



# REALITY CHECK



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Delaware Chapter ASPE

NOVEMBER 2000

Bruce Gollicker, Editor, Pyro-Tech Fire Protection

## ASPE Mission Statement

The American Society of Professional Estimators serves construction estimators by providing education, fellowship, and opportunity for professional development.

## Officers & Committees 2000-2001

President	Ed Alexander, CPE	Planning
1st V P	Mike Gioffre, CPE	Publicity
2 <sup>nd</sup> V P	Jim Connell, CPE	Membership
3rd V P	Bruce Gollicker	Newsletter
Secretary	Jerry Doherty, CPE	Legal/Archive
Treasurer	Jeff Coopersmith, CPE	Finance
1 <sup>st</sup> Director	Ed Lupinek, CPE	Certification
2 <sup>nd</sup> Director	Wayne Shannon	Program
3 <sup>rd</sup> Director	Buzz" Kingsley	Faxing
4 <sup>th</sup> Director	Rich Murphy	Education
5 <sup>th</sup> Director	Anne Jacobi	

REALITY CHECK is published by the American Society of Professional Estimators Delaware Chapter, Inc. which is solely responsible for its content.

## President's Message

The core of ASPE is its membership. Through its membership, ASPE enables estimators to meet, exchange ideas, and get to know each other.

In addition, ASPE provides a forum for the discussion of construction related information.

During the social hour and dinner, estimators can discuss ideas, share experiences, and resolutions to difficult situations. In addition at each meeting ASPE has an expert speak on a construction related topic to keep our members informed about some aspect of the construction business and to enhance our professional performance.

Last month the Delaware chapter had 71 persons attending the monthly meeting to hear Don Logan, a construction lawyer, and Larry Lewis, Assistant Attorney General for Delaware, explain the application and pitfalls of Delaware's one year old "Best Value" law. Although almost half of the audience was not ASPE members, they were all interested in construction. Through this meeting, ASPE Delaware succeeded in providing a service not only to the members but also to the community. This large turnout can be attributed to the widespread faxing of invitations to construction related people by Tony Ricciardi's Faxing Committee and to the timely e-mailing of Reality Check, prepared by our editor, Bruce Gollicker.

For ASPE to continue to serve the Delaware construction community, we need your help. We need to recognize that some people are hesitant to attend a new meeting. They don't think they will know anyone. They feel they may be outsiders, or that they don't know enough about the organization to feel comfortable. In the next few months, I urge each ASPE member to make a concerted effort to talk about ASPE. Explain ASPE to at least one new person a week. Invite these people to come with you to a monthly meeting and then pass that person's name and contact information to Jim Connell, our membership chairman.

By word of mouth, we can share ASPE and enable new people to participate. By this means, our chapter will flourish because new people will bring new perspectives and enrich our understanding.

Talking to others about ASPE is an easy way that all members of ASPE Delaware chapter members can become involved and make a real difference

in our chapter. Our success lies in our membership.

Ed Alexander, CPE

## **ASPE Code of Ethics**

### **Canon #7**

Professional Estimators shall not engage in the practice of "bid peddling" as defined by this code. This is a breach of moral and ethical standards, and this practice shall not be entered into by a member of this society.

1. Bid peddling occurs when a subcontractor approaches a general contractor who has been awarded a project, with the intent of voluntarily lowering the original price below the price level established on bid day. This action implies that the subcontractor's original price was either padded or incorrect. This practice undermines the credibility of the professional estimator and is not acceptable.
2. The same procedure applies to a professional estimator engaged as a general contractor, as defined in the previous paragraph, when the estimator approaches an owner or client to voluntarily lower the original bid price.

## **Unambiguous Waivers Cause Subs to Lose Retainage**

A Colorado state court judge has denied summary judgment to a group of subcontractors on a building project on their motion to foreclose on a mechanic's lien for retainage. In order to receive their monthly progress payments from the general contractor that later ran into financial difficulty, the subs had signed a full monthly lien release. With only some exceptions, the releases were unambiguous, said the court, as it granted partial summary judgment for the owner and contractor.

Judge J. Steven Patrick of the District Court of Montrose County, Colo., handed down the ruling March 10 in a case involving construction of a building for Scaled Manufacturing in Montrose County. Keystone Construction was the general contractor and it made monthly progress payments to Cooling's Heating and Air Conditioning, Inc., San Juan Electric Inc., Par

Mechanical Inc., Par Fire Protection Inc., and Western Gravel Inc.

