



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

MINUTES
of
BOARD MEETING
Held on April 16, 2015
[Approved: May 21, 2015]

Meeting Location: Massachusetts Department of Environmental Protection
One Winter Street
Boston, MA 02108

Prepared by: L. Williamson

List of Documents Used at the Meeting:

1. Agenda
 2. Draft Minutes of Meeting held on March 19, 2015
 3. Renewal Dockets #1 and #2
 4. List of Action Items for LSP Board
 5. Public Records Request Complaint letter, dated April 9, 2015
1. **Call to Order:** Benjamin Ericson called the meeting to order at approximately 1:35 p.m. Also present were David Austin, John Guswa, Debra Listernick, Farooq Siddique, and James Smith. Kathleen Campbell entered the meeting at approximately 1:45 p.m. Board members absent were Gail Batchelder, Kirk Franklin, and Robert Rein. Staff members present were Beverly Coles-Roby and Lori Williamson. Also present were Wendy Rundle, Executive Director of the LSP Association (LSPA), Wesley Stimpson of WES Associates, and Linda Segal.
 2. **Announcements:** Mr. Ericson acknowledged and welcomed all the guests in attendance.
 3. **Agenda:** Dr. Guswa requested that the Board add to the agenda LSPA's request for a Board presentation on the disciplinary process. The Board agreed to add the item to the agenda under "Other Business". Mr. Siddique requested that the Board also add the Public Records Request Complaint letter to the agenda under "Other Business". The Board members agreed.
 4. **Minutes of Meeting Held on March 19, 2015:** The members present reviewed the draft minutes of the meeting of the Board held on March 19, 2015. **A motion was made and seconded to approve the March 19, 2015 minutes as written. The motion passed unanimously.**

5. **Regulations Committee:** Ms. Coles-Roby stated that she anticipated all regulation subcommittees would resume after work on the new exam has been completed.

Ms. Campbell reported that the Continuing Education Subcommittee had not met since the previous Board meeting; however, continuing education requirements of other jurisdictions had been researched. The Subcommittee found that forty-four states require Professional Engineers to complete some form of continuing education; Massachusetts is not one of them. Out of the forty-four, the average number of continuing education hours required per year is approximately 13. Only six states have a pre-approval process for courses. Ms. Campbell reported that Wes Stimpson researched other Massachusetts professional licenses including home inspectors, electrician, etc., and found that continuing education requirements for many were approximately 10-12 hours per year. Many of these accepted credits from writing papers, attending courses, and enrollment in a learning institution. Ms. Campbell reported that Matt Hackman researched New York's continuing education requirements for Professional Engineers. He found that New York certifies the course providers themselves, not individual courses and it is the providers' responsibility to abide by the requirements of the Board. New York also requires that students have the opportunity to interact with an instructor. Ms. Coles-Roby stated that if the Board were to transition to a provider certification program, the regulations would need to include an appeal process for any denials. Mr. Ericson stated that once the Exam Committee's work is complete, the Board should focus on delving into some of these matters. Dr. Guswa questioned whether the Governor's recent Executive Order would have any impact on the Board's forthcoming regulation revisions. Ms. Coles-Roby stated that she believes the Board's plans will line up with the Governor's objectives and the Board should move forward with the original goals in mind. Mr. Ericson stated that the revisions the Board is focusing on, including streamlining the regulations, eliminating antiquated requirements, and incorporating new technology are all part of the Governor's objective in issuing the Executive Order.

