

Minutes LICEB February 5, 2015

Minutes Taker-Joanne Taroco

Start Time: 10:12

End Time: 4:06

## LANDSCAPE IRRIGATION CONTRACTORS EXAMINING BOARD

**Meeting Location:** DEP Carol Building  
428 East State Street  
Trenton, NJ 08625  
First Floor Conference Room

### Attendees:

#### Board Members

Robert Dobson

George M. McCarthy

Ken Scherer

Gaetano Virone

#### Affiliation

Middletown Sprinkler

Spring Irrigation Co. Inc.

Hillsborough Irrigation

Environmental Designers Irrigation

#### Legal Council

Gene Rosenblum

DAG

Michael Shuit

DAG

#### DEP Staff

Tirsh Conti

Bureau of Licensing and Pesticide Operations-NJDEP

Chrissy Gerstnicker

Bureau of Licensing and Pesticide Operations-NJDEP

Sarah Simmons

Bureau of Licensing and Pesticide Operations (Temp hired by board)

Joanne Taroco

Bureau of Licensing and Pesticide Operations-NJDEP

#### Public

Tim Martin

MBI◆Gluckshaw

#### Absent:

William Frederick Rapp

Atlantic

### Official Start Time: 10:12

Joanne Taroco read aloud the Open Public Meetings Act statement for the Landscape Irrigation Contractors Examining Board and announce that adequate notice of this meeting had been provided to the Secretary of State, and designated newspapers as well as posted in DEP. (Department of Environmental Protection)

The open and closed session minutes from the November 14, 2014 meetings were reviewed. **Ken Scherer Motioned to accept the minutes and Robert Dobson second the motion. Unanimous vote to proceed.**

The treasurer's report was discussed, with clarification made to expenditure lines 3620-Technical/Professional and 3624 Temporary Personal. Technical/Professional is the expenditure for the inspector utilized by the board to perform investigative work and Temporary Personal is the expenditure utilized by the board to pay salary of former temp Lena Bennet who due to medical reasons was replaced by Sarah Simmons. **Ken Scherer motioned to approve treasurer's report and on Gaetano Virone seconded the motion. Unanimous approval of the treasurer's report.**

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**Robert Dobson motioned to move on to next item on the Agenda, seconded by George McCarthy. Unanimous approval to move on to Communications.**

It was noted that Gene Rosenblum would not be present until 1 p.m. and that Tim Martin lobbyist from the LIANJ (Landscape Irrigation Association New Jersey) had expressed interest in attending the meeting and may be stopping in to say a few things.

DAG Michael Shuitt questioned if the attendance of Tim Martin was to discuss the bills on Governor Christie's desk to move the Landscape Irrigation Contractors Examining Board from the Department of Environmental Protection (DEP) to the Division of Community Affairs (DCA); it was noted that a potential transfer date of 7/1 or 7/31. Suggestions were made to include a staff member from DCA at future Board meetings in case the Governor Christie signs the bills.

Chrissy Gerstnicker proposed a question regarding where on the agenda "Letters about licensing, and continuing education credits (CEC's)" belonged on the agenda. George McCarthy stated that letters belonged under communications on the agenda this prompted the review of two letters:

1. **Cornelius Lindenmulder requesting exemption from the CEC requirement.** -The board determined that there were ample opportunities to receive continuing education credits and an exemption would not be granted. Mr. Lindenmulder must obtain the appropriate continuing education credits if he wishes to renew his license. (see action items below)
2. **Edward Woolf requesting certification for licensing despite not obtaining appropriate scores on exams.** *Mr. Woolf's justification for the request was that he previous held a landscape irrigation contractor license that lapsed due to financial hardship in 2001 and that he scored the required overall score 70% considered passing but failed the subject matter passing score of 50%* - The board determined 70% competency on the exam was the bare minimal, and that they would have the Irrigation Association re-score the exam by hand. Pending the outcome of the hand score a letter would be sent. (see action items below)

