



**Date:** April 8, 2021

**Location:** Remote via Google Meet

**Present:**

|   |                 |   |               |   |                         |   |            |
|---|-----------------|---|---------------|---|-------------------------|---|------------|
| ✓ | Chris Kampmann  | ✓ | Jim Moody     | ✓ | Patricia McKinney-Clark | ✓ | Ted Jensen |
| ✓ | Dale Kishbaugh  | ✓ | Lori Warner   | ✓ | Patrick Fitzgerald      |   |            |
| ✓ | Dana Bijold     | ✓ | Mark Frasier  | ✓ | Ray Swedfeger           |   |            |
| ✓ | Jeannette Jones | ✓ | Mark Williams | ✓ | Rob Ellis               |   |            |

\* Indicates arrival after roll call . - indicates technical difficulties during roll call

**Note:** The meeting was recorded and started at 12:00pm. These minutes represent a summary of this meeting and are not intended to be a verbatim document. Audio recordings of the meetings can be obtained by contacting [cdle\\_safetycommission@state.co.us](mailto:cdle_safetycommission@state.co.us).

**MINUTES APPROVAL:**

**A Motion was made to approve the minutes from the March 11, March 19, and March 29, 2021 meetings:** motion carried and discussion was entered. There was no further discussion, a vote was taken to approve the minutes. It was unanimously approved.

**CO811 UPDATE:**

J.D Maniscalco, Jose Espino, Carla Sanchez, Jessica Bangs, Marty Mead

- CEO update: Regarding the complaint that names CO 811, they are continuing to communicate with the Complainant and provide documentation. CO 811 still does not feel they are an appropriate Respondent. 2022 Budget Process started. Global Excavation Safety COncference - occurring currently in a virtual setting. Colorado Counties (CCI) has proposed changes to the CO Statute and CO 811 notified all stakeholders. Due to a non-consensus among members, CO 811 is only looking at how (if at all) this change may impact the Notification Association.
- Operations Update: 2021 Center Statistics shared. CO 811 calls March the 'light switch' for the season due to an increase of call volume. Volume is higher than in previous years. At least 50% of work is coming in through web ticket entry, which is an important fact for CO 811. Continuing to provide high level service via phone and also encouraging this work process to increase in the online realm. Looking to stay at or under an *average* of 4:00 hold time goal as the season continues to increase volume. COVID-19 Return to Office Plan: 7/1/21 - Hybrid for Admin; 8/2/21 - Operations and Admin Hybrid; visitors TBD. Business analyst, Melissa Craven, will be more included in reports to the Commission through the summer.
- Member Update: Automatic positive response renotification: ~7% in March of 2021 (was 26% in 3/2020). 66% of the 2021 notifications were to Tier 1 (not Tier 2 previously) members. Ongoing outreach to

members on various items, including education and renotifications. 14 new members in 3/2021; 15 terminated members (many HOAs)

- Marketing and Communications: April is National Safe Dig Month and resources are on CO 811's website. LMS Excavator Course translation update: updates to the english course are complete and translation begins next week.
- Damage Prevention: NE Territory Liaison vacancy; CO 811 with TX 811 co-presented at the Global conference on 'establishing a stateside damage prevention program' - well attended.

Regarding terminated members: Commission discussed other solutions to acknowledge HOAs and other terminated facility members of CO 811. CO 811 has a stringent process to attempt communication with members and keep them active. Legal and Board counsel sought in effort to meet law and create an equitable membership. Commissioners discussed making time on the Commission to continue discussing solutions for HOAs beyond today. There is concern for the safety of excavators and potential for damages; CO 811 is in support of determining solutions. Commissioners spent time discussing the challenges and potential solutions. For all excavations the Board of CO 811 has a buffer - as a potential solution consider changing that or creating exemptions for specific properties that may not need a buffer is something to consider. CO 811 clarified that there is no buffer on HOA's sites, the buffer is on the excavation area. Noted in discussion that with CO 811 showing due diligence, that may be all that is possible - suggest CO 811 review and be ready to share that. Potential to have a Commissioner present to the CO 811 Board - CO 811 will advise the Board of this conversation; potential for more discussion in the future.

#### **COMPLAINT HEARINGS:**

The Review Committee's Findings of Fact form from the April 6, 2021, hearing was reviewed with the Safety Commission.