Keystone held back 10% retainage. But each sub signed a release stating that the firm "hereby waives and releases any and all claim or right of lien on the below described premises and the owner thereof, as well as any claims on account of labor, material, or service furnished by all rights to claim mechanic's lien (and) claims against bonds or sureties or other claims of every kind". Keystone made no payments after Oct. 1, 1997, because of its financial difficulties. The subs sought summary judgment for the amounts due after Oct. 1 and the retainage before Oct. 1, claiming the releases they signed were ambiguous. Keystone and the owner claim the earlier amounts were barred.

"The release language is clear and unambiguous. It waives and releases any and all claim," said Patrick. "These terms are commonly understood and capable of only one reasonable interpretation. The lien waivers in fact constituted waiver of any and all claim or right up to and including Oct. 1, 1997" However, the judge made an exception for two firms noting that handwritten notations by one firm on a release were sufficient to "create an ambiguity" and there was dispute over the amount owed Par Mechanical.

Cooling's Heating & Air Conditioning v. Keystone Construction Inc, Ca. N. 98 CV 67, Division 2, (Dist. Ct., Montrose County, Colo., 1999): Engineering News, April 19, 1999,p38.

## **MEETING MINUTES**

### **ASPE November BOARD MEETING**

The October meeting of the Board of Directors of the American Society of Professional Estimators, Delaware Chapter 75, was called to order at 6 pm on Monday, October 16, 2000. A quorum was recognized.

#### **Board Members in Attendance:**

Ed Alexander, Ed Lupinek  
Mike Gioffre, Wayne Shannon  
Jerry Doherty, Jeff Coopersmith  
Rich Murphy

#### **Other attendees:**

Dan Delcollo, Fred Gschweng  
Wilson Davis

**Location:** Bancroft Construction Office,  
Wilmington, DE

**Chair:** Ed Alexander

## Review of Previous Meeting Minutes

Previous meeting minutes were accepted without exception.

## New Business

1. Ed Alexander reported that Anne Jacobi has decided to step down from her position as Public Relations director due to a serious illness in her family. The Board wishes to extend their sympathy and support to Anne and her family through this difficult time. Mike Gioffre will again assume the duties of the position until replacement can be found.

Dan Delcollo attended the meeting to walk the Board through the process of developing a website for our chapter. Dan reported the following fees for the site-up: \$150.00 programming fee, \$350.00 posting fee, \$49.00 sign-up fee, and a \$35.00 yearly operating fee. (Note: all fees are approximate value) After careful review of options and costs, Jerry Doherty made a motion to secure the name ASPEde.org.. Mike Gioffre seconds the motion and the Board unanimously approved it. A committee was also formed to identify a website manager, create a policy statement and establish a scope and use for the site. The committee consists of Fred Gschweng, Wayne Shannon, and Mike Gioffre.

3. Ed noted that (71) people attended the October general meeting. It was a great turnout and will be difficult to duplicate.

4. Strategic planning for the future of Delaware Chapter 75 was again discussed ( refer to Sep. Board meeting) Mike Gioffre moderated the discussion to establish 1 year and 5 year goals for the chapter. He suggested the 1-year goal be tied to awards established by National. This will also help in our efforts to make submissions for other Chapter awards at the National convention. Following an exhaustive review of the ASPE awards listing, it was recommended by Mike, with all voting members approving, that our 1 year goal be to achieve the "Superior Chapter with Distinction Award". In the short term, this award will help our Chapter focus on the issues that will help us maintain a strong Chapter. Development of a 5 year goal was also discussed, it was decided that our thoughts for a 5 year goal needed to be written down, organized and presented to the board in condensed format for review. It was suggested that all committees submit their ideas to Mike Gioffre and Jerry Doherty, who agreed to report back to the board as soon as possible with the results.

5. To further our good standing with National, and move toward meeting one of the thirty five criteria for obtaining Superior Chapter with Distinction, Ed Alexander made motion that we contribute \$500.00 to ASPE National for the scholarship program. Before taking the motion to vote, Jeff Coppersmith provided his report on the financial status of our Chapter ( refer to committee reports). After confirming our financial ability to support the motion, Jeff Coppersmith seconded the motion, and all voting members approved.

