period.

Communications Committee

External Stakeholder Committee

N. DeRose reported on need for a stakeholder meeting to discuss reciprocity with other associations. S. Boyle suggested that the groups meet based on need (legislation, testimony) rather than on a fixed schedule.

LSRP reporting obligation – K. Stetser, S. Senior and N. DeRose met with Len Romino and T. Cozzi to discuss LSRP reporting obligation language under Section 16K of SRRA. The DEP is reluctant to interpret “responsible” to mean “of record or retained” and to issue a policy statement to this effect. DEP does not want to restrict an LSRP from conducting due diligence.

N. DeRose stated that although we are subjected to the entire Section 16 Code of Ethics, proper interpretation of legislation should be that Section 16K only applies when you are “of record”.

Finance Committee

D. Bonas reported that the Committee is working on next year’s budget.

STAKEHOLDER COMMENTS

OLD BUSINESS

- Update on the August 15th IPSC meeting
- Status of scheduling meeting with Assistant Commissioner Sweeney and D. Haymes –S. Boyle

NEW BUSINESS

- NJDEP Guidance Committee work
- Science Advisory Report
- Arbitration Panel – J. Hochreiter

Issue is based upon an email J. Hochreiter received from a client. The Site Remediation format does not provide a mechanism to resolve disputes between LSRPs. Proposed creation of an arbitration panel. Possibly create as a voluntary arbitration panel through the LSRPA. Suggestion made to speak to Duff Collins of Massachusetts LSRPA about the concept, request review by the Legal Committee and report back to the Steering Committee.

Meeting ended at 12:30