Chrissy Gerstnicker posed question about what to do for businesses who had applied for the business permits but the certifying individual had not met the requirements to renew their license? (As of date of meeting 2/5/2015 there were 2 people who applied for the business permits that fell under this circumstance) – The board determined that the permit applications should be returned to the applicant with a cover letter stating why the application was being returned and a method for tracking returned applications should be created. Joanne Taroco suggested creating an internal database to log the returned business permit applications. (See actions)

George McCarthy brought up the volume of phone calls that Joanne Taroco and Chrissy Gerstnicker received in response to the CEC submittal letter sent out on 12/19/2014. Stated that they were appeased with the way that we handled the volume of calls and that there were limited amounts of angry patrons. The board determined that the staff of NJDEP were permitted to forward irate callers to the board to handle. Suggestions for handling future communications concerning CEC submittal letters were:

1. Ensure that licensing expiring on the next cycle be filtered out from the document merge.
2. Include the IANJ in future correspondence regarding CEC submittals

Robert Dobson stated that he, George McCarthy and Gaetano Virone all attended the IANJ annual meeting held in December as a result of the meeting and that once the contractors who attended understood how the CEC

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requirements worked they were supportive of the education requirements. It was also noted that as a result of the Boards' December letter the IANJ classes were full in January.

Gaetano Virone noted that he was liaison between the Board and the IANJ and that he was communicating with the IANJ regarding any needs they had. He had a phone meeting with the IANJ on 1/27/2015 and at that time there was no correspondence or phone call about any needs. The IANJ will contact Gaetano with any needs that they have. Robert Dobson volunteered to sit in attendance if Gaetano was not available.

George McCarthy posed a question about a spot on the website for posting minutes related to CEC's? Joanne Taroco began discussion about the website not being very informative and that there may be a need to update the Frequently Asked Questions (FAQ's)

1. Update questions to include CEC's, Business Permits, how to obtain certification. FAQ's should be more detailed about certification processes – (see action)

\*\*updates to NJDEP website have to go to the NJDEP Commissioner's office for approval

Gaetano Virone proposed that a list of business permit holder currently license to also be added to the website. Chrissy Gerstnicker stated that she would see if a data miner report could be written to post on the website. She suggested that Gaetano review the currently listed UST (underground storage tank) firm report posted currently posted on NJDEP website to see if a similar report would suffice for the business permits. (see action items below)

**11:15** Chrissy Gerstnicker and Sarah Simmons excuse themselves to return to DEP offices.

Robert Dobson begins discussion about the current status of CEC's key points from this discussion are as follows:

- Licenses expired as 01/31/2015; 425 contractors with that expiration date of that number 296 had submitted CEC's (69.6%)
- There are 170 contractors whose license expire on 1/31/2016; 67 of those individuals have submitted CEC's (39.4%)
- Letters that were sent in December notifying contractors who were deficient on CEC requirements \*\*some contractors whose license expire 1/31/2016 received the letters in error.
- George McCarthy and Bob Dobson are currently working on master list of courses approved and CEC values to provide to IA for electronic file maintenance.
- CEC submissions for courses not on master list will still come to DEP  
IA will track the amount of CEC's obtained by individuals, however the DEP will retain paper copies of submissions according to the DEP's record retention guidelines established at the time the program was developed.
- IA needs all contractors' email addresses. (see action items)
- IA website is live as of 2/5/2015

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**11:45** Timothy J. Martin joins the meeting and the discussion switches from CEC's to questions or concerns about the proposed legislation which would move the LICEB from the NJDEP (New Jersey Department of Environmental Protection) to DCA (Department of Community Affairs)

Timothy Martin begins the change in discussion by asking if the board if there were questions or opinions regarding the legislation and how/will the change impact current operations?

Michael Shuitt seeks clarification on changes to the regulations besides changing governing organization from DEP to DCA.

Timothy Martin states the regulations should basically remain as is and would fall under the State Agency Transfer Act of 1971.

Trish Conti expressed a concern about transferring information to DCA (Electronic Records)

Robert Dobson expressed a concern about have a representative from DCA to sit in on the scheduled board meeting in case the legislation is signed to make it easier for the transfer from DEP to DCA.

