

PROFESSIONAL ENGINEERS SECTION MEETING

MINUTES

The Professional Engineers Section of the Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board) met on May 10, 2006, at the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia, with the following members present:

Nico De León
Stanley C. Harris
Wiley V. Johnson, III

Staff present for all or part of the meeting were:

Jay W. DeBoer, Director
Mark N. Courtney, Executive Director
Marian H. Brooks, Program Administrator
Michelle Gowen, Administrative Assistant

No representative was present from the Office of the Attorney General.

Mr. Harris, Chair, called the meeting to order at 9:00 a.m.

Call to Order

Mr. Johnson moved to approve the agenda. Mr. De León seconded the motion which was unanimously approved by members: De León, Harris, and Johnson.

Approval of Agenda

Mr. Johnson disclosed that Bevin Alexander, Jr., one of the speakers during a prior Public Comment Period, is an attorney that represents the firm where Mr. Johnson is employed. For this reason, Mr. Johnson felt it necessary to again recuse himself from the Public Comment Period of the meeting as well as the discussion of agenda item #6, Discussion of the Design of Residential On-Site Sewage Systems Using Pre-Engineered Components.

Public Comment Period

Mike Lynn, President, Virginia Onsite Wastewater Recycling Association, was present to speak to the Section in regards to VOWRA White Paper on Design Authorities. Mr. Lynn went over the Abstract of the revised White Paper and was available for any questions the Section Members had on the topic.

Robert Mayer, PE, President of the American Manufacturing Company, was present to address the White Paper on Design Authorities and stated that it speaks for itself. Mr. Mayer stated that his company manufactures septic systems that do not need to be designed by professional engineers.

Joel S. Pinnix, PE, was present to address the Section on his views of GMP #125. Mr. Pinnix stated again that he believes that the Department of Health has exceeded their legal authority in trying to define the role of professional engineers in the design of residential on-site septic systems. Mr. Pinnix provided the Section members with a handout of excerpts of the *Code of Virginia* that conflict with the Department of Health's regulations.

Richard Blackwell, III, PE, of Blackwell Engineering, was present and spoke to the Section to reiterate his past discussions with the Department of Health regarding the design of residential on-site septic systems. Mr. Blackwell noted that he has asked repeatedly that the Department of Health consult DPOR in this matter and they have refused all requests.

The Section members accepted and reviewed the handouts they were provided with during the public comment period from Mr. Pinnix and the documents included in their agenda package. Mr. Courtney reminded the Section members that the issue before them was whether the provisions of GMP #125 allowed non-licensed individuals to practice engineering as defined in § 54.1-400 of the *Code of Virginia*. Mr. Harris summarized that it appears that Type I and Type II systems appear to be generally accepted by the Department of Health (VDH) as not needing the services of a professional engineer; however, it appears that VDH may have gone beyond what is permitted by allowing non-professional engineers to design residential on-site sewage systems using pre-engineered components or VDH approved components (see subsection B.10 of § 32.1-164 of the *Code of Virginia*) even though VDH has no formal procedures or regulations for the approval of such components.

**Discussion of the
Design of
Residential On-
Site Sewage
Systems Using
Pre-Engineered
Components**

After discussion, Mr. De León made a motion that as GMP # 125 does not appear to comply with existing VDH regulations (VDH regulation 12 VAC 5-610-250.C contains a cap of 1000 GPD v. a cap of 1200 GPD contained in GMP #125; and § 32.1-163.5 of the *Code of Virginia* exempts pre-engineered sewage systems (treatment and dispersal) while GMP #125 permits non-professional engineers to design sewage systems using pre-engineered treatment systems and pre-engineered dispersal systems) and thereby allows non-professional engineers to design residential on-site sewage systems which should be designed by professional engineers. Mr. De León further moved that the Board may wish to enter into a Memorandum of Understanding with VDH to assist them in the short-term to address the conflict and work with VDH to find a long-term solution to address the inconsistencies in VDH's regulatory program through the legislature in order to ensure that non-professional engineers are not permitted to practice engineering. Mr. Harris seconded the motion which was unanimously approved by members: De León and Harris. Mr. Johnson did not participate in the discussion or vote.

The Section members took a break from 10:13 a.m. to 10:25 a.m.

Break

Regarding File Number 2006-01875, Hal Sanders, the Section members reviewed the Consent Order as seen and agreed to by Mr. Sanders. Mr. Johnson made a motion to recommend that the Board accept the Consent Order which cites a violation of 18 VAC 10-20-750 of the Board's 2004 regulations. For this violation, Mr. Sanders agrees to the voluntary surrender of his Professional Engineer license. Mr. Harris seconded the motion which was unanimously approved by members: Harris and Johnson. As the reviewing Board member, Mr. De León was not present during the discussion or vote.

