

MINUTES

Nevada State Emergency Response Commission (SERC)

Policy & Legislative Committee Meeting

Monday, August 24, 2015 – 1:00pm

Videoconference

Carson City

NV Department of Transportation
Room 112
1301 Old Hot Springs Road
Carson City, NV

Las Vegas

NV Department of Transportation
Building A Conference Room
123 East Washington Avenue
Las Vegas, NV

Elko

NV Department of Transportation
Training Room
1951 Idaho Street
Elko, NV

Members Present

Peter Mulvihill,
Policy Committee Chair
Jim Reagan,
Legislative Committee Chair
Susan Crowley
Paul Enos
Matthew Griego

Members Absent

Stacey Giomi

Staff

Stephanie Parker
Tami Beauregard
Nathan Hastings

Guests

Joe Curtis
Karen Taylor

1. CALL TO ORDER

Peter Mulvihill called the meeting to order at 1:03pm

2. INTRODUCTIONS

Members, staff and guests introduced themselves as shown above. A quorum was present.

3. PUBLIC COMMENT

Mr. Mulvihill called for public comment. There was none.

4. APPROVAL OF THE POLICY COMMITTEE DECEMBER 19, 2014 MINUTES

Susan Crowley made a motion to approve the minutes of the December 19, 2014 Policy Committee meeting. Paul Enos seconded the motion which was approved unanimously.

5. APPROVAL OF THE LEGISLATIVE COMMITTEE DECEMBER 19, 2014 MINUTES

Ms. Crowley noted she has a small amendment to the #5 title; ‘...DEPARTMENT OF PUBLIC SAFETY DIVISION OF EMERGENCY MANAGEMENT...’ needs to read ‘...DEPARTMENT OF PUBLIC SAFETY, DIVISION OF EMERGENCY MANAGEMENT...’.

Mr. Enos made a motion to approve the amended minutes of the December 19, 2014 Legislative Committee meeting. Ms. Crowley seconded the motion which was approved unanimously.

6. REVIEW ALL SERC POLICIES (1.2 – 8.14) WITH REGARDS TO THE TITLE OF THE ‘GRANT AND PROJECT ANALYST SUPERVISOR’ CHANGING FROM EXECUTIVE DIRECTOR TO EXECUTIVE ADMINISTRATOR

Mr. Mulvihill explained the States policy with regards to job and working titles. Mr. Mulvihill stated Stephanie Parker is part of the State Fire Marshal Division (SFM) and is also a Bureau Chief within the Division. Mr. Mulvihill added this change will better reflect Ms. Parker’s role as the chief administrator to staff that supports the SERC. Mr. Mulvihill also noted that the SFM provides approximately three and a half full time equivalent positions for the hazardous materials division and Ms. Parker also coordinates all their activities.

Ms. Parker stated she has no issue with this change and that it will help her to represent the Commission within the State.

Jim Reagan clarified that this change only applies to all SERC policies and not to any statutes.

Ms. Parker added this change will make it easier within the SERCs Internal Controls, because the title will be more in line with the titles within the SFM.

Mr. Enos made a motion to (recommend) approval (to the SERC) to change all SERC policies, 8.1 – 8.14, with the working title of Executive Director to Executive Administrator. Mr. Reagan seconded the motion.

Ms. Crowley noted the Executive Director title was established to make the person in this position feel like they are the head of the Commission, report to the SERC and not report to anyone else.

Mr. Mulvihill noted that he and Ms. Parker agree with that statement. Mr. Mulvihill added there is a chain of command within the state that Ms. Parker must adhere too; however her primary responsibility is to support the Commission.

Ms. Parker also noted she researched other state SERCs and there are a varied numbered of titles with the head position.

Ms. Crowley confirmed her understanding to be that the Executive Administrator reports to and takes direction from SERC, not from any other state agency and moves through the SFM office to handle the necessities of being a state employee. Mr. Mulvihill clarified that Ms. Parker takes direction from the SERC in all lawful matters, if the Commission asks her to do something outside the legal boundaries, she will say no. Ms. Crowley agreed with the clarification.

Ms. Parker added that as a state employee she must follow all state internal controls.

Mr. Mulvihill called for the vote which was approved unanimously.

7. REVIEW OF SERC POLICY 8.1

Mr. Mulvihill noted he wants to use this meeting as an informal workshop and/or discussion that may lead to some direction to staff to amend the document that can be forward to the Commission for approval.

A discussion ensued with regards to why the SERC allocates funds to State agencies instead of granting funds; noting as a State agency the SERC cannot grant funds to another State agency, therefore funds are allocated to the State agency.

A discussion ensued with regards to the phrase 'other than United We Stand' with regards to State agencies receiving funds from the SERC. Suggested language is that the State agency will follow the same policy as the LEPCs to receive funds from the SERC.

A discussion ensued with regards to the exercise and/or incident reporting process required of the LEPCs and/or State agencies and why an exercise is required once every third year. Suggested language is that within a three year period, all elements on the NRT-1A will be addressed.

