Wastewater Operator Certification Council Meeting

August 5, 2013 at 1:00 p.m.

195 N 1950 W, Red Rocks #3132 - moved to Great Salt Lake West #3134, Salt Lake City, Utah

MINUTES (Draft)

(Note: due to problems with setting up the video projector in Red, the meeting was moved the Great Salt Lake West #3134 before it was officially started.)

1. Roll Call conducted by Dan James: Those attending are Dan James, Paul Krauth, Richard Jex, Judy Etherington, Jim Callison, Terral Dunn, Ed Macauley, Jim Faulkner, Lonn Rasmussen, Cliff Specht and Craig Andersen. Members not in attendance are Ramesh Goel and Kerry Eppich.

2. Discussion and Approval of Minutes of Previous Meeting

   a) Minutes of June 26, 2013—***Presented for review and corrected to show that Paul Krauth was not in attendance.***

   Motion made by Clifton Specht to approve the minutes; seconded by Richard Jex; approved unanimously.

3. Introduction and Training of Council on Open and Public Meetings Act and Ethics by Assistant Attorney General Craig Anderson.

   a) ***Judy gave a brief background and description of the roll of the Council as an advisory body to the Water Quality Board.***

   b) ***Highlights of Mr. Andersen's presentation included:***

   - ***Two laws governing: Open Meetings Act and Government Records Act.***
   - ***Goal of the acts is to provide transparency in government--the public's right-to-know.***
   - ***All meetings must be open and public, but there are strict provisions for closed sessions when necessary.***
   - ***Agenda must be posted in meeting location 24 hours before meeting with the date, time and place of the meeting.***
   - ***Media must be given notice so they could attend.***
   - ***Agenda must be posted on the Utah Public Notice website (PMN).***
   - ***Term "meeting" is convening of a simple majority to conduct business; anything less than a quorum is not considered a "meeting;"***
   - ***Include "meetings" that include site visits, etc., if majority is present and business being conducted.***
   - ***Required to maintain minutes and have an audio recording of the meeting.***
   - ***Recent amendment in the 2013 session now requires that the audio recording must be posted on the PMN website within 3 days of the meeting; pending minutes (draft) must be available within 30 days of meeting; approved minutes must be posted within 3 days of approval.***

- ***Both sets of minutes and the audio recording are considered public records.***
- ***If a meeting is to be closed, there is a specific process for closing the meeting, written and chairman signs statement with purpose for closing the meeting, there must be a motion to close that states the purpose, 2/3 majority vote to close.***
- ***There are specific and narrow reasons that allow a meeting to be closed--but, there must still be a recording and minutes kept.***
- ***Reasons for closing a meeting include character, professional competence, litigation, price of property, deployment of personal security devices, allegations of criminal misconduct;***
- ***All items for action during a meeting (including closed meetings) must be specifically listed as an action item on the agenda--not just listed as a discussion item.***
- ***Conflict of Interest--most boards and advisory groups are composed of individuals knowledgeable of the business--must balance the competing potential conflicts by "disclosure" of ownership or vested interest in the results of the business of the board. Would not apply to "employees" of a business regulated by the Division of Water Quality, but would apply to individuals who have at least a 10% interest (or $2,000) in the stock or ownership of a regulated business.***
- ***Using information obtained solely as a result of your position, or that gives you an advantage over someone else in business or engaging in a transaction is prohibited.***
- ***DEQ has adopted some administrative rules in R305-9 requiring disclosure of conflicts of boards--probably doesn't apply to this group;***
- ***Personally identifying information is protected under GRAMA--names, addresses, telephone numbers;***
- ***Reports, meeting minutes and recordings are public record;***
- ***Confidential business documents submitted for review maybe labeled by the author as "protected".***

4. Discussion of Proposed changes to R317-10—This item was moved up on the agenda so that those who were attending the meeting for this item would be able to leave before the other matters were discussed.
   a) ***DWQ staff presented copies of the information that had been on the Water Quality Board agenda in June, as well as a previous draft that contained other basic changes to the rule that kept the council established in rule and redefined its roll.***
   b) ***Ed explained that there are two choices: keep the council established in rule, where it is subject to the requirements of Open and Public Meetings Act, or take it out of rule as an advisory body and not have those requirements. When established in rule, no action may be taken without a meeting being held, agenda public noticed, recorded, and minutes published as we were instructed***

earlier, etc. We are not able to just solicit opinions from the members via email and take action as we have done in the past due to our ignorance of the requirements.

