



Right of Way Consultant's Council membership meeting

November 4, 2011

Paris Hotel, Las Vegas

Board Member Attendees: Faith Roland (Chair), Kerry Malone (Vice-Chair), Daryl Knobbe (Secretary), Charlie Davis (Treasurer), Joe Coates (Membership), Lisa Harrison, Jerry Colburn, Mark Bilyeu

Member Attendees: Denise Jackson, Larry Castellanos, Teri Morgan, Diane Valek

Guests: Mark Rieck

Meeting called to order at 8:40 by Faith.

*Faith asked for any additional agenda items. Lisa said she had been contacted by a firm who is being sued over a wage issue. Firm is currently not a member of the RWCC. Item discussed later in the meeting.

*Financial – Charlie provided a written report which indicates we currently have \$49,111.72 in the bank and have 28 fully paid members and one member who has a balance owed of \$100.

Agenda Items:

1. TX DOT – efficiency initiative – Teri Morgan provided a Power Point presentation from the TXDOT group on which she representing the RWCC. The reason the group is meeting is because there is at least a perception that right of way acquisition is not being completed in time for construction letting. Goal is to get 100% of R/W completed or at least 100% of those

parcels that materially affects the construction process. An initial step was to get input/interviews from “customers” i.e., LPA, District Engineers, land owners, FHWA, utility companies and utility coordinators. The goal is to implement changes from the initiative by June 2012. As a group we agreed that we want Teri to go back with input from the RWCC on how to improve the process. The TXDOT efficiency group is meeting next week for 3 days. So as to keep our meeting moving, Teri is going to offline take input from people at the meeting as well, as her schedule allows, she will contact others not in attendance. Teri will get back to RWCC with what she takes to the meeting next week.

2. TXDOT – appraisal initiative – Charlie is representing the RWCC on this one and advised the group had their first meeting several weeks ago and it was basically a meet and greet. The concern is that the average age of appraisers in Texas is getting high. It is anticipated that demand will increase and number of qualified appraisers is diminishing and those that are available have lots of work.
3. Bylaws – Joe – Discussion on what we do if it is believed members are violating the by-laws, specifically as it relates to independent contractors. After some discussion Faith suggested a subcommittee be formed to look at the by-laws to ensure they say what we want and determine how they should be enforced. Some in the group do not believe that the by-laws prohibit independent contractors and that independent contractors actually serve a purpose if used appropriately and legally. In addition to reviewing the by-laws, it was decided a group will prepare a position paper on independent contractors. Members are Kerry (lead), Joe and Denise.
4. Educate, Advocate, Lobby update from IRWA – Mark Rieck – IRWA is working with a company called Lobbyit.com. Mark advised that contrary to what has been said in the past, IRWA can lobby, though he said they choose not too and rather focus on education. Mark said they are currently using Lobbyit.com on a tier 1 level for \$995 month. He proposes that IRWA and RWCC team and go to a tier 2 level. The tier 2 level would include the contractor not only tracking legislative items but analyzing them for us. Tier 2 would be an additional \$1000 per month and Mark would like for RWCC to pay that amount. There was discussion that if the RWCC does agree,

IRWA should pay the lion's share because of all of the other financial commitments that are made to IRWA by the RWCC members. No action was taken by the RWCC except that we will try to develop a template RFP for contracting for right of way services. Charlie will take the lead on this and solicit help from several other members.

5. Marketing – new members and our brand – general discussion.
6. Lawsuit item brought to meeting by Lisa. Lisa advised that she has been contacted by a non-member firm who was seeking some assistance on a lawsuit filed by one of their employees. Apparently the firm has an employee who is an agent being paid a salary and wants to be paid overtime. More employees are joining the lawsuit. Discussion took place as to whether there is anything the RWCC can do in this situation and around how this type of discussion is one of the benefits of being a member of the RWCC. Discussion also took place about whether if the suit goes through the court process; could the decision affect the right of way industry?
7. Independent Contractor and “Poaching” – Kerry discussed the article he wrote for the upcoming IRWA magazine concerning the pitfalls for clients and employees as it relates to independent contractors. After the article hits the street we will see what feedback we get and then decide on our next step.
Poaching – Lisa and Kerry said the RWCC poaching agreement is that we would not actively pursue employees from members companies and if an employee from a member company responds to an ad from another member client, the advertising company will ask the applicant are they currently on the project and if they are say we don't want to hire them until their job is done. This is not a part of the by-laws but sort of an agreement among the member firms. Mark is going to take the lead on developing a position paper concerning the issue of poaching.

8. Discussions took place concerning developing standard contracts and scope of work that potential clients can use as templates. Joe and Charlie will begin work on this item.

9. Next article for the consultant's council article in IRWA magazine will be written by Faith highlighting the organization and its members. Article is due November 21.

Discussion took place on the next article and that it will likely be a follow-up to Kerry's article coming out in the next issue.

10. Will shoot to have a conference call in December or January to discuss what we can do for AASHTO. Faith is going to contact John Campbell to see if we can really get on the agenda.

11. Meeting adjourned at 3:00