



COMMONWEALTH OF MASSACHUSETTS
Board of Registration
of
Hazardous Waste Site Cleanup Professionals

MINUTES
of
BOARD MEETING
Held on
November 21, 2013

Meeting Location: Massachusetts Department of Environmental
Protection
One Winter Street
Boston, MA

Prepared by: L. Read
[Approved: January 16, 2014]

List of Documents Used at the Meeting:

1. Agenda
2. Draft Minutes of Meeting held on November 21, 2013
3. Renewal dockets
4. Email dated November 20, 2013 regarding reinstatement of license

1. **Call to Order:** Benjamin Ericson called the meeting to order at approximately 2:05 p.m. The other Board members present were David Austin, Kathleen Campbell, Kirk Franklin, John Guswa, Debra Listernick, Robert Rein, Farooq Siddique, and Jamie Smith. Board member Gail Batchelder was absent. The LSP Board staff members present were Beverly Coles-Roby and Lynn Read. Also present were Wendy Rundle, Executive Director of the LSP Association (LSPA); and Lawrence Feldman of GZA GeoEnvironmental, Inc.

2. **Announcements:** Mr. Ericson warmly welcomed Kathy Campbell as the newest Board member appointed by Governor Patrick. He said that all four new Board members bring great experience to the Board. He thanked Ms. Coles-Roby for her work giving the new Board members a smooth transition, and said there is a lot for new members to learn, and they can ask questions of everyone on the Board. He said the only remaining slot unfilled is the seat designated for a member of an environmental organization, and action is expected soon.

Mr. Ericson also announced that, after the last Board meeting, the Governor's office asked the Board to review the minutes of all meetings of the Board and its committees from 2007 to the present. He said the request was made due to a recent interpretation of quorum requirements, which clarified that the quorum of a public board is a majority of all the seats on the board, including unfilled seats, not a majority of people currently

serving (unless a board has special quorum requirements in its authorizing statute). He said the Board staff made a huge effort to assemble and review all the minutes in less than one week, but they confirmed that the Board had a quorum of statutory membership for all decisions. Ms. Coles-Roby said press coverage of other boards precipitated the Governor's request, but the LSP Board had no instance of a vote without a quorum. Mr. Feldman said the Board's former Executive Director always took the position that the quorum must be measured by the number of statutory seats on the Board.

3. **Agenda:** Mr. Ericson said Mr. Stimpson's letter about the application review process was not on the agenda because Mr. Stimpson was not able to attend this meeting and asked to be present for the discussion. The email request regarding reinstatement of license was placed on the Agenda as item number 8.E.
4. **Minutes of Meeting Held on October 31, 2013:** The members present reviewed the draft minutes of the meeting of the Board held on October 31, 2013. The Board made small editorial changes, and amended section 12, Personnel, Budget and Fees, regarding its request to be involved in the hiring of the investigator. **A motion was made and seconded to approve the October 31, 2013 minutes as amended. The motion passed, with Ms. Campbell abstaining from voting.**
5. **Discussion of LSP Board Regulatory Changes:** Ms. Coles-Roby said the solicitation of comments on the Board's regulations is posted on the Board's website with a deadline of December 31, 2013. Mr. Ericson said an email will be sent to MassDEP's listserv for the Bureau of Waste Site Cleanup. The members present discussed forming a subcommittee to review the public comments, and said **they will discuss the December, 2012 memorandum and the spreadsheet at the Board's December 19, 2013 meeting, and asked the staff to place this discussion on the agenda for that meeting.**
6. **A-B. Decisions Regarding Licensing of Applicants:** The staff presented the following Application Dockets:

New Application Docket Number 1

ID #	Applicant Name/Company Name	ARP #	REC.
8246	Mary J. Brittain/Fuss & O'Neill, Inc.	255	A
9903	Gary W.T. Hedman/Horsley Witten Group, Inc.	255	A
3325	Elizabeth M. Phelps	255	D

A motion was made and seconded to accept the recommendations from Application Review Panel #255 that the applications submitted by Mary Brittain and Gary Hedman be approved and that they be found eligible to take the exam, and that the application submitted by Elizabeth Phelps be denied and she be found ineligible to take the exam. The motion was approved unanimously.

