

AERC BOD conference call minutes, Monday, September 14, 2015

Meeting was called to order by President Michael Campbell at 6:01 p.m. PST

Those in attendance were Michael Campbell, Lisa Schneider, Susan Garlinghouse, Mollie Krumlaw-Smith, Monica Chapman, Connie Caudill, Sue Keith, Kevin Waters, Tennessee Lane, Skip Kemerer, Nick Kohut, Paul Latiolais, Steph Teeter, John Parke, Roger Taylor, Julia-Lynn Elias, Duane Barnett, Susan Kasemeyer, Tom Bache, Randy Eiland, Olin Balch, Mike Maul, Christoph Schork, Forrest Tancer, and Terry Woolley-Howe. Andrew Gerhard was not in attendance.

There were no excusals requested for this meeting.

A brief review was made by Michael Campbell in regards to activity reports made by AERC Committees:

Research Committee is exploring pathways to raise funding for endurance-related research, and will be presenting a proposal in the near future.

Veterinary Committee has reported an equine fatality and is working on a report.

Junior Committee is discussing candidates for the recently approved Youth Representative to the Board, and will be forwarding their nomination soon.

International Committee is working on ride plans, fund-raising projects, and is discussing the recent announcement by FEI in regards to the suspension of a veterinarian associated with Zone 7 falsification of ride results. There are rule changes being proposed by FEI and the committee is reviewing these changes.

Protest and Grievance Committee is working on several protests, the results of which will be forwarded to the Board as they are resolved.

Strategic Planning Committee is discussing the ongoing work, as well as a plan to streamline communications with “champions” of each specific SP Goal area, as opposed to the more time-consuming and inefficient process of individually contacting each committee chair.

Membership Committee - Mollie provided an update of the “Green Bean” groups active in many regions, and the challenges of formally organizing those groups under the aegis of AERC.

There are numerous discussions and plans underway in conjunction with the Education Committee regarding plans to develop a comprehensive AERC program to support, encourage and educate riders new to the sport.

Lisa Schneider provided an update on AERC website development, including current efforts to streamline pages relevant to ride managers in regards to sanctioning, ride calendars, etc. Proposed changes have been forwarded to the Ride Managers Committee for feedback.

Statistical report - Kathleen Henkel

Membership report September, 2015

Membership as of 9/10/14 - 4873

Membership as of 9/11/15 - 5135

2016 members to date - 422 (includes 56 people that have taken advantage of the Fall Special)

Rider fees as of 9/11/14 - \$52,273.00

Rider fees as of 9/11/15 - \$67,145.50

Sanction fees as of 9/11/14 - \$17,593
Sanction fees as of 9/11/15 \$15,640
New members as of 9/11/14 - 608
New members as of 9/11/15 – 680

Business before the board:

Motion - 2016 National Championship ride location, brought by National Championship Committee. There was discussion in regards to the application for the 2016 National Championship to be held at Antelope Island, Utah, by a ride management group which has not previously held a one-day 100-mile ride. However, it was presented to the NC committee that the applicants are experienced ride managers who have successfully held numerous two-day 100-mile rides. The Mountain Region directors concurred that the group is very experienced and holds very high-quality rides at the proposed location. There was brief discussion as to qualifications for identifying the head control judge for the event. Having been approved and presented by the NC Committee, a second is not required. Motion passed.

Motion - Wayne National Forest, Vesuvius Lake Loop Project, motion brought by Trails and Land Management Committee, and thus does not require a second. Motion passed. It was commented that as part of the package in which AERC provides \$5000 in grants towards trail improvement, land managers will grant permits for two AERC-sanctioned rides to take place annually for the next five years. This is a key strategy to utilize in procuring long-term land-use permits by ride managers. It was also noted that a Trail Master class is being planned for March, 2016. Fifteen AERC members have already signed up for this class.

Motion - Assessment of AERC Structure for obtaining legal advice, motion brought by Kevin Waters, seconded by Tom Bache. There was significant and prolonged discussion in regards to the history of legal representation advising the Board; the relative pros and cons of obtaining legal advice from single versus multiple parties, including outside counsel; and methods by which current policies can potentially be improved. During discussions, a motion was made by Christoph Schork to table this motion pending further review of recently submitted relevant opinions. Steph Teeter seconded. There were seven votes yea, 16 votes nay, motion failed. After further discussion and comments by all parties present, a call for a role call vote was made by Lisa Schneider, Olin Balch seconded. Voting in favor were Kevin Waters, Tom Bache, Tennessee Mahoney-Lane, Christoph Schork and Steph Teeter. Voting against the motion were Lisa Schneider, Susan Garlinghouse, Mollie Krumlaw-Smith, Monica Chapman, Connie Caudill, Sue Keith, Skip Kemerer, Nick Kohut, Paul Latiolais, John Parke, Duane Barnett, Susan Kasemeyer, Mike Maul, Terry Woolley-Howe, Olin Balch, Forrest Tancer, Randy Eiland and Roger Taylor. Julia-Lynn Elias abstained. Motion failed.