Mr. Reagan noted multi-county exercises are acceptable, with each LEPC submitting their own report.

Ms. Crowley suggested that the SERC staff reach out to the LEPCs and give them a heads up of what will be due on year number three.

Mr. Mulvihill stated that Bill Jones, US Environmental Protection Agency (EPA) has offered to assist with LEPC training and noted that he will be at FireShowsWest (FSW). Joe Curtis added that he and Jeff Page are available to assist as well.

Mr. Mulvihill requested the Commission look into accepting multi-county Hazardous Materials Response Plans.

A discussion ensued with regards to the LEPCs Hazardous Materials Response Plan not being submitted to the SERC by January 31st of each year and that LEPC being out of compliance until the following year. Suggested language is that a LEPC be given the opportunity to come into compliance throughout the year and then be eligible for funds throughout the rest of the year. Additional suggested language is that any remaining funds within a granting source will be available to the LEPCs on a first come, first serve basis.

Ms. Crowley suggested we ask the Planning and Training Subcommittee their thoughts, since they are the Subcommittee that reviews the plans and requested the once a year review. Mr. Mulvihill added the LEPCs have incentive to submit plans by the due date so they may be in the initial grant review.

Ms. Crowley questioned how the Committee will make its recommendations to the SERC for approval. Mr. Mulvihill stated Ms. Parker will take the Committee's comments and re-work the documents for a future Policy Committee review, which will take place prior to the SERC Fourth Quarter meeting.

A discussion ensued with regards to the language in the section Policy, item 1.a. Suggested language is to add 'refer to the NRT-1A' for the list of updates needed.

8. REVIEW OF SERC POLICY 8.2

Mr. Mulvihill stated this is the policy that was in question at the last SERC Special meeting. Ms. Parker provided background of why the Mineral County LEPC's FSW grant application was submitted after the due date.

A discussion ensued with regards to what language should be included in the section Policy, item A., so that applications submitted after the due date may still be accepted. Suggested language is to add 'Absence of extenuating circumstances deemed acceptable by the Commission, on a case by case basis,' to the beginning of the last sentence; noting extenuating circumstances to mean something that cannot be foreseen, preventable and/or outside of the LEPC's control. Additional suggested language is to add a sentence defining what "extenuating circumstances" means to the SERC.

Ms. Parker requested 'completed' applications must be submitted, in the section Policy, item A.

Karen Taylor explained the procedures for the Clark County LEPC to complete a grant application. Ms. Crowley asked that the grant application kit be available sooner than six weeks, allowing the LEPCs more time to complete the application.

Mr. Mulvihill gave a synopsis of how the SFM conducts training programs and suggested to add language noting that sufficient time to schedule and conduct a training program be given in the section Policy, item A.1.a. Mr. Mulvihill added this same language should be changed with regards to the DEM training in Policy 8.2a.

A discussion ensued with regards to how a LEPC receives the Operational funds, if the original request was not in the SERC grant request. Suggested language is that if the funds are not requested on the SERC grant application then a simple request from the LEPC for the Operational funds will suffice. Additional suggested language is that if the LEPC does not request the Operational funds at the beginning of the grant period then the funds will be prorated depending on when the request is made.

A discussion ensued with regards to “sole source’ consultant/contractor with Mr. Reagan providing background on this subject. Ms. Parker stated language referring the LEPC to the State statutes should be added.

A discussion ensued with regards to the equipment list with Tami Beauregard stating the SERC does not provide an equipment list anymore, but refers the applicant to the State Purchasing website. Suggested language is that the applicant will comply with the State Purchasing policies.

Mr. Mulvihill noted ‘weapons of mass destruction’ needs to be deleted from the first paragraph of the section Unallowable Expenses, since they are now part of the hazardous materials training.

Mr. Mulvihill also stated the language in the section Policies, item B., noting LEPCs are to receive SERC funds prior to State agencies is not in line with the SERC’s NACs. After a discussion ensued, suggested language is to have the policy in line with the NAC.

Ms. Parker requested to remove ‘including the percentage of operational funds to be used towards clerical assistance’ from Procedures for the section Open Grant Cycle Applications, item A.

Mr. Mulvihill also suggested removing ‘within ten working days of the application due date’ from the section Procedures, item E, from Open Grant Cycle Applications.

Ms. Crowley requested Procedures in the section Open Grant Cycle Applications, item C. refer to the section Policy, item A.

9. REVIEW OF SERC POLICY 8.2a

Mr. Hastings asked for clarification of the motions of this Committee. Mr. Reagan stated staff will re-draft the documents from the recommendations of this meeting for review then a future Policy and Legislative Committees meeting will be held when the policies will be on the agenda for recommended approval. Mr. Mulvihill stated the next Policy and Legislative Committee meeting will be prior to the SERC Fourth Quarter meeting.

A discussion ensued with regards to the language in Procedures/A noting the ‘Homeland Security Strategy’. Suggested language is to be consistent with the threat analysis utilized by the State Homeland Security Commission.

