



# Technical Standards and Safety Authority

Minutes of the Ski Lift Advisory Council

Meeting on March 24<sup>th</sup>, 2020

Minutes of the Ski Lift Advisory Council meeting of the Technical Standards and Safety Authority (TSSA) held by teleconference at 10:00 a.m. on the 24<sup>th</sup> day of March 2020.

**Present:** John Ball, Canadian Ski Instructors Alliance (CSIA); Ward Bond, Bond Ski Lift Installation; Tom Cavers, Beaver Valley Ski Club; Brian Edwards, Edwards Colwill Insurance Brokers; Jay Jackson, TSSA's Consumers Advisory Council; Kevin Nichol (Chair), OSRA; Bradley Redwood, Canadian Ski Patrol System; Mark Rutherford, Brimacombe; Brandon Vriens, Leitner Canada.

Dan Brazier, Chief Financial Officer (item 13); Alexandra Campbell, VP, Communication & Stakeholder Relations; Viola Dessanti, Director Strategic Analytics (item 9-10); Danielle Fernandes, Advisory Council Coordinator; Rob Kremer, Engineering Manager, Elevating and Amusement Devices Safety Program; Kristian Kennedy, Manager, Government Relations; Denis Lapierre, Inspector, Elevating and Amusement Devices Safety Program; Dean McLellan, (Interim) Director, Elevating and Amusement Devices Safety Program; Bonnie Rose, President & CEO (Chair); Phil Simeon, Director, Regulatory Policy (item 7-12).

**Guests:** Sarah Jeffrey-Hampton, Ministry of Government and Consumer Services (MGCS), Senior Policy Advisor & Program Analyst, Technical Safety Unit; Jacqueline Kiwanuka, MGCS, Senior Policy Advisor, Technical Safety Unit; Mitchell Thibault, MGCS, Policy Development Intern, Technical Safety Unit.

**Regrets:** Craig MacDonald, Caledon Ski Club; Dave Mathewson, Mount Pakenham Ski Area; Robert Sheridan, Blue Mountain Resort; Sarah Simons, Kenney Engineering Inc.

## 1. Constitution of Meeting

The Chair called the meeting to order at 10:00 a.m. He welcomed new members T. Cavers, B. Edwards, and R. Sheridan to the Ski Lift Advisory Council, and thanked everyone for joining the teleconference and sharing their time and expertise today, given the circumstances.

### a. Safety Moment

For the safety moment, Council was shown a short video from the World Health Organization on the novel COVID-19 virus. The video included information on how the virus spreads as well as some precautionary steps that should be taken to avoid becoming ill or spreading the virus.

### b. Advisory Council Ground Rules

It was decided that this item would be appended to the minutes.

## 2. Approval of the March 24<sup>th</sup>, 2020 Agenda

The Chair advised that in order to streamline the agenda as much as possible, item 14 and 15 on the agenda would be discussed under the Chair's update (item 5). Additionally, he explained that item 16a would be address under the action items (item 04).

Council adopted the agenda of March 24<sup>th</sup>, 2020 as amended.

## 3. Approval of October 30<sup>th</sup>, 2019 Minutes

Council approved the minutes of October 30<sup>th</sup>, 2019 as presented.

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### 4. Review of Action Items from Last Meeting

K. Kennedy spoke to the pending action items and advised that updates on OASIS would be provided to Council as available. He noted that action items related to the matrix have been address and are included in the material package as information items.

R. Kremer spoke to the action item related to lift competent restart person guideline for reporting. He explained that the previously discussed proposal to utilize the Ministry of Labour's definition for critical injury posed some challenges due to the severity of some of these injury types listed. He explained that a new proposal was developed that focused on refining injuries needing services of a medical practitioner, and this proposal better aligned with current regulatory requirements. TSSA is in the process of having this guideline vetted by legal counsel, adding that TSSA needed to identify how this interfaced with s. 36 of the Ontario Regulation 209/01 (Elevating Devices) on incident reporting. He noted that Council would be kept abreast of developments. The Chair added that legal counsel had some concerns about language used, and whether it should be integrated with an, or appended to an existing document.

There were no questions or comments from Council.

### 5. Chair's Update

K. Nichol spoke to this item, he explained that the industry is adjusting to a time of uncertainty given the COVID-19 pandemic. He added that the industry is addressing and adapting to a number of related challenges and the changing environment, noting that this is a difficult challenge for the sector. He advised that Ontario Ski Resorts Association's spring conference is cancelled and will be rescheduled to a later date. He advised that continuing education programs and other training sessions are still being delivered electronically, noting that the intention is to proceed with the fall arrest and working from heights program in the summer, if possible. He also advised that the second edition of training manuals are available for passenger ropeways. He explained that three manuals have been released, one related to the basic functions of passenger ropeways, another related to maintenance, and the third dedicated to the regulatory requirements.

