



# Technical Standards and Safety Authority

Minutes of the Ski Lift Advisory Council

Meeting on October 30<sup>th</sup>, 2019

Minutes of the Ski Lift Advisory Council meeting of the Technical Standards and Safety Authority (TSSA) held in the Ontario Boardroom, 345 Carlingview Drive, Toronto, Ontario at 9:00 a.m. on the 30<sup>th</sup> day of October 2019.

**Present:** John Ball, Canadian Ski Instructors Alliance Ontario Division; Ward Bond, Bond Ski Lift Installation; Murray Frankcom, Blue Mountain Resort; Bruce Haynes (Chair), OSRA; Jay Jackson, TSSA's Consumers Advisory Council; Craig MacDonald, Caledon Ski Club; Dave Mathewson; Kevin Nichol, Nichol Solutions North Inc; Bradley Redwood, Canadian Ski Patrol System; Mark Rutherford, Brimacombe; Sarah Simons, Kenney Engineering Inc.; Brandon Vriens, Leitner Canada.

Suba Ariyaretnam, Manager, General Accounting & Financial Reporting (item 10); Dan Brazier, Chief Financial Officer (item 10); Alexandra Campbell, VP, Communications & Stakeholder Relations; Andrew Chin, Finance Specialist, Special Projects (item 10); Sandra Cooke, Ombudsman (item 1-7); Viola Dessanti, Director, Strategic Analytics; Danielle Fernandes, Advisory Council Coordinator; Kristian Kennedy, Manager, Government Relations; Rob Kremer, Manager, Elevating & Amusement Devices Program; Denis Lapierre, Inspector (Region 1), Elevating & Amusement Devices Program; Dean McLellan, Director, Elevating & Amusement Devices (Interim); Robert Wiersma, Manager, Public Safety Risk Management (item 8-9).

**Guests:** Jacqueline Kiwanuka, Senior Policy Advisor, Technical Safety Unit, Ministry of Government & Consumer Services (MGCS) (on Skype); Mitchell Thibault, Policy Development Intern, Technical Safety Unit, MGCS (on Skype).

**Regrets:** Bonnie Rose, TSSA's President & CEO.

## 1. Constitution of Meeting

The Chair called the meeting to order at 9:05 a.m. Everyone was welcomed and thanked for their attendance at the meeting.

For the safety moment, K. Kennedy provided some context and Council was shown a short video from the International Organization for Standardization (ISO) on the importance of safety symbols in promoting safety and helping to avoid injury.

## 2. Approval of the October 30<sup>th</sup>, 2019 Agenda

The Chair advised Council that an update on the Code Adoption Document would be provided after item 13 on the agenda.

Council approved the agenda as amended.

## 3. Approval of March 28<sup>th</sup>, 2019 Minutes

Council approved the minutes as presented.

## 4. Review of Action Items from Last Meeting

D. McLellan spoke to the pending action items confirming that all action items have been address apart from the item referring to 20/20 updates and consultation. He explained that 20/20 has been rebranded and is now called OASIS and advised that updates would be provided to Council as available.



## Technical Standards and Safety Authority

Minutes of the Ski Lift Advisory Council

Meeting on October 30<sup>th</sup>, 2019

### 5. Chair's Update

B. Haynes spoke to this item and treated his report to the CEO as read. He advised Council of his retirement, noting that Kevin Nichol is the new president of the Ontario Snow Resort Association (OSRA). He thanked all Council members for their contribution to the SLAC. Additionally, he thanked TSSA for fostering a collaborative relationship with the industry in the interest of safety.

### 6. TSSA President & CEO's Report

K. Kennedy spoke to this item in the absence of B. Rose. He treated the CEO's report, which was circulated to Council prior to the meeting as read and opened the floor to any questions.

There were no questions or comments from Council.

### 7. Ombudsman's Report

S. Cooke spoke to this item, referring to the report distributed to the Council prior to the meeting. She provided an overview of the role and function of the Office of the Ombudsman. She reminded Council that a 3<sup>rd</sup> party operated whistle blower service (for those who wish to remain anonymous) in addition to the Office of the Ombudsman are available to stakeholders.

There were no comments or questions from Council.

### 8. Update from Strategic Analytics

V. Dessanti spoke to this item and provided a historical framework for understanding Risk-Informed Decision Making (RIDM) at TSSA. She explained that TSSA is in a period of transformation, which requires a review of the current model to capitalize on opportunities for improvement and consistency, adding further that the model needs to be pressure tested and vetted given TSSA's new strategic direction and in consideration of the Auditor-General (AG) recommendations. As a result, she advised the Council that TSSA is embarking on a peer review of its RIDM framework, adding that TSSA is looking for insights, input, and feedback on the improved risk model in order to prepare and validate a plan for implementing changes in the Spring/Summer of 2020. She added that TSSA is looking for suggestions of individuals best suited to be a part of the peer review panel, noting that currently TSSA is looking for individuals with expertise in quantitative methods and analysis.