6. **A-B. Decisions Regarding Licensing of Applicants:** The staff presented the following Application Docket:

ID #	Applicant Name/Company Name	ARP #	REC.
6030	Daniel J. Martin/The Louis Berger Group, Inc.	269	A

ID #	Applicant Name/Company Name	ARP #	REC.
6244	Andrew J. Wadden/HDR Engineering Inc.	270	D
7736	Charles P. Young/Fay, Spofford & Thorndike, Inc.	270	A

Mr. Ericson asked the ARPs to briefly describe the reasons for their recommendations. Mr. Ericson reported that two of the panel members for ARP #269 recommended approval of Mr. Martin's application, and one recommended denial. He stated that the difference in opinion related to the applicant's work being based mostly in New Jersey and consisting mostly of landfill-related projects. This applicant applied previously and

was asked to provide additional information on how his work experience related to the MCP and waste site cleanup. Mr. Ericson stated that he felt this revised application included a good explanation how the work, even though related to landfill closures, involved a great deal of waste site cleanup remediation. Mr. Austin added that the applicant's projects also included a residential cleanup, a hexavalent chromium-contaminated site, and utility work similar to URAMs under the MCP. Mr. Siddique stated that his concern was that the majority of the applicant's experience related to landfill closures, which are regulated under solid waste regulations. He stated that two of the applicant's larger projects were landfill closures, and the applicant has no experience with sites in Massachusetts or the MCP. Mr. Smith asked the panel how many non-landfill related projects the applicant had worked on in last three years. Mr. Siddique stated that the landfill closures were the applicant's most current projects. There were seven projects altogether; three ended in 2014 and four in 2008. Of the three that ended in 2014, two were landfill projects. Mr. Ericson stated that some landfill closures in Massachusetts are regulated under 21E, including older, unlined landfills and the work the applicant described in his application sounded equivalent to remediation of a 21E site as opposed to a typical landfill closure. Mr. Austin stated that the second landfill was a hazardous waste site that had to be remediated and closed. Mr. Ericson stated that his approach in reviewing applications is to determine if the work meets the standards of what would be considered waste site cleanup activities, including site assessment, remediation, and a risk assessment-based closure. **A motion was made and seconded to accept the recommendation from Application Review Panel #269 that the application submitted by Mr. Martin be approved and that he be found eligible to take the exam. The motion was approved unanimously, with Mr. Siddique abstaining.**

Ms. Coles-Roby stated that the panel for ARP #270 recommended Mr. Wadden's application be denied and Mr. Young's application be approved. Ms. Campbell reported that all members of the panel were in agreement on both candidates. She stated that Mr. Wadden worked mostly in New Jersey and his experience consisted mainly of field oversight on waste sites, hazardous building materials projects, and writing quality assurance and work plans. The panel did not feel the applicant had sufficient decision making experience. Mr. Smith reported that the panel agreed that Mr. Young had a strong application and exceeded all relevant professional and total professional experience requirements. Ms. Campbell stated that it was evident that Mr. Young had substantial project management experience and his references were very strong. **A motion was made and seconded to accept the recommendation from Application Review Panel #270 that the application submitted by Mr. Young be approved and that he be found eligible to take the exam and that the application submitted by Mr. Wadden be denied and he be found ineligible to take the exam.. The motion was approved unanimously.**

C. Applications Committee: No report was made.

7. License Renewal Applications:

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

Renewal Docket #1

Renewal Date: March 27, 2015

New Renewal Date: April 30, 2018

Has completed all requirements for renewal:

	LSP #	First	Middle	Last
1	4057	Brian	W	Longval

Renewal Docket #2

Renewal Date: April 30, 2015

New Renewal Date: April 30, 2018

Has completed all requirements for renewal:

	LSP #	First	Middle	Last
1	1957	Walter	B	Hermenau
2	3195	Paul	D	Ozarowski
3	9347	Andrew		Stead
4	8110	Felix	A	Perriello
5	2028	John		Niedzielski
6	4725	Joel	J	Trifilo
7	9605	Susan		O'Brien
8	6301	Charles		Castelluccio
9	2347	Daniel	G	Jaffe
10	9654	Michael	E	Billa

Motions were made and seconded to renew the licenses of the LSPs on Renewal Dockets #1 and #2 for the three-year periods ending on the dates indicated. The motions were approved unanimously.