George McCarthy was concerned about the transferring of the finances and budgetary needs. (Does the board still maintain financial control, or would financial control be relinquished to DCA, and how do other boards in DDCA handle finances) **Timothy Martin was not familiar with the way that financial and budgetary needs are handled but believes that they are addressed in the State Agency Transfer Act**

Gaetano Virone expressed an interest in meeting with DCA to discuss transferring from DEP to DCA if the legislation is signed. He also was concerned about notifying the public of the transfer.

Robert Dobson was concerned about contractual agreements specifically those previously established between the LICEB and the IA for maintenance of CEC's

Ken Scherer expressed a concern for the Administrative support the board currently employees specifically whether or not the administrative staff currently working on behalf of the Board would also be included in the transfer to DCA?.**(DEP staff member Joanne Taroco would stay within DEP because she is employed by DEP. Sarah Simmons would go to DCA as she is a temporary employee paid through funding on the LICB budget.)**

Timothy Martin stated that if the Boards are the Boss when the board is transferred same should apply and that the transfer should take a affect 45 days from passage (possible to occur in March)

Robert Dobson was concerned about how the transfer would affect CEC's? Currently working on new CEC submittal forms to include email addresses because the IA will be utilizing the email addresses as a means for the licensed contractors to

George McCarthy stated that the IA was working on the database and needed to know where to place the links so that contractors will be able to log on and view CEC's.

Timothy Martin questioned whether or not the contractors going to the site would understand how to utilize the site.

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Gaetano Virone stated that once the list of email addresses were gathered a notice would be sent with the link and directions how access CEC's

Robert Dobson stated that currently it was the individual's responsibility to maintain and submit certificates to the LICEB. The LICEB was sorting through and reviewing all submissions.

George McCarthy added that they created a database of course approvals that streamlined the registry and maintained the CEC values for the courses.

Robert Dobson stated that the IANJ had issued certificates with inaccurate CEC's and for the initial phase the LICEB had honored the inaccurate CEC's labelled on the certificates however moving forward inaccurate CEC values would not be accepted.

Gaetano Virone suggested that once the LICEB had completed the master list he would provide a copy of the master list of approved courses and CEC values to the IANJ. Any issues would be discussed and filtered out.

Timothy Martin questioned the integrity of CEC values, and certificates once a document (certificate) was submitted how the board was verifying that the CEC values were accurate, and what processes were developed to ensure that no falsification of documents occurred?

Robert Dobson stated that the LICEB was currently developing processes to assign CEC values and water conservation values.

George McCarthy stated that the LICEB was currently locating and working on corresponding documents to formalize process.

Timothy Martin question if there were any identifiers for courses? Answer was no

Timothy Martin also questioned if the board had talked with other boards to see how they manage their approved courses?

Joanne Taroco stated that there was correspondence between her and George McCarthy to mainstream the process and assign course numbers and to possibly utilize the same format that Pesticide Operations currently uses. (Pre-approval for courses with assigned course numbers and credit values- copies of letter and application to provide instruction were provided to George McCarthy electronically)

George McCarthy stated that both the Watersense Program and IA use a program where they audit 10% courses and those course providers would have to supply a roster of attendees. (sign in sheet)

Timothy Martin requested a schedule of Board Meeting for the upcoming year and asked if the complaint resolutions were public info

Gaetano Virone stated that he will be the liaison between IANJ and will provide information pertaining to complaint resolution to IANJ

Michael Shuitt stated that once the board issued a document it public and there's no redacting information it would be up to the board to release names.

Gaetano Virone stated that the impression was not have the information made public

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Timothy Martin recommended that the information be made available to the public if it's an NOV (Notice of Violation) and the Department's final findings

Michael Shuit stated that if it's adjudicated and the decision is final than publicize the name.

Timothy Martin stated if it's not a final decision then don't publicize the name.

Trish Conti posed the question about publicizing the names if an OPRA requests comes in requesting details of NOV's where a final decision has not been made

Michael Shuit stated that if it is an OPRA request that then it is ok to release the name.

Timothy Martin summed up that the public has expressed an interest in having access to more public information such as complaints filed and against whom? He understands that if a company is under investigation that the information is not publicized. However he will and can provide the number of complaints received, and resolved. He also summarized that the Legislation passed was approved by both houses on 1/29/2015 and that the Governor would have to sign the bill by 3/15/15. The IA board meets the last Tuesday of every month, and he will provide some information about the number of complaints.