There were no questions or comments from Council.

### 9. Safety & Compliance Report

V. Dessanti spoke to this item and referenced the summary material sent to Council prior to the meeting. She advised that overall there were no fatalities in FY19, however there is one open investigation that may change the number of fatalities. She highlighted a few key findings in the Annual State of Public Safety Report (ASPR) including an increased trend in the number of occurrences, noting that this is largely driven by increased reporting in both the amusement devices and elevating devices sectors. She advised that there has been an increase in the number of permanent and non-permanent injuries overall, however the number of high-risk devices is going down. She added that FY19 saw a decrease in the observed injury burden. She explained that a significant difference in the report this year, is the tracking of pipeline occurrences. Additionally, she advised that in FY19, fuel risks in retirement and long-term care homes and fuel-related fire risks in food service locations are no longer areas of concern for 'enhanced monitoring'.



## Technical Standards and Safety Authority

Minutes of the Ski Lift Advisory Council

Meeting on October 30<sup>th</sup>, 2019

### a. Incidents/ Issues Report

As it relates to Ski Lifts more specifically, V. Dessanti advised that the data for FY19 is relatively steady as it relates to the injury and fatality rate, the observed injury burden, and the predicted risk of injury and fatality. She explained that 87% of the reported incidents are from chair lifts, 71% resulting from falls from heights. She noted that 7% of incidents are the result of non-compliance while 93% are largely due to external factors (e.g. human error). Additionally, V. Dessanti advised major safety issues are found in 3.9% of the periodic inspections while 8.8% of the devices are considered high risk.

In response to a question from Council regarding the definition of periodic inspection, V. Dessanti advised that the periodic inspection referenced in the presentation is the yearly pre-season inspection. She explained that the 8.8% of devices considered high risk during the pre-season inspection may not be the same devices that involved in incidents.

### 10. Business Model (Fee structure)

D. Brazier spoke to this item, referring to the presentation shared with Council prior to the meeting. He advised that our existing fee model is outdated and complex, and that a new model is required to support TSSA's transition to becoming an outcome-based regulator, adding that its scope will cover all programs and all activities. He explained that the guiding principles for the new business model are 1) simplicity; 2) equitability; 3) encouragement of compliance; 4) efficiency; 5) dispute reduction; 6) cost recoverability; and 7) accessibility. He confirmed that TSSA is moving away from a fee-for-service model towards a model where the license fee is inclusive of regulatory inspection activities, adding that the new model would be revenue neutral. He proposed the following options for consideration within the framework: 1) flat fee regardless of category; 2) flat fee based on category; or 3) flat fee based on risk and category. He advised Council that this change is intended to be revenue neutral. Moreover, he advised that online consultation would be utilized after each council meeting, adding that TSSA would be requesting feedback from various industry groups in addition to the Advisory Councils. D. Brazier explained that once we have consensus on the option, further detail will be provided, with the final rollout to depend on the complexity of the option chosen. Council was presented with some examples specific to the Ski Lift sector for discussion.

There was significant discussion on this topic with several members noting that option #2 or #3 are the most equitable. In response to a question from Council regarding whether the objective of this change is to replace lost revenue and eliminate cross-subsidization, D. Brazier explained that the change to the business model (fee structure) is structured to be revenue neutral. He advised that the fee increase initiated in August would over time eliminate cross-subsidization, adding that the mandate of reviewing the fee model is cost recovery. Additionally, he noted that the change would provide TSSA with the flexibility to redirect revenue to where the best safety outcomes can be achieved (i.e. compliance support program and public education campaigns to target and reduce human error). Several council members noted that the inclusion of risk is not entirely new for the ski lift sector, explaining that the more non-compliant an owner/operator is the more they will be inspected. D. Brazier explained that other Councils have raised an option that is a hybrid between #2 and #3, specifically that those that are non-compliant would be charged for additional inspections over and above the ones included in the license fee. There was some additional discussion regarding the merits of this hybrid option.

