

**BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS,
LAND SURVEYORS, CERTIFIED INTERIOR DESIGNERS
AND LANDSCAPE ARCHITECTS MEETING**

MINUTES

The Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board) met on December 12, 2013, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present:

Architects

Robert A. Boynton
Clint Good
Michael F. LeMay

Professional Engineers

Wiley V. Johnson, III
Carolyn B. Langelotti

Land Surveyors

Patrick D. Leary
Nancy E. McIntyre

Interior Designers

Lorri Finn

Landscape Architects

A. Cabell Crowther
Andrew M. Scherzer

Board members John Combs, Paul Holt, Jr., and Sheila Wilson were not present for the meeting.

Board staff present for all or part of the meeting was:

Kathleen (Kate) R. Nosbisch, Executive Director
Marian Brooks, Board Administrator
Joseph (Joe) Shaver, Board Administrator
Amy Goobic, Administrative Assistant

Agency Staff present for all or part of the meeting was:

Gordon N. Dixon, Director
Mark N. Courtney, Senior Director, Regulatory & Public Affairs
Bonnie Rhea-Adams, Director, Complaint Analysis Resolution
Samantha Vrscak, Legal Analyst
Kristen Clay, Legal Analyst

Elizabeth Peay, Assistant Attorney General, was present from the office of the Attorney General.

Ms. Finn, Chair, called the meeting to order at 9:39 a.m.

Call to Order

Ms. Finn advised the Board of the emergency evacuation procedures.

**Emergency
Evacuation
Procedures**

Ms. Nosbisch expressed regrets from Mr. Holt, Mr. Combs and Ms. Wilson for their absence. Ms. Nosbisch introduced Elizabeth Peay, Assistant Attorney General. Ms. Peay was attending as board counsel, filling in for Steven Jack, as he has taken a position with another state agency.

Mr. Good moved to approve the agenda. Mr. Johnson seconded the motion which was unanimously approved by members: Boynton, Crowther, Finn, Good, Johnson, Langelotti, Leary, LeMay, McIntyre and Scherzer.

Approval of Agenda

Ms. McIntyre moved to approve the minutes for the following meetings:

Approval of Minutes

- September 24, 2013, APELSCIDLA Board Meeting;
- October 24, 2013, Architect Section Meeting; and
- November 13, 2013, Professional engineers section Meeting.

Mr. Leary seconded the motion which was approved by members: Boynton, Crowther, Finn, Good, Johnson, Langelotti, Leary, LeMay, McIntyre and Scherzer.

Mr. Good abstained from voting on the September 24, APELSCIDLA Board meeting minutes, as he was not in attendance.

Mr. Al Pollard, PE, was present to address the Board and read the following statement:

Public Comment Period

Discussion Paper

Good morning, my name is Al Pollard and I have a home in Northumberland County.

As a PE licensed by this Board, I am shocked and appalled by your unprofessional actions.

I filed a complaint on the obvious violations of a signed & sealed survey plat.

As I mentioned in my complaint, I received this plat in a letter from my neighbor's attorney.

I have been notified by the DPOR investigator that my complaint file has been closed.

Prior to her letter, I received a phone message from her which I have retained for my records.

She indicated that a member of this Board recommended closing the complaint file.

She said the surveyor "*...had made some adjustments to the plat prior to it being recorded.*"

This Board member obviously acted in an arbitrary and capricious manner.

Allowing re-do's of a final & complete survey that violates the VAC is absolutely inappropriate.

This action says that a final & complete **but unrecorded** plat need not comply with the VAC.

This action is not only incorrect - it is irresponsible, unprofessional and perhaps even illegal.

The vast majority of final and completed plats as defined in the VAC are never recorded.

To conclude that these plats need not comply with the VAC until they are recorded is absurd.

I delivered a letter to Director Dixon last week outlining the facts in this case.

Based on this case & others, I believe there are serious professional problems with this Board.

Your mission is to protect the Health, Safety, & Welfare of the public and to enforce the VAC.

