

Right of Way Consultant Council Board Meeting
Meeting Minutes
2:00 pm, October 21, 2006, Chicago, IL

Attendees:

Kerry Malone
Ray Armstrong
Wade Brown
Mark Bilyeu
Larry Bellinger
Daryl Knobbe
Jim Overcamp
Denise Lucas
Lisa Harrison
Missy Wurtz
Ben Ward

1. Follow-up discussions with Larry Bellinger who presented at the IRWA Region 5 Fall Forum.

Larry manages segregated cell insurance captive. Cell would need to be \$750,000.00 in premiums. Board discussed forming separate captive verses being a segregated cell.

Larry had presented to the IRWA to form a captive cell for IRWA and for the ROWCC. Council only interested in a cell for the ROWCC members. Each captive has to focus on a particular type of insurance such as liability, health, general liability and insurance needs.

Denise asked about analysis necessary to form a captive. Actuarial analysis needs to be completed. A feasibility analysis is completed to see if a captive should be formed and also a preliminary estimate of premiums. Estimated cost to do the analysis and feasibility study is approximately \$15,000.00. Need analysis and feasibility study to determine if a captive should be formed and what it will cost. The study will outline all of the projected costs of the captive. Information needed from member firms to needs to provided related to current premiums, losses and gross revenue.

Lisa Harrison concerned about release of confidential information. Larry has fiduciary responsibilities not to release specific firm information.

Larry hires a third party to conduct analysis and feasibility study. If a captive is formed, a third party, admitted insurance company, will serve as the administrator for the claims.

Lisa expressed concern about spending the \$15,000.00 for the analysis and feasibility and not having funds to cover the costs.

Ray asked about how the eventual ownership of the captive. If initial firms that create the captive, they could be the only owners of the captive. A Board would be formed for the captive. The Board determines who they will insure. If a new member of Council wants insurance, an actuary will determine the premium to be paid by the new member. Board could deny insurance to the new member based on the risk level.

Lisa is concerned about sharing company information to determine the premium amounts and giving competitive advantage to another firm. Larry stated that the companies can be coded by the administrator, so the Board does not know who the firm is.

Ray concerned about equity ownership of the captive.

Kerry suggested a vesting schedule for new members to the captive after initial members commit to form the captive.

Larry says there are rules when the captive is formed to make sure the captive is financially stable.

Larry is to check with an administrator of a captive for associations. He is to find how they handle confidential issues, equity positions and overall administration of the captive.

Larry's fees are added to primary premiums to become the total premium for the captive. Larry's fees usually run about 3% of the primary premium.

The by-laws of the captive will determine how the premiums are paid; monthly, quarterly or annually.

Larry stated that we must follow insurance principles when serving as the Board.

Jim Overcamp asked about worker's compensation captive. Worker's compensation is statutory insurance requirement. A lot of captives are formed for workers compensation.

2. Treasurer Report

Unpaid dues for 2006-2007 total \$7,500.00.

JB Associates, Century Engineering, Gulf Coast, Continental, Spitzer & Associates.

UFS is not renewing their membership. Trigon of Durango, CO is to advise if renewing membership. Unpaid dues listed the in treasurer report.

Ray is to suspend firm information on website for unpaid firms.

Paid members total 16.

Funds in the bank \$14,366.51.

New account set up at Bank of America.

Denise moved \$382.82 costs for meeting refreshments. Ray seconded. Approved.

3. Minutes approval by Mark, Ray second, approved.
4. Website

Ray talked to Quicion. They will fix glitches over time at no charge.
Lisa still receiving messages of Board notices.

Wade would like to simplify the website. Less clicking to desired spot on the site.
Ray said that to make changes, it would be a re-design of the website. The cost would be \$1,000.00 or more to change the website. It was decided not to spend the money to make the website changes at this time.

5. Recruitment of staff

Lisa wanted to set a minimum standard for hiring practice for a member firm. Self certify that you have an ethical approach to hiring standards. Set a minimum standard. Don't hire someone away from a competitor during the middle of a project.

Denise concerned about enforcement of hiring practices. What are the steps to take action against the violating firm.

Lisa wants to add to the recruitment practices to the membership criteria of the council. A change to the by-laws is necessary to address hiring practices.

Ray says we are charged by our mission statement to set standards and educate our membership. We have not really achieved these items.

Daryl said that once the Board takes an enforcement action, we will set a standard as to what is ethically acceptable.

Kerry moved to add to the membership criteria which is also part of the by-laws "Members must recognize and follow ethical hiring and recruiting standards."

Wade suggested that an e-mail or thread to advise the general membership of the ethical hiring and recruiting standards.

Lisa suggested having a debate for ethical hiring practices at the IRWA seminar in Sacramento.

6. Working with Federal Agency to set up standard contracts

Lisa stated that we were asked two years ago at AASHTO and we have not taken any action. The contracts should be standardized to conform to the right of way field. Need to collect existing contracts and use the best terms to be used in a standardized form. Focus on one area of practice area such as DOT contracts.

Further discussion led to focus on the RFP instead of the contract. Wade is to send a sample RFP for comment by the Board and general membership. Introduce suggested RFP at the PRES in Dallas. Kerry will provide a sample for the private sector.

Lisa asked that we take into consideration the sample RFP in the IRWA Course 303 manual.

7. Follow up on Prop 90 Update

Denise provided a copy of the thank you letter from the No On 90 committee. They have put \$20M in advertising for their No On 90 campaign. Visit the website to see the advertisements. 18 states have similar propositions like CA on the Nov 8th ballot.

8. Newsletter information

Ben is still working on it. Ben to send ROWCC brochures to Board members.

New Business

1. PRES

ROWCC has the 1:30 -3:00 time slot on Tuesday. The session format is a point-counterpoint relative to utilizing consultants. The ROWCC session is followed by a session which features Federal agencies discussing consultants. A cocktail reception is to follow.

ROWCC Presentation – need to promote Course 303 in our presentation.

Agency issues

Bait and switch, planning a project, scheduling, loss of personnel
Consultants are taking my government job/position
Your staff does know what their doing
Recruitment of our staff

Consultant issues

How do we bid when we don't have proper information
Scope creep & Schedule creep, fixed fee
Rate structuring, what goes into a rate
Contract terms
Enforcement of RFP terms
Inexperienced client project managers

Ray suggested that we offer several topics to the audience and they vote which topics are addressed. Our panel will address the most popular.

We are going to propose a debate and combine the sessions.

Lisa suggested at the end, open to audience to suggest other topics.

ROWCC sponsorship at the PRES event. Denise moved to sponsor \$1K for reception after our session. Jim seconded. Motion approved.

Next meeting to be a teleconference once Wade hears if the agencies agree to the debate. Monday Dec 4th at 2 pm EST.

Debate to be carried over to AASTO and possibly to Annual Seminar, depending upon response.

2. New business

Mark concerned about responding to AASHTO. What should we do to respond to their request. Items of concern include staff/consultant certifications, standard documents. The Board is to discuss at the February 2007 Board meeting in Dallas, TX.

Meeting was adjourned 5:10 pm.

Minutes submitted by Ben Ward, Board Secretary.