The Chair also advised that he would be addressing item 14 and 15 on the agenda during his report to Council. As it relates to item 14, continuing education for Northern Ontario, he advised that with the approval of TSSA, OSRA has been setting up Skype/ Zoom meetings with members from Kenora to proceed with and deliver continuing education programs. He explained that it is often challenging for northern Ontario operators to attend these programs in person, and so TSSA has approved the electronic delivery of these programs so long as participants can be seen and identified visually during the online sessions.

As it relates to item 15, the aging lift assessment RRG, the Chair explained that the RRG has not met to date, noting that a meeting will be set up in the coming weeks. He added that R. Sheridan will be taking the place of M. Frankcom on the RRG. He advised that industry has addressed all old lifts and so timelines can be relaxed a bit given the current situation, noting this would be a prudent way forward. He also added that other members from Council should also be involved, particularly those with an engineering background. B. Vriens advised that he would like to volunteer to be a part RRG. The Chair acknowledged B. Vriens' participation and advised that a meeting would be set up in the coming weeks and more information would be provided as it becomes available.

There were no other questions or comments from Council.



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

B. Rose spoke to this item and treated her report, circulated to Council prior to the meeting, as read. She opened the floor to questions.

In response to a question from Council as to how TSSA is adjusting to the current COVID-19 pandemic, B. Rose advised that TSSA is classified as an essential service, noting TSSA will continue to execute all of its regulatory services. She explained that due to the pandemic TSSA has initiated a number of protocols for the safety of staff, inspectors, and stakeholders, in particular, social distancing and inspection guidelines. Additionally, in response to a question as to whether engineering services are still available, Bonnie confirmed that TSSA is still offering engineering services.

### 7. Outcomes-Based Regulator

P. Simeon spoke to this item and provided Council with an update on the progress being made on TSSA's transformation to becoming an outcome-based regulator. He advised that the principles of consistency, evidence-based decision making, and stakeholder outreach underpin this initiative. He explained that for the TSSA Elevating & Amusement Devices Safety Program, the development of compliance standards is a key consideration which will be used by TSSA to help industry focus on risk while developing checklists and standards that promote consistency. He added that compliance standards are not new rules, they are just a re-prioritization of the existing requirements based on risk data and evidence.

There was no questions and comments from Council.

### 8. Stakeholder Relations & Transparency Strategy

K. Kennedy spoke to this item. He explained that there are three main areas of transparency that relate to TSSA's work: corporate disclosures, safety information and data; and stakeholder engagement. He provided an overview of corporate disclosure documents and of safety information and data. Finally, he provided an overview transparency as it relates to stakeholder engagement. He explained that reviewing existing transparency policies at TSSA is a strategic initiative set out in TSSA's Business Plan for this fiscal year, adding that stakeholder engagement specifically, is a priority for TSSA. He advised that transparency in stakeholder engagement is important given the number of initiatives currently underway that impact the ways in which customers interact with TSSA. Additionally, he noted that the current mechanisms for engagement are often informal and limited to a select number of stakeholders. On the other hand, formal mechanisms, such as advisory councils and RRGs, may not be ideal for addressing all issues. He posed four questions to guide the discussion:

1. Do you believe stakeholders understand TSSA's engagement processes and how to get involved?
  - a. What are the gaps and opportunities for improvement?
2. What sort of consultative mechanisms would you like to see included?
3. Are the expectations of the TSSA's engagement clear and are they being met?
4. Are the right stakeholders involved at the right level and the right time?

He explained that in terms of next steps TSSA would be reviewing the Council Terms of Reference, developing stakeholder engagement principles and more clearly defined processes that determine audiences and outcomes. Councils would be provided updates at the fall council sessions.

There were no questions or comments from Council.



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### 9. Safety & Compliance Report

V. Dessanti spoke to this item referring to the presentation shared with Council prior to the meeting. In relation to the peer review process currently underway for the Risk Informed Decision Making (RIDM) model, V. Dessanti advised that TSSA is currently in the process of reviewing and enhancing its risk model in support of the transition to becoming an outcome-based regulator. She explained that some of the changes that are currently in progress include extending the input to the risk score beyond inspection orders and incidents, giving recent events a higher weight in the risk score calculation, and including population density in the calculations. She explained that the proposed changes will be presented to the peer review panel, which is comprised of members from other regulatory agencies as well as academics. She explained that on April 1<sup>st</sup>, 2020 all Council members are invited to participate in an information sharing session on the risk model enhancements, she noted that updates would be provided, and members would have an opportunity to ask questions.

