

ASHRAE Ottawa Valley Chapter

Chapter Meeting # 1 September Approved



Meeting Date:	Tuesday September 18, 2001
Location:	Capone's Restaurant, 1701 Woodroffe Avenue, Nepean
Presiding Officer:	President Frank Bann
Attendance:	Total: 68 Guests: 11 Students: 0
Theme Night:	Membership
Technical Session:	Construction Lien Act and You – Norman W. Carroll B.A. L.L.B.
Table Top:	None
Program:	Construction Law and how it relates to you the owner, consultant, contractor and supplier– Norman W. Carroll B.A. L.L.B.
Prepared by:	Jason MacMurdo – September 21, 2001

Technical Session (4:30 – 5:15)

- Topic: Construction Lien Act and You, presented by Norman W. Carroll B.A. L.L.B from Lang Mitchener. Attendance: 25. Topic was well received. Attended by consultants, contractors and owners.

Social (5:30 – 6:30)

Business Session (6:30 – 6:50)

- Before dinner, President Frank Bann called for 1 minute of silence to remember the victims of the September 11, 2001 terrorist attacks on the United States at the World Trade Centre and the Pentagon.
- Frank Bann introduced the OVC 2001/2002 Executive and the Board of Governors.
- Cathy Godin introduced the guests.
- Rob Lefebvre reported on OVC Membership for 2000/2001. New membership has increased and the number of delinquents is down. The committee hopes to increase both membership and membership diversity for OVC year 2001/2002.
- Frank Bann reinforced the importance of returning calls to the Telephone Committee to confirm attendance at the Chapter Meetings in order to allow for an accurate meal count.

Dinner (6:50-7:50)

Business Session-Continued (8:00-8:20)

- Frank Bann to be recognized as the first OVC President to get Stan Millross out to a Chapter Meeting.
- Frank Bann reported on the successful OVC 2000/2001 Golf Tournament and congratulated Peter Nabi for a well organized event.
- Chris Frauley presented Mike Swayne with a certificate of appreciation from the Society for service as Chapter President last year.
- Jay Doshi reported on the career opportunities posted on our web site and the process and costs associated with posting an advertisement.

- Frank Bann reported on CRC 2000/2001 Halifax. The OVC received the Gold Ribbon Award for History, a Chapter Communication Award, and a Membership Award among others. CRC Halifax was a great success.
- Joel Primeau summarized the afternoon's technical session on the Construction Lien Act.

Evening Program (8:20-9:10)

- Topic: Construction Law and how it relates to you the owner, consultant, contractor and supplier, presented by Norman W. Carroll B.A. L.L.B from Lang Mitchener.
- Norman Carroll provided a list of recommendation and tips to help Owners, Contractors and Consultants avoid costly legal proceedings. Some of the tips presented are as follows.
 - Create and maintain an accurate paper trail. Treat every job as if it is going to end up in Court. The documentation provides a written history of the job with respect to design issues, chronology of events, key players, changes, etc. This is what the courts are looking for.
 - Answer all correspondence; without a written response, you have accepted the conditions/results/impact of said correspondence by default.
 - Pay close attention to limitation periods; especially with respect to the lien rights.
 - It is strongly recommended that the standard form contract documents published by the Canadian Construction Documents Committee (CCDC) be used as many clauses in those contracts have been judiciously considered. This provides a level of certainty.
 - Ensure that the contractual scope of work is clear.
 - Ensure that the mechanism for changes and delay claims is also clear.
 - Never do work under protest.
 - Work not required by the contract shall form a separate contract. Disputes are most often a result of changes.
 - Change orders must be issued when there is a change:
 - of method;
 - of terms; or
 - in price.
 - As Engineers, we can mitigate our damages and reduce our exposure by ensuring that all parties to the construction process, Owner, Architect, Prime Contractor and required Sub-Contractors are involved in the review and approval of the proposed changes. The conditions of the CCDC standard contracts no changes in work shall proceed without a written order signed by the Owner. With a Change Order we are involving many if not all the parties to the contract with written communication of a change to the contract. As a result, when things head south, culpability is shared by all parties. In many instances, Site Instructions do not permit this. Recommendation is that CCN's should be issued for everything.
 - Shop drawing stamp disclaimers and other associated wording that transfers liability are not enforceable. Review shop drawings and associated fine print very carefully.
 - Change directives should not be used. Do not proceed with work until such time as a price is agreed upon. The doctrine of Quantum Meruit provides a mechanism to recover cost for "as much as is reasonably deserved" for time and materials supplied. Profit and overhead cannot be recouped.

Business Session-Continued (9:10-9:20)

- Rob Lefebvre thanked the speaker and presented a gift.
- Frank Bann informed the Chapter of the upcoming IAQ seminar on October 15, 2001 in Montreal PQ and of the Controls Trade Show on Tuesday November 20, 2001 in Salons A and B, Nepean Sportsplex.

Meeting was adjourned at 9:20. Motion moved by Glenn MacLean. Seconded by Mike Swayne. All in favor.

Distribution:

Board of Governors

All RVCs

DRC

Gabriel Laszlo

Please review the minutes. Any errors or omissions shall be communicated in writing to Jason MacMurdo.