**12:33** Timothy Martin Exits

**12:40-** Board Breaks until 1:00 pm

**1:08** Meeting Resumes

Gaetano Virone provided a new updated email

The board moves onto the next portion of the agenda (New Business)

Robert Dobson begins with the CECs and the tier structure. As was adopted and modeled after the IA's tier chart.

- Courses taken at an Association or University=1 CEC per hour of instruction
- Courses taken at a distributor where the course is the same and the instructor is the same =.5 CEC per hour of instruction

Robert Dobson stated that he believes that if the same instructor and same course is being given at a distributor that the course should also qualify as 1 CEC.

He also believes that his is unfair to the individuals who have taken the same course at the distributor, and believes that individuals affected by the CEC tier should be given the full CEC.

- 20 individuals initially affected by the tier structure for the same courses
- 7 have already submitted additional CECs and would qualify for renewal
- 11 individuals who would meet CEC requirements if the change was permitted
- 3 individuals would still be short on CEC and would not meet the renewal requirement.

Gaetano Virone stated that it's not advisable to change things retrospectively but moving forward it would makes sense to assign a full CEC versus half a CEC. In doing so, the full CEC assignment should be assigned starting from a certain

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date. He also stated that there should be standardization for applying CEC values and assigning values. He stated that maintaining a Database of courses and CEC values would be beneficial in assisting the board with sorting out CEC values.

There was Discussion of creating a system to assign course numbers and values.

**Ken Scherer motioned that as of February 1, 2015 to amend credit value so that is no longer depend on where a course is given but by the content of the course and the instructor.**

**Gaetano Virone seconded the motion all members of the board in favor.**

Robert Dobson also brought up the difference in tier structure for CEC and the difference between the LICEB's and IA's.

He suggested to model the IA's and add Certified Irrigation Tech for 10 CECs

**Gaetano Virone motioned this suggestion**

**Kens Scherer Seconded the motion all in favor.**

Robert Dobson brought up questionable CEC submissions and wanted to know how the board felt that the CEC's submittal should be handled. Should the board send letters to the individuals or the course providers?

The board opted to send letters to the course provider requesting additional information verify the integrity of the certificates supplied by the individuals. Letter should request the following pieces of information:

- Course Sign in Sheets (rosters)
- Full name of the course instructor
- Full course syllabus
- Date and length of course (how many hours)
- Any other information which clarifies the course activities

(See Action Items below)

Robert Dobson also proposed amendments to the CEC submittal form and asked the board to review copy of CEC submittal form. The board liked the amendments but suggested adding course number in the field labelled Title Description Course and to make corrections to some typos.

Robert Dobson also suggested that the board look into obtaining an email address for the LICEB so that DEP staff inboxes are not flooded with communications about the Landscape Irrigation Contractor Examining Board from the public. (See Action Items)

Robert Dobson explained the copy of the excel spreadsheet he brought to the meeting

1. Any person whose name was green had met CEC requirements and were good to renew
2. Any person whose name was yellow had not met CEC requirements and were not good to renew
3. Any person whose name was white had not submitted any CECs

Asked should the board send out letters notifying individuals that their license had expired, and that renewals were not send because CEC requirements have not been met and that they are currently in violation if working?

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The board decided to send out letters stating that there are insufficient CECs provided to meet license renewal requirements. (See Action Items)

### **Gene Rosenblum Joined the meeting**

George McCartney poses a question to Gene Rosenblum

“If issuing a fine is it OK to release the name of the person/company to the IA?”

Gene responded that she believed that it is public in both Open Public Records Act (OPRA) and general law.

George also inquires about whether or not Settlement Offer Letters (SOL) and closed minutes can be released?

Fines can be published, closed session minutes are reviewed by an attorney, and are not publicized unless requested and reviewed. Any information that needs to be redacted must occur prior to release.