Ms. Crowley asked if the same language in policy 8.2 will be used in policy 8.2a. Mr. Reagan recommended that the specific changes in 8.2 be mirrored in 8.2a, with changes noted for the UWS grant process.

Ms. Crowley asked if the SERC has the authority to not award UWS funds to any applicant, since the funds do not belong to the SERC. A discussion ensued with regards to the SERC's authority and the UWS funds and it was agreed the UWS funds will be treated the same as the Hazardous Materials funds.

10. REVIEW OF SERC POLICY 8.3

This agenda item was tabled for a future Policy Committee meeting.

11. REVIEW OF SERC POLICY 8.5

This agenda item was tabled for a future Policy Committee meeting.

12. REVIEW OF SERC POLICY 8.8

This agenda item was addressed after agenda items 16, 17 and 18.

After discussion with regards to the EPCRA and state requirements of auditing and monitoring; this agenda item was tabled for a future Policy Committee meeting.

13. REVIEW OF SERC POLICY 8.10

This agenda item was tabled for a future Policy Committee meeting.

14. REVIEW OF SERC POLICY 8.12

This agenda item was tabled for a future Policy Committee meeting.

15. REVIEW OF SERC POLICY 8.13

This agenda item was tabled for a future Policy Committee meeting.

16. REVIEW OF SERC POLICY 8.14

Mr. Enos questioned the verbal ability to request facility information.

Mr. Mulvihill gave an update of legislation that passed and requirements of State agencies to handle all requests.

Mr. Mulvihill added that Ms. Parker will take advantage of the system already in place with the SFM.

Suggested language is to add how the information may be requested, the form to use and a comment about the NRS and Nevada Supreme Court decisions with regards to the balancing test.

Mr. Enos stated the changes are acceptable as long as there is a trail of the requests.

17. REVIEW REQUEST FROM THE PLANNING AND TRAINING SUBCOMMITTEE TO ADD ADDITIONAL REQUIRED ITEMS TO THE NRT-1A CHECKLIST

Ms. Beauregard provided background as to why the Planning and Training Subcommittee asked for the additional requirements, noting the Subcommittee believes it will be easier to review the plans and exercises if all documentation is submitted by the due date.

A discussion ensued with regards to whether the checklist should be a requirement or a request for the LEPCs. It was noted the checklist is a great tool for both the LEPCs and the Planning and Training Subcommittee and will facilitate an efficient review of the plan and exercise if submitted.

Mr. Reagan made a motion to recommend approval to the SERC to have the checklist be adopted as a request to the LEPCs, as a planning review tool. Mr. Enos seconded the motion which was approved unanimously.

Mr. Reagan added the checklist is a planning review tool for both the LEPC and Planning and Training Subcommittee.

18. REVIEW PROCEDURES TO AMEND THE CHAPTER 459 NEVADA ADMINISTRATIVE CODES

Mr. Mulvihill stated the Attorney General's office provides an annual Board and Commission training; noting that staff and chairs are strongly recommended to attend and it is suggested that Commissioners also attend.

Mr. Mulvihill gave a synopsis of the process to change the NACs, noting the Legislative Counsel Bureau (LCB) legal staff are great to work with and are very helpful.

Mr. Mulvihill added the SERC NACs appear to need a lot of clean up with regards to redundancy and state laws that have changed over time.

Mr. Mulvihill offered to work with Ms. Parker and the LCB to clean up the SERC NACs with regards to language and adjustments made during past legislative secessions to make the document ready for a public workshop.

Mr. Reagan requested that the Legislative Committee review the clean document before the public workshop to access if any changes in the NAC will require changes in the SERC policies.

Ms. Crowley confirmed that the LCB will clean up the document first, then the Legislative Committee will review and then a public workshop will be scheduled. Mr. Mulvihill agreed that the Policy and Legislative Committees will get the first review of the cleaned up draft and make any recommendations of subsequent changes to the Commission.

Mr. Mulvihill made a motion for the Policy and Legislative Committees to allow himself, Ms. Parker and the LCB to work on an initial rule making document to address the SERC's NACs and prepare them for a public workshop. Mr. Enos seconded the motion which was approved unanimously.

Agenda item 12 was addressed

19. PUBLIC COMMENT

Mr. Mulvihill called for public comment.

Ms. Parker stated that staff is working on changing the SERC website to be in line with the State format, to include input from the LEPCs, and that this should be completed within the next sixty days.

Ms. Parker added that HMEP funding calculations are changing and that this information will be available at the end of October. Ms. Parker also noted grant management changes will also be forthcoming.

Ms. Crowley asked when the next Policy Committee meeting will be. Mr. Mulvihill stated staff will re-draft the documents and circulate among the Committee. Mr. Mulvihill asked the Committee to let Ms. Parker know how much time they would like to review the re-drafted documents; if only a short meeting is needed, a Committees meeting can take place prior to the SERC Fourth Quarter meeting at FSW in October.

20. ADJOURNMENT

Mr. Reagan made a motion to adjourn the meeting at 4:56pm. Mr. Enos seconded the motion which was approved unanimously.