Council raised a concern regarding how risk will be calculated for option #3 given that many of the incidents are through no fault of the operator (i.e. human error) and the number of orders issued would depend on the inspector (i.e. inspector inconsistency). V. Dessanti explained that the risk score is driven by the number and severity of incidents rather than orders issued at inspection. She noted that though some high-risk orders do have some impact on the risk score, incidents have a greater impact on the risk score than inspection orders. Additionally, she explained that TSSA is simultaneously looking at



## Technical Standards and Safety Authority

Minutes of the Ski Lift Advisory Council

Meeting on October 30<sup>th</sup>, 2019

mechanisms for improving inspector consistency across all program areas. Several Council members agreed that fee predictability provided by the new fee structure was important for the industry, noting however that option #2 would be the most equitable. Additionally, some Council members requested that TSSA consider the current state as an option with some modification. Other members cautioned that the use of risk to inform fees could pose significant challenges if not premised on a strong data and analytical framework. D. Brazier acknowledged the comments and encouraged Council to provide their feedback through the online consultation platform. He advised Council that a link to the online consultation platform would be shared with them shortly after the meeting and would remain open until December 31<sup>st</sup>, 2019.

### 11. Ministry of Government & Consumer Services (MGCS) - Update

J. Kiwanuka spoke to this item and provided an overview of the report distributed to the Council prior to the meeting. She advised that the Honourable Lisa Thompson was appointed Minister of Government and Consumer Services. She spoke to various burden reduction initiatives undertaken by MGCS, noting that in July the Minister held a burden reduction roundtable with TSSA and various stakeholders. Among other items, she provided an update on the agricultural exemption consultation, a proposed ministerial exemption for 'first-fill' liquid fuels activities, the approval of amendments to the Fuel Industry Certificates regulation, and alternate rules being applied to the Operating Engineers program.

There were no questions or comments from Council.

### 12. Continuing Education

#### a. New code (s)

K. Nichol spoke to this item and advised Council that the 2014 code has been adopted, adding that the safety checklist is now based on this iteration of the code.

There were no questions or comments from Council.

#### b. Next Phase of Education

K. Nichol spoke to this item and advised Council that the OSRA committee is working on revising the continuing education training requirements as well as including training courses on working at heights and rope rescue.

In response to a question from Council as to whether SLMT's require continuing education training, K. Nichol confirmed that it is a requirement for SLMTs.

### 13. Status of 2019 submissions

B. Vriens spoke to this item and advised that TSSA has been timely and helpful in relation to engineering submissions. He advised Council of a one-off instance where a rush application was not processed within the timeframe but advised that this is not the norm. The Chair congratulated TSSA on addressing industry concerns over the timeliness of processing new submissions.

### 14. CAD Process

This topic was discussed under item 15 of the agenda. There were no additional questions or comments from Council.



## Technical Standards and Safety Authority

Minutes of the Ski Lift Advisory Council

Meeting on October 30<sup>th</sup>, 2019

### 15. 2019 Code Adoption Document (CAD)

There was some discussion on this topic. Several Council members suggested rolling adoption on codes, with the Chair noting that it would be advantageous for the ski lift industry to have the latest codes. R. Kremer noted that often the CAD is seen as a burden on industry, however it is frequently used to entrench requirements that ease burden on industry. Additionally, he recommended that the call for CAD implementation should come from within industry.

P. Simeon advised Council that TSSA will be triaging and prioritizing all CADs organization-wide, which aligns with the outcome-based regulator model. He noted that TSSA wants to demonstrate a consistent approach on how these are reviewed and implemented. He advised that four considerations underpin the analysis. First, does the code address a safety gap? What is the gap? What is the improvement, and what evidence supports that improvement? Second, what is the cost to business? Third, how does this align with the outcome-based regulator model and/or an AG recommendation? And fourth, has there been adequate stakeholder engagement? He stressed that TSSA wants to be consistent in the approach to CAD assessments and implementation.

Several Council members stressed the importance of strong TSSA representation at national code committees. P. Simeon acknowledged the comment as explained that though representation is an important facet, equally important is having guiding principles underpinning and strengthening the representatives' work on the National Code Committee. He added that this is precisely the objective of triaging CADs. A Council member suggested the use of the variance process for providing some flexibility while CADs are being reviewed. D. McLellan explained that the issue with the variance process is that it must be applied for each time for each device, adding that often variances inform the CAD. He explained that the challenge has always been having the right AHJs (Authorities Having Jurisdiction) in the room during code discussions.

There was some additional discussion on the merits of the new technology to assist with loading. A few Council members shared their experience noting that there have been no failure-to-load issues.