6. Ed Alexander requested that a news release be issued to publicize the new board for 2000-2001. Mike Gioffre to draft and issue the statement to the newspaper.

7. A discussion was held as to whether ASPE should send speakers to other organizations (I.e. ABC, DCA, CSI, AIA, etc.)

8. Ed requested that all members try to find related articles, jokes etc. for inclusion into the monthly newsletter.

## Committee Updates:

### Public Relations Committee

**ARCHIVES/LEGAL:** Jerry Doherty reported that all committee chairs have the responsibility to forward pertinent information to archives to maintain complete Chapter files. It was also noted that with excellent legal counsel from Don Logan, we have not yet been sued.

**Awards Committee:** Mike Gioffre submitted and reviewed a complete listing of awards available from National.

**By-Laws Committee:** Ed Alexander submitted a draft copy of duties and goals for each committee. Ed requested everyone review the respective committees, and return to him for updating.

**Certification/Recertification Committee:** Ed Lupinek stated that a room is needed to hold an informal workshop to review requirements for CPE's preparing for either tests or technical papers. Offers for use of either Bancroft's' or Miken's Offices were given. Testing and retesting for certification will occur in November. There are no new sign-ups for certification for the 2000-2001 year.

**Education Committee:** no report

**Ethics Committee:** Rich Murphy was requested to locate a prospective speaker on ethics and report to Wayne Shannon.

**Faxing Committee:** Ed Alexander stated that Tony Ricciardi has assumed the duties of faxing, and is doing a great job.

**Finance Committee:** Jeff Coopersmith reported our current balance is \$5,357.73. With that balance it was commented we need to keep an eye on Jeff now.

**Golf Committee:** no report

**Membership Committee:** Jim Connell submitted the following—Lou Liberti has agreed to serve on the membership committee. Dave Brown has been contacted but is still hiding. We have sent to National a membership application for John DeMatteis of Delcollo Electric. We are also waiting on a return application from Custom Flooring, who may sign up two employees.

**Newsletter Committee:** Committee member Fred Gschweng (the G's is silent) reported that the newsletter is now better organized for e-mail distribution and is working fine.

**Nomination Committee:** no report

**Planning Committee:** refer to comments under new business

**Program Committee:** Wayne Shannon reported that we need suggestions for speakers for the 2000-2001 year. To all committee, Wayne also suggested that we consider adding surcharge \$5.00 for non members and a surcharge for sign-up at the door. With consideration of our currently good financial status, these suggestions were tabled.

**Public Relation Committee:** Mike Gioffre was requested to publish results of 2000-2001 elections. To committee.

**Research & Retention Committee:** It was decided by the board that these two committees be listed as sub-committees to membership. Their functions seem very close to the work being done there.

**Welcoming Committee:** Wilson Davis was requested to move his committee to membership, and report to Jim Connell with any input. The functions of the committees were also deemed to be closely related.

These are the meeting minutes as recorded by Jerry Doherty. Requests for corrections of modifications are welcomed complaints are not.

The meeting was adjourned at 8:15 pm.

**Newsletter:** Please contact Bruce Gollicker regarding advertising or articles for the newsletter. Bruce Gollicker, Pyro-Tech Fire Protection (410) 392-6609. Copy must be submitted in Windows 95, Word 6.0 or earlier format, by e-mail, hand delivered on disk or is ready to scan. All submissions must be received on or before the first of the month.

### ASPE Delaware Chapter Advertising Rates

Size	(1) Month	(3) Mths	(6) Mths	(9) Mths	(1) Yr
Business Card	\$7	\$20	\$38	\$54	\$70
(2) Bus. Card	\$13	\$38	\$68	\$95	\$120
1/3 Page	\$20	\$60	\$105	\$150	\$190
1/2 Page	\$26	\$80	\$140	\$195	\$240

**Got Something to Say?** We want to hear your editorials, comments, and stories. If you run across an interesting article that would benefit the membership, please submit it to Bruce Gollicker, Pyro-Tech, fax (410) 392-8113. Deadline for submission is the last Friday of the month.



**We know you're busy,  
So as a reminder.....**

Unless otherwise noted, **Chapter meetings** are the **Second Wednesday** of each month. **Board Meetings** are the **Second Wednesday** of each month. Deadline for submission to the Newsletter is the last **Friday** of each month.

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Earl J. Pearce II  
President

Have a Safe and Happy  
Thanksgiving