**File Number
2006-01875, Hal
Sanders**

After discussion of fast tracking changes to sub-sections 4 and 5 of regulation 18 VAC 10-20-190 and sub-sections 3 and 4 of regulation 18 VAC 10-20-210 regarding degrees awarded based on "life experience", the Section members requested that staff prepare a draft of the changes necessary for review by the APELSCIDLA Board at their meeting on June 15, 2006.

**Consideration of
Fast Track
Regulations**

Mr. Courtney noted that he, Steve Stephenson of the Land Surveyors Section, and Stanley Harris will be attending the NCEES NE Zone meeting on May 19th and 20th in Charleston, West Virginia. One of the topics to be covered at the meeting is a proposal by NCEES for an examination administration audit plan.

**Discussion of
Upcoming
NCEES NE
Zone Meeting**

Mr. Courtney informed the Section members that a member of the Professional Engineer's Section will fill the position of Vice-Chair of the APELSCIDLA Board for the term of July 1, 2006, to June 30, 2007.

**Election of
Officers**

Mr. Johnson moved to nominate Stanley Harris as Vice-Chair of the APELSCIDLA Board for the term from July 1, 2006, to June 30, 2007. Mr. Johnson further moved that in the event that Mr. Harris is not re-appointed as a Board member, Mr. De León would assume the position as Vice-Chair of the APELSCIDLA Board. Mr. De León seconded the motion which was unanimously approved by members: De León, Harris, and Johnson.

Mr. Harris moved to nominate Nico De León as Chair of the Professional Engineers Section for the term of July 1, 2006, to June 30, 2007. Mr. Harris further moved that in the event that Mr. Harris is not re-appointed as a Board member, Mr. Johnson would assume the position of Chair of the Professional Engineers Section. Mr. Johnson seconded the motion which was unanimously approved by members: De León, Harris, and Johnson.

The Section members were provided with various memorandums and notices from NCEES and the Accreditation Board for Engineering and Technology (ABET).

Information
from NCEES
and ABET

If Mr. Harris is not re-appointed to the Board in July, the Section members agreed that Mr. De León will attend the NCEES annual meeting in Anchorage, Alaska, in September 2006.

The Section members were provided with a spreadsheet prepared by staff showing the pass rates and number of candidates from Virginia schools from the October 2002 Fundamentals of Engineering examination through the October 2005 Fundamentals of Engineering examination. Conflict of Interest forms were completed by all members present.

Other Business

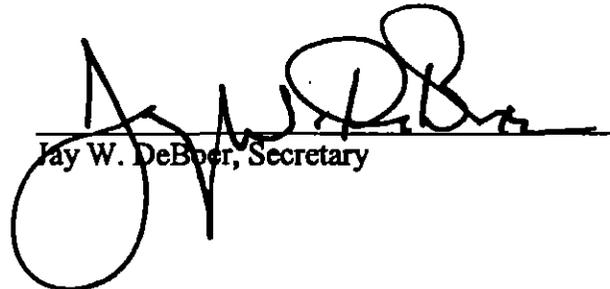
Conflict of
Interest Forms

There being no further business, the meeting was adjourned at 11:35 a.m.

Adjourn



Stanley C. Harris, Chair



Jay W. DeBoer, Secretary

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Nico De León
2. Title: Member
3. Agency: Professional Engineers Section
4. Transaction: Section Meeting on May 10, 2006
5. Nature of Personal Interest Affected by Transaction: _____

None

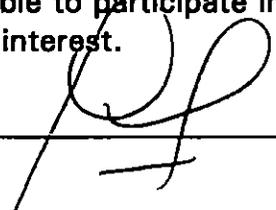
6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

Engineering

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Signature



Date

5/10/06

STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT

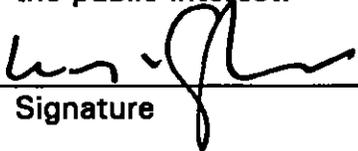
TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: Wiley V. Johnson, III
2. Title: Member
3. Agency: Professional Engineers Section
4. Transaction: Section Meeting on May 10, 2006
5. Nature of Personal Interest Affected by Transaction: Item #6 on the meeting agenda has an attorney representing a group of engineers that also represents my firm. I recused myself during this portion of the meeting.
6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

Hert & Proffitt, Inc.

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.


Signature

5.10.06
Date

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

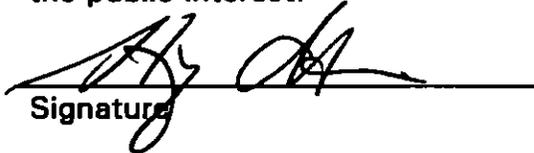
1. Name: Stanley C. Harris
2. Title: Member
3. Agency: Professional Engineers Section
4. Transaction: Section Meeting on May 10, 2006
5. Nature of Personal Interest Affected by Transaction: NONE

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

ASME, USPE

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.


Signature

5/10/06
Date