



Ontario Construction Users Council

MINUTES OF COUNCIL MEETING – February 9, 2018 Location: 5110 Creekbank Road, Mississauga, ON

Member:

Eric Hopkins	Metrolinx
Michael Nieznalshi	Toronto Transit Commission
Danny Chui	Exhibition Place, City of Toronto
Harry Banikin	H Banikin & Associates
Robin Grenger	Retiree (OPG)
Ian Cunningham	COCA – Council of Ontario Construction Associations
Jennifer Ahern	Town of Milton
Dan Bechberger	York Region
Wayne Peterson	CECCO – Construction Employers Coordinating Council Ontario
Brian Asselin	Ontario Power Generation
Gino Squeo	E S Fox
Frank Pepers	E S Fox
C Emilio-Luis	Dumas Contracting Ltd
Dan Methé	Dumas Contracting Ltd

Guest:

Brenda McCabe	University of Toronto
Yuting Chen	University of Toronto
Arash Shahi	University of Toronto
Mike Parent	Workplace Safety North
Samia Hussein	Sherrard Kuzz
Ian Munro	Toronto Zenith Contracting Ltd

1. Opening Remark by the Chair, Introduction and Safety Moment

OCUC Chair Eric H started the meeting at 8:40 AM welcoming everyone and asked each one to introduce him or herself. As for the safety moment he cited the topic of Changing How We Construct. He said that a surgeon does not go into the operating room and ask what he or she needs to do. A surgeon goes to the operating room with a plan, a contingency, a procedure for the surgery. Construction worker should be the same to have a plan, the right tool, and a construction procedure to start the work. That way, the work would be more efficiency; a working environment thus becomes safer. Without these criteria, an unsafe environment would be created. The construction association named CURT-Construction Users Round Table in the State is pushing ahead called Construction 2.0 which is bringing industrial process into construction. It is to look at ways to bring the manufacturing process into construction with the help of technology on planning, procedures and methodology to boost productivity, efficiency and most importantly safety. We should all think about how to plan better and do better to make the construction place more safer.

2. Approval of Agenda

Agenda was emailed to all members over a week ago and no comments were received. **Motion to approve the February 9, 2018 Council agenda; Moved by Ian C and Seconded by Harry B. Motion carried.**

3. Approval of Council Minutes – December 15, 2017

Minutes were sent to all members by emails over a week ago and no comment was received. **Motion to approve the December 15, 2017 Council minutes; Moved by Ina C and Seconded by Robin G. Motion carried.**

4. Presentation I:

Dr. Brenda McCabe and Dr. Yuting Chen

Dr. Brenda McCabe is a Professor in Civil Engineering at University of Toronto. Her research interests are focused on construction engineering, and include risk analysis, probabilistic modeling, worker safety, automated data collection, and the construction of tall buildings. She is currently the inaugural director of the Building Tall research center.

Dr. Yuting Chen is a post-doctoral fellow in the Civil Engineering Department at the University of Toronto, working with Professor Brenda McCabe. She finished her PhD study that is about factors affecting construction safety under the supervision of Prof. McCabe in 2017. Besides construction safety, her research interests also include organizational resilience, impact of psychological factors on construction workers' wellbeing, and risk management of mega construction projects.

Dr. Brenda mentioned that the research project associated with OCUC has been approved by the MOL. The end result would be called SuPERB – A Safety Benchmarking Platform. From previous research, as safety climate improved from weak to strong, unsafe incidents decreased by half. And as conflict increases from never to often, injuries, unsafe events, and stress double. The research project has two key objectives:

1. To identify key leading indicators amongst the broad data being collected about safety. These leading indicators can be used to identify when the risk of injury or accident is trending upward.
2. To create a benchmarking tool that allows contractors to compare their own KPIs to industry standards, evaluate their strengths and weaknesses; evaluate their trends; and access best practices to improve.