There were no questions or comments from Council.

Additionally, V. Dessanti presented the mid-year safety report, spanning the period of May 1<sup>st</sup>, 2019 to October 31<sup>st</sup>, 2019. She explained that in the first two quarters of the fiscal year (FY) 2020 there has been one reported occurrence, resulting in one non-permanent injury, and no fatalities. She explained that the compliance rate for ski lifts continues to decline.

Responding to a request to elaborate on the declining compliance rate, V. Dessanti explained, referring to the appendix, that the compliance rate for ski lift has declined 3.9% since FY15. The Chair asked if TSSA could provide some reasons for the declining compliance, noting that it is in the interest of the industry for the compliance rate to be higher. V. Dessanti advised that she would speak to the Director and get back to Council on this matter. In response to a question as to whether compliance with orders equates compliance more generally, V. Dessanti explained that this metric captures the outcome of an inspection and looks at ski lifts more generally, rather than at one specific operator. She noted that while this is an important point, moving forward we want to look at the risks associated with orders that are considered high-risk.

**Action:** V. Dessanti to review and provide information on the reasons underpinning the declining compliance rate.

### 10. Incidents/Issues Report

D. McLellan spoke to this item and advised that all incident for FY19 will be entered into the system by the end of this month, noting that by the next meeting he would be able to provide an overview for the previous year.

There were no questions or comments from Council.

### 11. CAD Development Strategy

P. Simeon spoke to this item and provided an overview of the CAD amendment review process. He noted that there are currently 51 codes and standards as well as many directors' orders and advisories equating to over 10,000 different TSSA-enforced rules. He added that this review process places emphasis on evidence while prioritizing safety outcomes and measuring compliance. It fundamentally represents a shift away from measuring compliance with all requirements toward a focus on safety outcomes based on evidence and risk analytics. He advised that feedback received from industry centered around the slow pace of adoption, adding that harmonization and the need for consistency were also paramount.

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considerations for industry. He detailed four factors that underpin the strategy. First, the assessment of rules through a risk-based paradigm. Second, the prioritization of safety outcomes. Third, the reduction of burden on industry. And fourth, the consideration of industry input and engagement in the adoption of codes. He explained that TSSA is in the process of developing options to improve the code adoption process. He added that the prioritization of CADs is critical to shifting away from the current adoption method, and explained that codes that have been prioritized by TSSA include the BPV (CSA B51 Pressure Piping Code), (CSA B52 Mechanical Refrigeration) and Fuels (CSA Z662 Oil and Gas Pipeline) codes.

The Chair advised that timely code adoption is critical for the industry. P. Simeon acknowledged the comment. Responding to a question for clarification on situational rules, D. McLellan explained that situational rules could come in the form of things like directors' orders or variances. R. Kremer added that situational rules also refer to CAD amendments that add extra requirement that are over and above the code.

### 12. Ministry of Government & Consumer Services (MGCS) Report

J. Kiwanuka spoke to this item, referring to the report circulated to the Council prior to the meeting. Among other topics, J. Kiwanuka provided an update on the Auditor-General's value-for-money audit, the CRN reconciliation agreement, agricultural exemption consultation, as well as recent discussions about a gas fitters reconciliation agreement. She outlined a number of burden reduction initiatives that are underway. Additionally, she advised the Council, as it relates to elevator availability, that legislative changes are being considered to the Technical Standards and Safety Act, 2000 that would enable TSSA to impose administrative monetary penalties (AMPs) for non-compliances and required the reporting of elevator outages to the TSSA. She advised that the regulatory changes to the OE regulations are underway and will be implemented by July 2020.

A Council member raised the issue of used mattresses considering the COVID-19 crisis, S. Jeffrey-Hampton advised that while the USA regulation was revoked in Ontario in July 2019, MGCS continues to manage questions and concerns from stakeholders. She noted that no specific concerns have been raised about the issue to date. She advised that currently MGCS is working on a reconciliation agreement across the provinces to develop one regulatory framework. She added that consumer protection legislation is in place under Health Canada even though provincial regulation is revoked.