Kathleen Henkel reported that Diane Leshner, of Equisure, Inc. has provided a quote for increasing ride coverage from its current level of \$1,000,000/\$2,000,000 to \$1,000,000/\$3,000,000. AERC currently pays \$43,877 for \$1M/\$2M coverage. The cost for increasing coverage to \$1,000,000/\$3,000,000 including member-to-member coverage was quoted at \$59,000. A discount of \$5000 for excluding member-to-member coverage would decrease this cost to \$54,000.

The cost for increasing coverage to \$2,000,000/\$2,000,000 was quoted at \$61,000. It was clarified that these policy limitations refer to coverage per claim, and aggregate coverage per event, respectively. Connie Caudill has been communicating with ride managers as to expectations of future insurance needs in order to obtain land-use permits, and will clarify that stated requirements for \$3M in coverage refers to aggregate coverage.

An emergency motion was brought by the AERC office in regards to a request by Dave Nicholson to move the location of basecamp for the upcoming Paunsagaunt three-day ride from its currently sanctioned location to the

same basecamp used for the Outlaw and the Virgin five day ride taking place this week, located 14 miles away. The stated reason was that low ride entries for the Paunsagaunt ride would make holding the ride financially unfeasible. Rather than canceling the ride altogether, the financial burden would be lessened by using the Outlaw/Virgin basecamp, and utilizing trails which are already marked. This change in location does not affect any other rides within the region. This motion was brought by the AERC office and does not require a second. Motion passed.

Meeting was adjourned at 7:16 p.m. PST.

MOTIONS:

AERC Board of Directors

MOTION PROPOSAL

Motion Name 2016 National Championship ride location

Proposing Committee National Championship Committee

Date of Motion September 14, 2015

Classification of Motion Request (new, change, add, delete, by-law, rule, policy)

Request for Mountain Region ride manager Jeff Stuart to host the 2016 NC Ride at their Antelope Island location. This is an Island in the Great Salt Lake, just 40 miles from Salt Lake City, Utah.

Background, analysis and benefit (describe the problem this motion is solving)

From the application -description of the trail... Varied, sandy loam to rocky . Several long flat sections with several climbs of 700- 900 feet of elevation gain or loss. Scenery is awesome as you on an island and surrounded water of the Great Salt Lake.

Budget effect/impact (Attach spreadsheet if appropriate)

No more than the always, AERC would just need to get the word out.

Benefit and/or Impact to Membership and/or the AERC Organization

The committee felt this was a unique location and being more centralized than rides in the past hve hopes that it would draw and larger group of riders from varied regions.

Impact on AERC Office (Work load, budget)

Helping the ride manager with ads

Committees consulted and/or affected

National Championship

Implementation plan (Schedule, resources, financial)

The ride would be held September 30 - October 1, 2016

Supporting materials (List of any other documents and/or spreadsheets)

Ride manager Jeff Stuart sent his application to host the ride. This ride manager has been hosting a 2 day one hundred mile ride for a few years at this location and feels very confident that their team will be able to put on a quality NC Ride with wonderful trails and camp sites. The NC Committee consulted Mountain Region director Kevin Waters and At Large Director Christoph Schork and both agreed the ride would be a suitable site with capable volunteers and ride manager.

%%% **AERC Board of Directors**

MOTION PROPOSAL

Motion Name Green Bean Program

Proposing Committee Membership

Date of Motion September Board Meeting

Classification of Motion Request Add

Proposed Motion To authorize and support the creation of a new committee within AERC called the Green Bean Committee. This committee will be created to manage, promote, and develop fun and educational programs for the newer members of AERC. This would be a voluntary program, new members would only participate at will.

Background, analysis and benefit Please see attached.

Budget effect/impact Favorable by the number of new members gained, all programs will be self-funded by participants of the program.

Benefit and/or Impact to Membership and/or the AERC Organization Continued opportunities for membership growth. This program is centered around the education and development of new members to AERC and present them with the opportunities to develop and grow within the AERC umbrella.

Impact on AERC Office Minimal office work once established, the committee will be responsible for the administration of all related programs.

Committees consulted and/or affected N/A

Implementation plan To be effective for the 2016 membership year

Supporting materials Please see the attached outline.

Supporting approvals Membership Committee

@@@ AERC BOARD OF DIRECTORS

MOTION PROPOSAL

Funding of up to 5K in materials and/or the rental of some specialty equipment for one area in particular.