SuPERB is a tool to help organizations benchmark safety performance to industry norms and leaders; help improve safety by understanding trends of leading indicators; and it will be hosted on OCUC and UofT websites. Contractors were encouraged to join the data collection effort by: sharing safety data (confidentially of course); site-specific practices; corporate best practices; and allowing one (or more) rounds of 15-minute surveys of your workers (anonymous and confidential). In return: UofT will: customized feedback reports based on detailed analysis of the company's data – see how the company is doing; guide the research outputs – what does the company want to see and how will it use the results? SuPERB benchmarking tool that is based on the construction industry and leading to greater visibility for OCUC. All OCUC members were encouraged to participate in this research project by contacting Brenda McCabe and or Yuting Chen. (Brenda McCabe brenda.mccabe@utoronto.ca; Yuting Chen yut.chen@mail.utoronto.ca)

OCUC website update by UofT was also discussed and members provided comments to Brenda and Yuting. Website content should include: OCUC minutes and past presentations; UofT work info on this research projects; linkages to MOL and other major construction associations, other industries and member websites.

5. Subcommittee Report

5.1 Education

Roger B Robin reported that due to the turn around situation of the finance, the board is contemplating on providing scholarship again. Robin will come up with a white paper proposal to the next board meeting for review, discussion and comment and then bring it to the council for approval. In

the board meeting Ian W suggested that the scholarship could be for women or visible minority or diversity in construction. It could be available for trade people, or college and university studying construction or construction management with the safety in mind. Council members are welcomed to provide input to Robin.

5.2 Health and Safety

Michael N reported that Eric Hopkins, as chair of OCUC, responded to the MOL Occupational Health and Safety Management System Accreditation Standard. Eric H indicated that on his letter, OCUC calls on the MOL to recognize the need to work with construction Owners to unify OHSMS requirements to the extent possible for the benefit of contractors and owners alike. The letter is attached in these minutes.

Michael N mentioned that he met the Brian Barron Provincial Coordinator of Construction Health and Safety Program and Brian expressed interest to attend OCUC meeting in the future.

Michael also provided update on the 2018 January 1 report to PLMHSC for the period from January 1 to January 15 as follows:

Section 1: Month Fatality was 0; Critical Injury was 6;

Section 2: MOL Current Events and update: Video: Emergency Response Planning on Construction Projects; Occupational Exposure Limits, WSIB Chronic Mental Stress, 2018 WSIB Grants Program, New Employment Standards Poster, New Minimum Wage, and Personal Emergency Leave.

Section 3: MOL prosecution cases:

Court Bulletin 1 – Dump Truck Tips Over, Mine Company Fined \$70,000 for Worker's Injuries. February 2, 2018 5:05 P.M - A worker hauling rocks in a dump truck being operated in reverse was critically injured when the truck fell and flipped over on its roof. There was no berm (protective barrier) to support the truck and the road gave way beneath the truck.

Court Bulletin 2 – Roofing Company Fined \$55,000 After Worker Falls Through Roof Opening in Brampton. January 17, 2018 2:30 P.M. - Roofing workers removed a skylight but did not install a guardrail system around the opening or place a protective covering over the opening as required by safety regulations. A worker fell through the skylight opening.

Section 4: Total accumulated Fatality for 2017 were 22 and Critical Injury 271 compared to 14 and 182 in 2016 respectively.

5.3 Labour Relations

Ian W invited everyone to the OCS conference coming up and a flyer was distributed to everyone in the room regarding the conference. Ian went on to show the Build Force website update on the labour forecast for the next 5 years. Overall, the general prediction is that there will be shortage of workforce in the next couple of years when boomers are starting to retire. Work force in construction will be tight and hard to find skill labours until 2020. Some projects might need to bring workers from out of province.

5.4 Recruitment and Board Report

Eric H said he was excited about last night board meeting. He felt that everyone has the energy to work starting the year and everyone is busy and which is a good sign. The financial of OCUC is now turning to a positive condition and growing and that we can look at restarting the scholarship program.