### 13. Business Model (Fee Structure) – Update

D. Brazier spoke to this item and provided Council with an overview of the presentation circulated prior to the meeting. He explained that fundamentally TSSA is moving away from a purely fee-for-service model towards a model through which license fees are inclusive of regulatory inspection activities. He advised that in the fall the business model survey was sent to each council to ascertain their input and feedback on the three proposed fee options. The three options presented were as follows:

- i. Flat fee
- ii. Flat fee based on category
- iii. Flat fee based on category and risk

He explained that there was little support for the first option (flat fee only), some support for option two (flat fee based on category), and strong support for the third option (flat fee based on category and risk). In addition to the number of responses, he noted, that a TSSA team analyzing the findings and is concentrating its efforts on the comments appended to the questions. For example, he explained that those in support of option three understand and cautioned about the complexities of implementations. He advised that the proposed fee structure presented at the meeting today was a hybrid option between option 2 and



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option 3. He explained that while this hybrid option allows for a flat fee based on category, it only allows for a pre-defined number of follow-up inspections, adding that those in the industry that require more follow-ups will be required to pay for the additional charges. This in effect would result in higher-risk customers paying more as they will require more follow-up inspections. He explained that since risk models are not yet fully developed, moving to a solely risk-based model at this time would be problematic, adding that the cost differential in a risk-based model may not be enough to change behaviour. He presented Council with several industry-specific examples of fees as they would be structured under the proposed business model, which included:

1. New, Major, & Minor Alterations
2. Annual Licenses
3. Client inspection requests & other inspection
4. Contractor Registration
5. Certification and Examinations

He explained that that the business model changes are supposed to be revenue neutral. He noted that the fee increase that came into effect in August 2019 was implemented to eliminate program cross-subsidization and to compensate for the loss of revenue from the elimination of the Upholstered and Stuffed Articles (USA) program. He explained that TSSA is in the process of creating the proposals for the various sectors it regulates, adding that once these have all been completed, a final review would be conducted to ensure the model is revenue neutral. Additionally, he explained that in cases where a flat fee was difficult to establish due to the wide range of time spent in a category, TSSA has established minimum fees. He advised that information is being compiled and provided to each council during the winter/spring sessions, adding that a business case would then be sent to MGCS in April 2020 with the new model scheduled for implementation in 2020/21. He posed several questions to guide the discussion. First, does the proposal adequately address the guiding principles? Second, what are the pros and cons for: your business; the constituents you represent; the sector and the public? And third, are there any major gaps or outliers that may not have been considered in this proposal?

There were no questions or comments from Council.

### **14. Continuing Education – Training for Northern Ontario**

This item was discussed under item 05 of the agenda (the Chair's update).

### **15. Aging Lift Assessment RRG**

This item was discussed under item 05 of the agenda (the Chair's update).

### **16. A) Incident Reporting & Start up – Updates**

This item was discussed under item 04 of the agenda (the Action items). D. McLellan added that TSSA is working with the legal department and that an update would be provided at the next SLAC meeting. The Chair advised that this would be just in time for the next season.

There were no additional questions or comments from Council.

### **B) Inspector Consistency**

D. McLellan spoke to this item and advised as relates to inspector consistency and inspections more generally that the ED/AD/SKI program at TSSA has a robust quality assurance process for inspections, he explained that each inspector is subject to one quality assurance and one quality control review each year.



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Additionally, he noted that any orders issued by a new inspector is reviewed first by a senior inspector to ensure accuracy and consistency.

There were no questions or comments from Council.

### **C) Timeliness of follow-up sub-inspections**

D. McLellan spoke to this item and advised that the program is as timely as possible with follow-up/sub-inspections given the seasonal nature of the industry. He explained that TSSA wants to ensure that devices are licensed as soon as possible, adding that follow-up are being completed as they come due and inspectors attempt to work within the allotted time frame.

In response to a question from Council as to what the necessary next steps are if an inspector does not attend a follow-up, D. McLellan advised that mostly likely in this case the client has been given a declaration of compliance (DC) to sign off. He encourages operators to take advantage of DCs, to complete the form and return it to TSSA, explaining that once received a follow-up inspection is no longer required, however the DC may be audited. He advised that once the DC is completed and sent to TSSA, orders are cleared off and clients will be contacted by Field Support Services advising accordingly.

### **17. Council Administration – Renewals Kevin Nichol & Bradley Redwood**

The Chair confirmed the renewal of B. Redwood for another 3-year term on SLAC, additionally he confirmed his renewal for another 3-year term.

**Action:** D. Fernandes to update the membership list to reflect the terms of B. Redwood and K. Nichol

### **18. Adjournment**

The meeting adjourned at approximately 12:35 p.m. Council held an in-camera session with B. Rose, followed by a Council-only in-camera session without TSSA staff or guests.