Motion Name: **Wayne National Forest, Vesuvius Lake Loop Project**
Wayne National Forest-Lake Vesuvius, Pedro, Ohio, Lawrence County

Proposing Committee: **TRAILS AND LAND MANAGEMENT**

Date of Motion **August 29, 2015**

Classification of Motion Request (new, change, add, delete, by-law, rule, policy) **NEW**

Proposed Motion **AERC Trails Committee has approved the request and propose the motion to award \$5,000 to go towards the project.**

Budget effect/impact – **None. FUNDS FROM DEDICATED TRAILS GRANT FUND**

Benefit and/or Impact to Membership and/or the AERC: **The Black Sheep Boogie in June and the Gobble til' you Wobble in November. The Boogie is currently a 25/50 for two days, with the trail improvements we will be able to offer 25/50/75/100 mile distances and that is currently the plan. The Gobble will be a 25/50 just because of the time of year.**

Additionally we have just been approved for a 5 year permit to hold these two events annually. And most importantly, it WILL STRENGTHEN THE WORKING RELATIONSHIP WITH LOCAL LAND MANAGEMENT.

Impact on AERC Office (Work load, budget) **MINIMAL**

Committees consulted and/or affected: **TRAILS AND LAND MANAGEMENT**

Implementation plan (Schedule, resources, financial): **Over the last 5 years much of the trail in this system has already been improved and currently have a 4 star rating by the USDA. These improvements were completed with the efforts of the previously referenced groups, with many, many 1,000s of hours of volunteer labor, and with an estimated cost in materials and equipment rental of over 50K. There is a remaining 10 mile section of trail that needs to be improved to complete the project. This section of trail works around the perimeter of Lake**

Vesuvius and will require extensive labor, materials, and equipment to complete in a sustainable manner. The groups involved are committing the necessary labor hours, equipment use, and materials not covered by grants. We are asking AERC for the funding of up to 5K in materials and/or the rental of some specialty equipment for one area in particular.

Supporting approvals (proposing committee, participating committees): **OAATS, Inc., established in 1972, was incorporated to promote, develop, and educate the distance riding sports of Endurance and CTR. Additionally to promote, develop, and maintain trail systems throughout our geographic area.**

Elkins Creek Horse Club was incorporated to improve, develop and maintain the 80+ miles of designated horse trails in the Wayne National, Ironton District and the Dean's Lake (ODNR) systems. Elkins Creek Horse Camp owns the base camp and land for trail heads as well as manages, with the support of Wayne National Forest (WNF), all maintenance on the above referenced trail systems. WNF is the managing land entity. They work with the above group to facilitate and manage the trail systems.

TRAILS AND LAND MANAGEMENT committee supports this proposal.

{{{ AERC Board of Directors

MOTION PROPOSAL

Motivation for Motion:

The AERC Board of Directors is supported by many Committees that operate as described by the normal definition for "Committee" (Wikipedia: "a type of small deliberative assembly that is usually intended to remain subordinate to another, larger deliberative assembly."). As subordinate bodies, these committees develop recommendations and seek approval from the full Board. Their membership changes regularly and usually have a majority who are not also Board members. There is an exception – the "Legal Committee." This Committee has long been comprised of a single individual who is also a Board member.

While this Legal Committee arrangement has generally worked very well due to the extraordinary dedication, knowledge, and wisdom of its single member, there are some serious problems: (1) *availability*; and (2) *conflict of interest*. Regarding availability, the member has a demanding career and naturally must limit access for advice and consultation. This frustrates members whose time is compromised by the need to wait or work around the lack of timely advice and threat that their work will be wasted due to a belated legal veto. Regarding

conflict of interest, Board members have differing opinions on many issues and most issues can be spun to have some legal connection. Legal opinions are not necessarily decisive (that's why we have appellate courts), but they have high credibility with layman. So a Board member who also offers legal advice will have huge power over any decision in which he can deploy legal knowledge without contradiction from another legal expert. In simple terms, merging the legal advice and Board member roles allows a single Board member to control the Board whenever he wishes to do so. This is why Boards almost always draw a bright line between Board service and providing legal advice. There are various ways to do that, but the AERC Board doesn't pay much attention to them.

Another point – Corporate Boards often have Legal Counsels who provide unbiased legal advice when requested. They should, and usually do, summarize all sides of the legal issue at hand. These Legal Counsels seldom, if ever, serve on the Board they advise. In the rare situations where this happens, there are standard processes (recusals, disclosure, etc.) to prevent conflict-of-interest (real or apparent). The one-man Legal Committee is, in effect, the Legal Counsel. Calling it a Committee looks like a subterfuge dealing with conflict-of-interest in a straightforward way.