7. **License Renewal Applications:**

A. **Renewal Dockets.** The staff presented the following License Renewal Dockets:

Renewal Docket #1

Renewal Date: October 30, 2013

New Renewal Date: October 30, 2016

Has completed all requirements for renewal:

B.

LSP #	First	Middle	Last
3635	Thomas	B.	Hevner
7730	Anne	L.	Leifer
8744	Kathleen	G.	Murphy

Renewal Docket #2

Renewal Date: October 30, 2013

New Renewal Date: January 28, 2014

Have requested a 90-day extension:

LSP #	LSP Name
1203	Michael R. Kulbersh
2248	Michael J. Zylich
2563	Frank B. Postma

Renewal Docket #3

Renewal Date: October 30, 2013

New Renewal Date: October 30, 2016

Completed requirements within 90-day extension:

LSP #	First	Middle	Last
9999	Paul	G.	Beaulieu

A motion was made and seconded to renew the licenses of the LSPs on Renewal Dockets #1 and #3 for a three-year period ending on the dates indicated, and to grant a 90-day extension to the LSPs on Renewal Docket #2. The motion was approved unanimously.

B. Other Renewal-related Matters. The members present discussed the procedure for holding meetings of Application Review Panels (ARP) when a member of an ARP is not present at the time posted for the public meeting. They also discussed attendance by applicants at ARP meetings. **The members present agreed that ARP meetings will be held at 12:00 p.m. on days of Board meetings, and asked the staff to list ARP meetings on the cover memorandum of Board meeting packets.**

The staff reported that no waiver requests were received since the previous meeting, and there were no other renewal-related matters.

8. Other Licensing-Related Matters:

A. New Panel Assignments and Scheduling. The following Board members were assigned to Application Review Panel #256: Ms. Listernick, Mr. Austin, and Mr. Smith.

B. Appeals Status Report. There are no pending appeals regarding the Board’s denial of a license application.

C. Inactive Status Report. The staff reported that the following LSPs are currently on Inactive Status:

LSP Number	License Status Date	License Status	Last Name	First Name
9282	January 3, 2013	Inactive	Welsh	Mark
7613	January 25, 2012	Inactive	Warren	Robert
9392	April 20, 2012	Inactive	Frothingham	Benjamin

D. Total Number of Active LSPs. As reported in the Agenda, the total number of Active LSPs was 556 as of November 15, 2013.

E. Request for Reinstatement. The members present discussed Robert Warren’s request to resume active LSP status, after having been on inactive status since January, 2012. **A motion was made and seconded that the request for reinstatement be granted on condition that Mr. Warren paid his annual fee during his inactive status.**

9. Examinations:

A. Dates of Next Exam: Ms. Coles-Roby reported that during the administration of the exam on November 20, 2013, the computers could not log on, due to problems with MassDEP’s domain, thus all six examinees took paper exams. **Members present requested that the results of the paper exams be included in the exam results being provided to the Exam Subcommittee.**

Ms. Coles-Roby reported that the dates for the next administration of the exam will be December 4 and 11, 2013; and December 18, 2013, is reserved if needed to accommodate all applicants approved to take the exam before the Massachusetts Contingency Plan regulations are revised, pursuant to the Board’s standing instructions.

B. Exam Challenges: Ms. Coles-Roby reported that challenges by five people to 48 exam questions are under review. Ms. Rundle asked whether MassDEP’s recommendations on challenged questions could become moot if a challenger took and passed the exam while their challenge was pending. The members present agreed that if the challenger

passed the exam pending the result of the challenge, the challenge would become moot for the challenger, but if the challenger failed again, she or he would receive the result of the challenges.