B. Other Renewal-related Matters: The staff reported that 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 #271: Mr. Austin, Mr. Smith, and Ms. Campbell. The following Board members were assigned to Application Review

Panel #272: Dr. Guswa, Mr. Siddique, and Mr. Ericson.

- B. Appeals Status Report.** There were no pending appeals of any denials by the Board of license applications.
- 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
9099	January 30, 2016	Inactive	Egan	David
9921	September 1, 2016	Inactive	DelMarco	David
2349	January 20, 2016	Inactive	Howell	Deborah

- D. Total Number of Active LSPs:** As reported in the Agenda, the total number of Active LSPs was 543 as of April 8, 2015.

9. Examinations:

- A. Dates of Next Exam:** To be determined.
- B. Exam Committee:** Ms. Coles-Roby reported that the Exam Committee is still on track to have the exam ready for a June 2015 offering. She stated that a conference call is scheduled for tomorrow afternoon, during which the psychometrician, Scott Thayn, will provide Committee members with instructions for the next the next step of the process; reading and rating the exam questions. Currently, five members of the Exam Committee have volunteered to read and rate the questions, including Mr. Austin, Mr. Siddique, Dr. Guswa, Wes Stimpson, and John Fitzgerald. Ms. Coles-Roby stated that the final step in the process will be the cut-score workshop. The Committee will have the month of May to finalize the acronym and the reference lists. She reported that two complete exams have been drafted and Mr. Thayn is currently updating the graphics associated with the exam to improve their quality. Dr. Guswa asked for confirmation that the next step is to read and rate the exam questions only, not read, rate, and answer the exam questions. Ms. Coles-Roby confirmed that the volunteers will be reading and rating the questions only.

Ms. Coles-Roby reported that there are approximately 20 applicants who are waiting to take the exam, including those approved at today’s meeting. Mr. Austin inquired whether the Board’s website states that the exam is expected to be offered in June 2015. Ms. Coles-Roby responded that an announcement will be posted on the website after the Committee completes the cut-score workshop.

- C. Exam Challenge:** Ms. Coles-Roby stated that the exam challenges will be resolved during the Quasi-Judicial Session following today’s Board Meeting. Dr. Guswa reported that there are five questions the Board will need to consider and vote on.

10. Continuing Education Committee Report:

A-B. Report on Course and Conference Approval Requests: Dr. Guswa reported that the Committee met earlier in the day and made the following course recommendations to the Board:

- a. NACSETAC: *Communicating Chemical and Environmental Risk* (6 Technical credits, June 10, 2015, Freeport, ME).
Committee Recommendation: **Approve**

- b. LSPA: *Emerging Contaminants* (4 Technical credits, June 2015 and/or Fall 2015, location to be determined).
Committee Recommendation: **Approve**

A motion was made and seconded to accept the Continuing Education Committee's recommendations. The motion passed unanimously.

C. Other Business: None.

11. Professional Conduct Committee:

A-B. Report from Today's Committee Meeting: Mr. Smith reported that the Committee met earlier in the day and discussed that status of all the active cases. He stated that all have an established path forward, and several of the cases are scheduled to be discussed in the Quasi-Judicial session following today's Board Meeting.

C. Other Business: None

12. Personnel, Budget, and Fees: Ms. Coles-Roby reported that the Governor's hiring freeze remains in place, and any future hiring will be contingent in part on the proposed early retirement plan. She also stated that Mr. Thayne will begin to receive payment for the work he has completed since the beginning of January of this year.

13. Status of Board Member Replacements by Governor: Ms. Coles-Roby stated that she and Mr. Ericson had interviewed a potential Board candidate, Linda Segal, last week. One additional candidate will be interviewed, and then nominations will be submitted. She also reported that she has received a Request for Reappointment, which she will be forwarding to the Governor's office.

14. Other Business:

A. Legislative Matter: Mr. Ericson reported that he had not yet had the opportunity to speak to Senator Rush, but the letter will be sent out as soon as he does.