- Complaint # 2021-001: **A Motion was made to approve the Review Committee's recommended remedial action as noted in the Findings of Fact form:** Motion carried and discussion was entered. There was no further discussion. A vote was taken to approve the motion. It was approved. Pat Fitzgerald abstained.
- Observation from the Review Committee Coordinator: If not captured during discussion, maybe add a spot in the script to get information from the Respondent about the size of the company and training received (if applicable) - to ensure the remedial action is appropriately applied.

Upcoming hearings: Selected Review Committee members for April 29, 2021, hearing

#### **BEST PRACTICES:**

Marking Best Practice draft still in process. Group discussed issues of non-uniformity in symbols used in the field and at the next meeting will review CGA and APWA's documents to determine what if any conflicts.

#### **OPS STAFF UPDATE:**

- April is Dig Safely Month - Collaborated with CO 811 regarding the proclamation (also posted on both websites)
- Midterm progress and financial reports for the PHMSA grant (due 4/15) drafted and sent to Commission leadership. Will be sent to PHMSA before the deadline.
- Regarding confirmation hearing (new and renewing commissioners), there has been a request to move from May up to April - email will be sent with details to finalize the new date.
- Regarding legislation (mentioned in CO 811 update as well): Conflict of Interest consideration: recognizing that each Commissioner represents different entities and may have varying opinions about legislation, to not create a conflict of interest or appearance of a conflict, it is suggested that Commissioners not be a point of contact regarding any position. The legislation has been through its final reading in the House and will move to the Senate. If it were to pass, it may require the Commission to reopen their Regulations to align.

- Colorado Springs is still working on their process; complaints will continue to be processed by the Commission in the meantime.
- Shared the current 2021 Complaint Statistics.

#### **OTHER BUSINESS:**

- Safety Commission Diversity Plan and Commission Membership
  - Letter written and approved at the last meeting by the Commission to send to Boards & Commissions (B&C) was reviewed by CDLE and it will not be sent. John Lizza from the Attorney General's (AG) office provided some insight into the role of the Commission, per the Statute, in supporting nominations. Also, as a Type 2 Board, the administrator - in this case CDLE, is whom the Commission is a part of/under. Therefore, decisions on what to do is shared between the Commission and its administrator.
  - The Commission discussed with the AG what sending the letter (or not sending it) might mean; there was also a discussion about solutions (e.g., encouraging multiple applicants). In response to a question about why the letter was created if it would not be sent - a comment was made about this process being new, and without clear direction, it has caused some learning to occur.
  - Diversity Statement is on the website in the How to Apply section.
  - Staff is shifting its process to include the option of multiple nominees, with an internal checklist to share with CDLE leadership and B&C as they make decisions as to whom to select.
  - Discussion included timeline and potential for the Commission to have vacancies for some amount of time, as well as a lack of applicants.
  - Suggestion to move the timeline ahead to look for applicants; it currently starts in August, and moving forward that may have to begin earlier. Also, the calendar controls terms, not the start date of appointment.
  - Diversity criteria are the items listed in the template emails and Diversity Statement on the website.
  - Per AG, there does not appear to be any deadlines for B&C to act on an application. There is an important difference between nominating and appointing. Appointing is the B&C's role.
  - As a Commission filled with members that represent various stakeholder groups, having a vacancy means that those (represented) stakeholders do not have a voice on the Commission. Nominating entities could follow up with B&C to determine the status of applications.
  - Next steps: Staff will send an email to the current (known) applicant to tell them that their application status is something they should discuss with the B&C. Additionally, staff has developed template emails (that include the Diversity Statement) to notify both nominating entities and stakeholders about vacancies.
    - Commissioners discussed the draft content, and in the discussion, they suggested information about the Commission be included, as well as making the multiple applicant aspect clear. To help create a sense of urgency, alerting to the fact that a vacancy exists currently or begins at this time.
    - It was determined that staff will use the approved email to advise stakeholders of the current vacancies; the email to nominating entities will be reviewed again at a future meeting.
  - List of stakeholders compiled from CO 811 for some seats; Jeanette Jones (as the representative for Energy Producers) will help develop a list of stakeholders.
  - Reviewed future agenda items.

The next meeting is scheduled for May 13, 2021.

Meeting adjourned at 3:15pm.