- C. Exam Subcommittee:** Ms. Coles-Roby reported that the subcommittee was meeting every second week from 10:00 a.m. to 2:00 p.m. each meeting. Mr. Austin said a few items still need to be checked on the existing exams. The members discussed that new questions and a case study are being drafted with help from the LSPA. Ms. Coles-Roby said that the Acronym List, Study Guide, and Master Content List are not yet updated; the subcommittee's next meeting is December 16, 2013; and MassDEP is completing the process to hire a psychometrician.

10. Continuing Education Committee Report:

- A. Course and Conference Approval Requests.** Dr. Guswa reported that the Committee had met earlier in the day and had the following course recommendations to present to the full Board:

Sponsor: LSPA
Course Title: *The Crisis of Soil Management for Development Projects in MA*
Credits Requested: 1 Technical Credit
Committee Recommendation: **Approve**

Sponsor: LSPA
Course Title: *Horizontal Remediation Wells: Transferring Effective Technologies from the Oil Industry to Environmental Remediation*
Credits Requested: 1 Technical Credit
Committee Recommendation: **Approve.**

A motion was made and seconded to accept the Committee's recommendations, including the three additional action items identified by Dr. Guswa during the Committee's meeting. The motion passed, with Mr. Franklin abstaining from voting.

- B. Other Business:** None.

- 11. Professional Conduct Committee:** The Board agreed to forego a Professional Conduct Committee report, because all the Board members present at this meeting were also present at the meeting of the Professional Conduct Committee held earlier in the day.
- 12. Personnel, Budget, and Fees:** Ms. Coles-Roby reported that the staff had finished the first round of interviews for the Investigator position, and the candidates have been narrowed to a few. Mr. Ericson said he will meet with Ms. Coles-Roby to consider how to approach the next round of interviews and get enough information to the Board to allow Board members to give comments, without involving any private personnel information. Ms. Coles-Roby said it was still her goal to fill the position by December 31, 2013.

The members present discussed that the Board's fees have not changed for several years. It was noted that the Board's fees are less than the fees for the Licensed Environmental Professional (LEP) program in Connecticut.

13. **Status of Board Member Replacements by Governor:** The members present discussed that one Board seat has not been filled. There was discussion whether current Board members could assume seats vacated in the future, and whether the hydrogeologist position on the Board is separate from the LSP positions. Ms. Rundle said the LSPA is recruiting its members to apply for open Board positions.
14. **Public Records, Open Meeting Law Requests:** Ms. Coles-Roby said she is continuing to assemble documents to respond to requests under the Public Records Law and the Open Meeting Law, and there was one more complaint to the Attorney General and one more to the Secretary of State. Mr. Ericson said that the Board's obligation for minutes of Executive Sessions that the Board has decided can be released is to provide them to a requestor, but there is no obligation to post them on the Board's website. Ms. Listernick asked whether there were any redactions from the requested meeting minutes, and Ms. Coles-Roby and Mr. Ericson said the minutes were produced without redactions.

15. **Other Business**

Action Items List. The members present discussed how to document actions the Board has requested at Board meetings, and the status of those actions. **The members asked the staff to place all action items from each meeting on the Agenda for the following meeting, under "Old Business," or under the substantive items to which they relate.**

LSPA News Topic: Ms. Rundle said the LSPA is continuing to convert its newsletter to a blog, and will publish an article about the Board's regulations sometime after the end of the calendar year.

Packet Distribution: The members requested that the staff distribute the Board meeting packet electronically, in the formats most convenient for the staff.

16. **Location of Future Meetings:** The Board decided to rotate the meetings scheduled through June 2014 through the regional offices of MassDEP as follows:
 - December 19, 2013 – Northeast Region
 - January 16, 2014 – Southeast Region
 - February 26, 2014 – Central Region
 - March 20, 2014 – Western Region
 - April 17, 2014 – MassDEP Boston
 - May 15, 2014 – Northeast Region
 - June 19, 2014 – Southeast Region

17. **Adjournment:** The regular Board meeting was adjourned at approximately 4:19 p.m.