It appears that the only argument supporting the current structure is that it has worked well. All sorts of things (e.g., running with scissors) always work well – until they don't. That's why society has developed standards and rules and processes based on experience with human weakness. Further, there are many examples illustrating when it hasn't worked well. It serves no purpose to recite these examples, but they are what one would expect when a single unusually capable person is given unchecked power for a very long time. Who wouldn't abuse such power now and then? So it is not reasonable to criticize this person for being human, but it is reasonable to examine the structure that makes such things inevitable (“If angels were to govern men, neither external nor internal controls on government would be necessary.” James Madison, Federalist #51).

The proposed Motion directs a careful and thorough analysis of AERC requirements for sound and unbiased legal advice and options for obtaining it. This matter is too important for *ad hoc* structures and personality-driven decisions.

Motion Name: Assessment of AERC Structure for Obtaining Legal Advice

Proposing Committee: None – Motion proposed by Board Members

Date of Motion: September, 2015 BOD Telecon Meeting

Classification of Motion Request: This Motion directs that the AERC President take specified actions to (1) review Board structures and policies for obtaining legal advice, and (2) obtain carefully considered recommendations for revising these structures and policies where deemed necessary.

Proposed Motion: Whereas, the AERC Board of Directors requires sound and disinterested legal advice to exercise its fiduciary duty to serve AERC membership, therefore, be it

Resolved, That the AERC President appoint a broadly-representative and Board-approved *Ad Hoc* Committee to review the policies, procedures, and organizational structure for providing legal advice and assistance to the Board of Directors, and

Resolved, That this *Ad Hoc* Committee will report to the Board of Directors within 3 months, with said report including its findings and recommendations (if any) for changes.

Background, analysis and benefit: Members of the AERC Board of Directors have a fiduciary duty to ensure sound financial management and compliance with relevant laws and regulations, as well as ensuring that AERC achieves its mission and objectives. Many important issues require sound and unbiased legal advice, and Board members have a responsibility to be confident that their decisions in such matters are based on timely and complete information that addresses their questions and concerns.

For many years the AERC's legal needs have been served by an unusual structure. The normal structure includes a "Corporate Counsel" who has no decision-making role and so no stake in the outcome of Board debates, and a "Legal Committee" that interfaces with the Corporate Counsel and provides disinterested legal information and advice (this Committee rarely includes Board members). Outside Counsel is obtained when needed for specific issues. Due to limited resources, history, and personalities the AERC Board has collapsed this structure into a single person who is the Legal Committee and is viewed by many or most Board members as the Corporate Counsel. This individual does not self-identify as the Corporate Counsel, but cannot avoid acting in this role when legal matters come up, as they often do (the impractical alternative would be to get no timely legal advice). While this simple structure is very efficient and has worked well most of the time, there are several potential problems. Examples: (1) There is a serious appearance and risk of conflict of interest when the Board gets its only legal advice from a member on one side of a contested issue; (2) Resource-constrained non-profits do sometimes get legal advice from lawyer/Board members, but address the conflict problem by requiring the lawyer/Board member to recuse himself on such issues – the AERC Board doesn't do this; (3) Board members must go to a single busy person to get the legal information to exercise their fiduciary responsibility, and this is often impractical or impossible; (4) The Legal arena is often crucial for AERC, yet we violate a standard rule for crucial parts of any structure – avoid structures with a single point of failure.

Many Board members have raised these issues over the years, but due to a combination of personalities and organizational inertia, there seems to have been no serious effort toward careful analysis and an informed decision on whether this is really the best we can do for AERC. This Motion requires that this be done now rather than waiting for some crisis to expose these problems to the detriment of AERC.

While there may be other possibilities, there are two basic structures that should be analyzed for their potential to solve the noted problems: (1) Legal Committee centric; and (2) Legal Counsel centric. The Legal Committee could work if it was expanded to include more members (preferable three). This would provide more access to legal advice and also provide more opinions on difficult and contentious issues. Some of the Committee members would not be Board members, providing a path to resolve conflict-of-interest problems. The Legal Counsel approach would work if the Legal Counsel was not a Board member. There are options for allowing this Counsel access to all Board meetings and discussions, so he has all relevant information.

Budget effect/impact: None at present

Benefit and/or Impact to Membership and/or the AERC Organization: Sound legal advice is often critical, and this effort is to ensure that the AERC Board is doing its best to be sure it gets it. The board authorized the office in a past meeting to contact an outside attorney if necessary and that authorization remains in place.

Impact on AERC Office: Expected to be negligible.

Committees consulted and/or affected: None consulted.

Implementation Plan: President takes required actions.

Supporting materials: None.

Supporting approvals: None.

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