6. Presentations II

Mike Parent – Workplace Safety North – WSN Initiatives

Mike Parent is the Director of Mining at Workplace Safety North (WSN), one of four health and safety associations in Ontario. Mike has a diverse background which includes working as a paramedic and underground miner before shifting into a career in health and safety for organizations including Dynatec, FNX Mining, DMC Mining Services and KGHM International. Before joining WSN in 2015, Mike was the Corporate Health and Safety Manager at KGHM, an international mining company. Mike has expertise in health and safety planning for large operations and mining construction projects, which led to

the creation of the Climate Assessment and Audit Tool (CAAT), a new way to measure workplace health and safety systems and culture. Mike also manages a large team of individuals with unique backgrounds and skill sets, and is known for his passion for mentorship. Mike is a CSP, CRSP, EMCA and has completed executive training with the International Institute for Management Development (IMD) in Switzerland. He also possesses an Environmental Management Certificate with Royal Roads University and a Health and Safety Certificate with Cambrian College.

Mike presented the Mining Health, Safety and Prevention Review Project he undertook. This Internal Responsibility System (IRS) Climate Assessment and Audit Tool (CAAT) project has the contribution from the labour and the management to look at the 41 best practices statements/guidelines in the mining industry. The intent is to develop a measurement tool, audit component and assess the 'functioning' strength of an operations IRS. The vision is to have: benchmarking, validity and impactful leading indicators; self serve and third party validation options; and customizable and scalable. It has to audit the System and look at the culture which includes the senior Management, supervisors, JHSC, workers, and contractors. The IRS CAAT project found that the IRS perception survey scores are strongly correlated with the incidence of work-related injury and illness.

The entire presentation of Mike will be posted in our new web site to be ready in the near future.

7. Presentations III

Samia Hussein – Sherrard Kuzz,LLP – Employment & Labour Lawyers – Compliance with OH&S Regulations May not Be Good Enough

A graduate of Osgoode Hall Law School, Samia's practice is focused on the representation of employers in the full range of employment and labour law with particular emphasis on workplace safety and insurance, occupational health and safety, workplace investigations, policy development and implementation, human rights and accommodation and all matters relating to the Accessibility for Ontarians with Disabilities Act. Sherrard Kuzz LLP is one of Canada's leading employment and labour law firms exclusively representing the interests of employers. The firm's construction, occupational health and safety and WSIB practice is extensive, long-standing, and industry-leading. Several members of the OCUC are already clients of the firm.

Samia presented a court case regarding the subject topic - The case "Quinton Steel vs Labour". Facts: Finishing metal welder involved in a workplace fatality after falling from a temporary welding platform. It is in an industrial establishments and therefore regulations applied to the facility, but did not require fall protection nor require use of guard rails. The employer was charged under section 25(2)(h) of OHSA: 25(2) Without limiting the strict duty imposed by subsection (1), an employer shall, (h) take every precaution reasonable in the circumstances for the protection of a worker. Employer argued it had met its legal obligation by complying with OHSA regulations. However crown argued section 25(2)(h) OHSA obligation imposes a higher standard than and in addition to the regulations. The Court of Appeal held: Compliance with health and safety regulations does not exhaust an employer's statutory duties under the OHSA. It is possible to comply with the regulations under the OHSA while at the same time, violate the broader statutory duty to take all reasonable precautions to protect the health and safety of a worker. The Crown is not required to establish a failure to comply with any of the regulations in order to prove that section 25(2)(h) has been violated. The OHSA is public welfare legislation designed to protect workers and, as such, must be interpreted generously; not narrowly or technically. With this decision, the impact on employers would create uncertainty around workplace health and safety standards. It will likely to increase the rate of successful prosecutions under the OHSA in future court cases. It is suggested that individual employers are expected to anticipate every hazard and know when it is just in compliance with the regulations will not be sufficient.

8. New Business – Notice of Motion – Revision of Constitution

This revision will be presented to the membership at the next council meeting for approval. The Board will be debating the revision the meeting ahead of the council and will bring the final draft for council approval on April 6, 2018.

9. Adjournment – Moved by Harry H at 11:45 am

NOTE: The above minutes were intended to reflect only the general discussions at the time in the meeting; however, they may not necessary had been recorded fully what were discussed. Please contact Danny Chui within 72 hours to report any discrepancy after receiving these minutes. Minutes are generally posted on the OCUC website www.theocuc.com after they were approved.

Minutes prepared by:

Danny Chui, P. Eng., FEC

Appointed Executive Director

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