Resolutions are OK to release, ongoing investigations are not OK to be release (SOL OK if the party has signed and agreed to Settlement)

Patricia Conti stated that she would follow up with the DEP’s OPRA Office (Matt Coefer)

Discussions moves onto Business permits. It was noted that the responsible entity for the Business must be able to supervise the operations of the business and it was questioned how a responsible entity from out of state could supervise the operations of a business? Does the board send letters to the responsible certified contractor asking them to provide details about how they are overseeing and supervising the operations of the business? Does the board send the letter to both the certificate holder and business permit holder?

Gene Rosenblum stated that the board needs to take a position; Business needs a new certificate holder and if the business disagrees they write a letter within a XX amount of days otherwise if there’s no certificate holder then the business is not entitled to work.

Ken Scherer suggested to Gaetano Virone to write a paragraph or statement for the IA newsletter stating that there are new regulations regarding business permits and that the permit holder needs to inspect and supervise and that retirees can no longer be the business permit holder unless they are actively supervising and inspecting jobs.

Joanne Taroco posed the question regarding the enforcement of advertising on Social Media such as Houzza, Manta, Facebook and so forth.

Discussion goes back and forth Gaetano Virone stated that advertising no matter where it’s posting is advertising and that the person/company is benefiting from the ad regardless of the site. He suggests that the NOV letter continue to go out asking them to remove the post, and that the responsibility lie on the individual to contact the social media site to have the ads removed.

Gaetano Virone motioned to move to close session, Ken Scherer seconded motion

Whereas the Open Public Meeting Act provides that a public body such as the Landscape Irrigation Contractors Examining Board may meet in closed session to discuss “any investigations of possible violations of law” and any pending or anticipated litigation; Whereas the Board desires to retire to closed session to discuss possible violations of



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law and litigation matters; Now therefore, be it resolved that the Board shall at this time meet in closed session to discuss the above mentioned matters. The substance of the closed session will be disclosed publicly only when it will not impede the State's ability to investigate the possible violation of law in question or participate in the litigation or breach an attorney-client privilege.

**4:00 PM-** Ken Scherer motioned to return to Open Session Robert Dobson Seconded the motion

Returned to Open Session

Motion Made by Ken Scherer and Seconded by Gaetano Virone to take the following actions regarding closed session discussions:

Cases 510, 787 800, 803- Are to be sent SOL letters

Cases 615, 778, 779- Are to be closed

Casted 789, 793- Are to receive a second copy of the initial NOV letter

Board unanimously approved.

George McCarthy motions to end session and Gaetano Virone seconded the motion

Meeting concluded at 4:06 PM

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Action Items:

1. Send Letter to Cornelius Lindenmulder that CECs are required to renew license- Joanne Taroco on behalf of George McCarthy
2. Request IA to hand score Edward Woolf's exam and then sent letter after results reviewed- Joanne Taroco on Behalf of George McCarthy
3. Update the FAQ's on the website to include questions about CEC's and Business permits. FAQs should provide more detail about licensing process- Joanne Taroco/Chrissy Gerstnicker
4. Check with DEP IT group to see if a report can be written and posted on the Website that provides a list of Business permit holders – Chrissy Gerstnicker
5. Formulate a method to collect email addresses from contractors ( possibly a letter to collect email addresses) - Unknown
6. Contact NJDEP OPRA Office to seek clarification on making information available to the public for NOV's- Patricia Conti
7. Beginning February 1, 2015 tier 2 courses taught by the same instructor and matching the same content of a tier 1 course will now be assigned 1 CEC unit per hour of instruction- Robert Dobson
8. Develop a method to assign and track courses approved and CEC numbers assigned.- Joanne Taroco
9. Begin using new and updated CEC submittal form.- Robert Dobson/ Joanne Taroco
10. Create a new email account for correspondence from the public to the LICEB – Patricia Conti
11. Send out second batch of renewal letters for individuals who have not yet submitted CECs and those who still need to submit additional CECs-Joanne Taroco
12. Send a Statement to IANJ to publish in News Letter about new regulations regarding business permits- Gaetano Virone
13. Close the following Enforcement Cases- 615, 778, 779
14. Draft and send SOL letters for the following Enforcement Cases- 510, 787, 800, 803- DEP staff to Gene Rosenblum
15. Re-send original NOV letters for the following cases 789, 793- Joanne Taroco