### 16. Questions and Other Business

D. McLellan raised the issue of the Lift Restart Competent Person (LRCP) and noted that this is an incomplete action item. It was raised by several Council members that the LRCP guideline proposal received Council consensus at the last SLAC meeting on March 28<sup>th</sup>, 2019, noting that Council was awaiting the TSSA to issue the guideline. R. Kremer explained that the existing guideline has been edited to capture the possibility of using the MOL definition of critical injury (in lieu of the current medical practitioner definition) and to recognize and use the services of a LRCP (in lieu of the current SLM ski mechanic or P.Eng) to restart a device, however the guideline draft is still missing an agreed upon definition of 'competent person' and training parameters for the LRCP. There was significant discussion on the definition of a competent. Council captured elements of a 'competent person' definition as needing to include: – *“an individual who possess skills and knowledge sufficient to recognize injuries that may occur from normal lift operations and who has a record of training with their employer”*. Council passed the following motion:

**Motion:** to accept the following definition of a 'competent person' - *“an individual who possess skills and knowledge sufficient to recognize injuries that may occur from normal lift operations and who has a record of training with their employer”*.

R. Kremer clarified that in the event of a critical injury or death the lift cannot be restarted by either the SLM or LRCP. There was some additional discussion on the challenges inherent in using the Ministry of Labour's definition critical injury. Specifically, several Council members noted that the language



## Technical Standards and Safety Authority

Minutes of the Ski Lift Advisory Council

Meeting on October 30<sup>th</sup>, 2019

surrounding fractures was vague and caused some issues during assessment of injury. R. Kremer proposed a possible way forward might include a modification to the MOL definition of critical injury so as to potentially exclude the language related to arm/leg fractures. Council agreed this would ease the assessment of injury by the LRCP when determining if a lift restart is permitted or if they need to wait until an inspector gives permission to do so. Council passed the following motion:

**Motion:** To accept the Ministry of Labour's (MOL) definition of critical injury as outline in *R.R.O. 1990, Reg. 834: Critical Injury – Defined* under the *Occupational Health and Safety Act, R.S.O. 1990, c. O.1* and to exclude section 1d of said definition. Namely, to exclude "involves the fracture of a leg or arm but not a finger or toe" from TSSA's definition of critical injury as it relates to the LRCP guideline.<sup>1</sup>

**Action:** TSSA to finalize and circulate a draft update of the current guideline for reporting by December 25<sup>th</sup>.

Additionally, Council raised the process for aging lift assessments. It was noted that Council would like an opportunity to review and assess the process. Council raised and passed a motion to create an RRG to review the issue:

**Motion:** to create an RRG to review and assess the process for aging lift assessments. Members of the RRG from Council to be K. Nichol, M. Frankcom; D. Mathewson; M. Rutherford.

### 17. Council Administration

#### a. Council matrix

Council re-affirmed the matrix as presented.

K. Nichol was elected the new Chair.

**Action:** D. Fernandes to update the matrix affirmation date.

**Action:** D. Fernandes to post a call for nomination for a mechanic and an insurance representative.

#### b. Changes to Council Administration

K. Kennedy spoke to this item and advise the Council that D. Fernandes is now the new Council Coordinator. He advised that meetings will no longer be scheduled two or three years in advance, but rather on a per annum basis in order to better leverage the Council more strategically for matters that require consultation. Additionally, he advised that moving forward, any action items identified during council meetings would need to be phrased as a Council deliverable as opposed to referencing corporate projects more broadly. He also advised Council that TSSA would be leveraging 'Bang the Table/ Engage TSSA' for online consultation to complement Council meetings during times when Council is not scheduled to meet, or the matter is lengthier than the Council meeting would allow.

In response to a question from Council regarding the timeframe for minutes, K. Kennedy advised that TSSA aims to have the minutes distributed within four weeks from the meeting date.

#### c. Advisory Council Survey

K. Kennedy provided an overview of the Advisory Council Survey results, he advised that 'Bang the table/Engage TSSA' was utilized to conduct the survey, adding that the number of respondents were lower than in past years. The survey found a slight increase in the overall impression of the relationship between TSSA and the councils, but he cautioned that these results are based on a relatively narrow dataset.

<sup>1</sup> [https://www.ontario.ca/laws/regulation/900834?\\_ga=2.130426127.1682487565.1572874707-349464553.1555344431](https://www.ontario.ca/laws/regulation/900834?_ga=2.130426127.1682487565.1572874707-349464553.1555344431)



## Technical Standards and Safety Authority

Minutes of the Ski Lift Advisory Council

Meeting on October 30<sup>th</sup>, 2019

### 18. Adjournment

The meeting adjourned at approximately 1:15 p.m. Council held an in-camera session with A. Campbell, followed by a Council-only in-camera session without TSSA staff or guests.