B. Action Items List: Ms. Coles-Roby stated that the Public Records Request that the

Board received concerning two LSPs' applications is complete. The data subjects were notified, provided with copies of their redacted applications for review, and given 30 days to respond with any questions or concerns. Both redacted applications were turned over to the requestor.

Ms. Coles-Roby also reported that the letter to Ms. Knott regarding her request for an adjudicatory hearing was issued on April 10, 2015.

C. Website Update: Ms. Coles-Roby reported that at the last Board Meeting, Mr. Smith suggested that a list of all the upcoming courses that have been approved be posted on the Board's website. Ms. Coles-Roby stated that the Board staff will be posting this information on the website after each Board Meeting.

D. LSPA's Request for Presentation on Disciplinary Process: Dr. Guswa stated that the LSPA has requested that the Board take part in a presentation on the disciplinary process at one of their monthly member meetings. He reported that the LSPA's Loss Prevention Committee is scheduled to host a discussion in February 2016, and member Michelle O'Brien suggested presenting an overview of the Board's disciplinary process. Ms. O'Brien has asked the Board whether a few members would be willing to take part in the presentation. Dr. Guswa stated that he and several other Board members taught a four-hour course on the disciplinary process a few years ago at the UMass Soils Conference, and suggested that the presentation could be modified to fit into the one hour format of the member meeting. He stated that he has provided Ms. O'Brien with copies of the slides that were used for the four-hour course. Mr. Siddique stated that the Board has done presentations on the disciplinary process several times in the past and raised concern that repeating the topic could make the Board's work appear one dimensional. Dr. Guswa stated that the LSPA specifically requested a presentation on the disciplinary process, and if the Board would like to discuss other topics, it may be possible to provide a separate presentation at another member meeting. Mr. Ericson stated that Ms. Coles-Roby has been meeting with LSPA's Young Professionals group every year, and the Board may want to consider providing similar outreach to other groups. Dr. Guswa asked Ms. Campbell to follow up with Ms. O'Brien to obtain more information regarding the Board's role in the presentation.

Ms. Rundle reported that the LSPA would like permission to post the Board members' profiles that have been featured in the LSPA newsletters, on the LSPA's website. The LSPA website has an LSP Board page that summarizes what the Board does and contains a link to the Board's website. Ms. Rundle stated that if members are agreeable, the LSPA would post the profiles on this page. All Board members present at the meeting stated they were agreeable to having their profiles posted.

E. Public Records Request: Ms. Coles-Roby reported that Allen Wyman had filed a complaint with the Secretary of State regarding his public records request. She stated that the documents Mr. Wyman requested have been compiled and will require redaction. Because the costs incurred to date exceed \$1,000, Mr. Wyman was promptly notified and advised the Board would not proceed further without his approval. Ms.

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Coles-Roby stated that the Board has a duty to redact certain information and to notify the data subjects that records are going to be released. Ms. Coles-Roby stated that she has not yet been contacted by the Supervisor of Records. She reported that Mr. Wyman has filed several complaints in the past against the Board regarding public records. Ms. Listernick stated that the complaint alleges that the Board determined that the records are not public, which is an incorrect statement. The Board only advised Mr. Wyman that some information contained in the documents needed to be redacted before they could be released. Mr. Ericson stated that that if the Supervisor of Records believes the Board should be taking a different approach to this matter then the Board will follow all recommendations. Ms. Coles-Roby informed the Board that Mr. Ericson has a duty to notify DEP management of this complaint due to Mr. Wyman's ongoing lawsuit against the Agency. Mr. Ericson stated that if legal issues arise from this complaint, he may request that DEP personnel assist with the matter.

15. **Next Meeting:** The Board's next meeting will be on May 21, 2015, in the Southeast Regional Office of MassDEP in Lakeville.
16. **Adjournment:** A motion was made and seconded to adjourn, and by unanimous vote, the Board meeting was adjourned at approximately 3:14 p.m.