c) ***Judy added that there are other changes that need to be made to the rule due to the SB-21 changes that took the responsibilities for carrying out the business of certification away from the Water Quality Board and placed it in the Director's responsibilities. The first version draft of the rules kept the council is established in rule, but its role redefined to now report to the Director, rather than the Board as required by the legislation. Right now, the rule does not match the legislation.***

d) ***There was discussion about what authority the council has now, and what it would have with the different types of changes. Judy presented copies of the legislation detailing the responsibilities of the Board vs. the Director. What course is available to individuals who want to contest a decision of the council?***

e) ***Discussion of changes to allow more flexibility in who is on the council. This composition was determined many years ago and needs to be revisited.***

f) ***Discussion of establishing a regular meeting schedule, rather than "as needed."***

g) ***The draft version that was presented to the Board, and tabled, included removing the council from the rule. It also included removing the requirement that a review of exams is allowed for those failing an exam. It is a separate issue that needs to be addressed.***

h) ***Question about who signs the certificates - original certificates are signed by the Director (electronically) and by the council chair (electronically). There is value to the Director being able to delegate to another body to take some of the flack about why a particular decision was made.***

i) ***Does the Division want help from other people in revising these rules? "Absolutely!" Would like more involvement before it goes to the Water Quality Board the next time.***

j) ***How would the council like to be represented on a stakeholder group? All in attendance want to be involved and think that the council should remain "in rule."***

k) ***With the decision to keep the council organized in the rule, some specific language suggestions include:***

- ***paragraph A. "director shall appoint"; Recommendations of council members "may be made"***
- ***paragraph B. "council shall consist of eight members" or "seven voting members" and then change to "may" or "should" include ...***
- ***alternate language "representation from the following groups"***
- ***"a faculty member of a university in Utah" not specifically "engineering"***
- ***"a representative of DWQ should attend" would allow a meeting even if Ed or Paul weren't available, rather than the "senior engineer"***

l) ***Judy will take the current rules and add the tweaks recommended here then email them to the council and other stakeholders.***

m) ***Should there be representatives on the council of the non-regulated areas that we are providing tests for? Probably not, because there is no authority given.***

n) ***Discussion of exam reviews:***

- ***Change in ABCs contract that may affect the way reviews may be conducted.***
- ***Current language of the rule states that the applicant must "request a review within 30 days of receiving the scores." We have currently interpreted this to mean that the review must be within the 30 days. However, it would be possible to schedule a review date after the last exam results are received from that series of exams before allowing a review.***
- ***We currently ask for scrambled versions for each exam that is offered. The new contract will require us to pay extra for scrambling each series of exam questions.***
- ***The question was asked, "How strong do you feel about having a review process" And since each person is already receiving a statistical breakdown showing the areas where they are strong and weak?***
- ***There may be a need to charge for another exam in order to have the correct answers available to review.***
- ***We now only allow those who fail to review.***
- ***What is the purpose of the review--improve the test questions, or a learning experience.***
- ***In most certifying and licensing exams, the person is not allowed to see those questions again.***
- ***How do the participants feel about continuing to allow reviews: strongly support having the reviews as a learning experience, old questions are posted as study guides, they don't understand the statistical reports (PK); mixed feelings--few bad questions, people are trying to find a question to contest so that they can improve their score (DJ, CS); the statistical report is enough to help them see where they need to study--review should include review of the results report, have a way during the exam to submit comments about questions (LR, JF); people from the rural areas don't usually get to review but the reviews don't seem to make a big difference in the results (TD); if there is additional costs, they should pay (TD, JF); primary function of test is to determine basic competency, most people don't take advantage of it (JC); principle of reviews as a learning experience is good--not opposed, but the summary should be better utilized and is more valuable (RJ); encourage use of comment sheets when they think that a question is poor; when computer-based exams are used, there is no way to review the questions; some states don't give scores--only pass/fail; worst test was when they had all the possible questions in advance.***

- ***Float language in draft, or leave as is and send email asking for people's responses yeah, or nay.***

5. Consideration for CEU credit—Radio Systems class held in Bullfrog—***Discussion of relevance to wastewater and details of information submitted. Dan James made motion to deny CEU credit; seconded by Cliff; approved unanimously. Note that they would look at it again if they want to submit more information.***

6. Exam Proctors for August 29th—***Cliff confirmed that he is available to help Judy. If more than 50 people sign up, Judy will contact Dan for help.***

7. Facility Compliance worksheet—***Review conducted by Ed. Hinckley—Trevor is the only one there and he is trying to get the required certifications because Robert is gone. Neola—recently found that Max now needs unrestricted certificate, so need to send notice. Manila—the engineer does not want to operate any more. They have a year to get an operator, but they have not been submitting DMRs. Vineyard Town—Judy sent letter last year and then tried to send email through the web site's email, but it came back; White Hills—still waiting for Eagle Mountain to take care of the situation since the subdivision has been annexed by the city and Lisa Nelson is working with them.***

8. Reciprocity Request—***Motion by Jim Callison to close the meeting because we will be discussing confidential information about the applicant; seconded by Cliff Specht; approved unanimously.***

9. ***(Reopen general session)***

10. ***Motion to adjourn by Terral Dunn; Seconded by Jim Callison; adjourned.***

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