It is obvious that this Board is not fulfilling its responsibility with regard to this mission.

Left uncorrected your actions will set a very dangerous professional & legal precedent.

I believe your actions will have a serious effect on the Health, Safety, & Welfare of the public.

If left uncorrected I will raise this blatant disregard for the VAC to Governor-elect McAuliffe.

I request a copy of this Discussion Paper be added to the minutes of this meeting.

This concludes my comments.

Regarding **File Number 2013-01752, Victor Montes**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Montes. Mr. Crowther moved to accept the Consent Order which cites the following violation of the Board's regulations: 18VAC10-20-730.C (Count 1). For this violation, Mr. Montes agrees to pay \$500.00 for the violation contained in Count 1, and \$150.00 in board costs. For a total monetary penalty of \$650.00. Mr. Boynton seconded the motion which was unanimously approved by members: Boynton, Crowther, Finn, Good, Johnson, Langelotti, Leary, LeMay, McIntyre and Scherzer. Former Board Member John, McAden, LS, was the presiding Board member, and was not present at the meeting.

File Number 2013-01752, Victor Montes

Regarding **File Number 2013-02622, Adam J. Cohen**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the application, transcripts and exhibits, and the Summary of the Informal Fact-Finding Conference and the presiding Board member's recommendation. Ms. Nobsch informed the Board that she received correspondence from Mr. Cohen's counsel, requesting his case be remanded back for an additional Informal Fact-Finding conference, as he did not have counsel at the initial IFF. Ms. McIntyre moved to have the case remanded to an IFF. Mr. Scherzer seconded the motion, which was approved by members: Crowther, Finn, Good, Johnson, Langelotti, Leary, McIntyre and Scherzer. Mr. LeMay was opposed. As the presiding Board member, Mr. Boynton, was not present for the discussion or vote.

File Number 2013-02622, Adam J. Cohen

Regarding **File Number 2014-00478, Warren L. Williams, Jr.**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the application, transcripts and exhibits, and the Summary of the Informal Fact-Finding Conference and the presiding Board member's recommendation. Mr. LeMay moved to accept the recommendation of the presiding Board member and deny Mr. Williams' application for licensure as an architect. Mr. Leary seconded the motion which was unanimously approved by members: Crowther, Finn, Good, Johnson, Langelotti, Leary, LeMay, McIntyre and Scherzer. As the presiding Board member, Mr. Boynton was not present during the discussion or vote.

File Number 2014-00478, Warren L. Williams, Jr.

Regarding **File Number 2013-02001, Robert P. Pease**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Pease. Mr. Boynton moved to accept the Consent Order which cites the following violations of the Board's regulations: 18VAC10-20-730.C (Count 1-3 violations); and 18VAC10-20-700.A (Count 2 – 2 violations). For these violations, Mr. Pease agrees to pay \$750.00 (3 at \$250.00 each) for the violations contained in Count 1; \$500.00 (2 at \$250.00 each) for the violations contained in Count 2; and \$150.00 in board costs. For a total monetary penalty of \$1,400.00. Ms. McIntyre seconded the motion which was unanimously approved by members: Boynton, Crowther, Finn, Good, Langelotti, Leary, LeMay, McIntyre and Scherzer. As the presiding Board member, Mr. Johnson was not present during the discussion or vote.

File Number 2013-02001, Robert P. Pease

Regarding **File Number 2013-02176, Daniel Carney**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Carney. Mr. LeMay moved to accept the Consent Order which cites the following violation of the Board's regulations: 18VAC10-20-790.A.1 (Count 1). There was no monetary penalty for the violation contained in Count 1. Mr. Boynton seconded the motion which was unanimously approved by members: Boynton, Crowther, Finn, Good, Langelotti, Leary, LeMay, McIntyre and Scherzer. As the presiding Board member, Mr. Johnson was not present during the discussion or vote.

File Number 2013-02176, Daniel Carney

Regarding **File Number 2013-02211, Stephen I. Callis**, Board members reviewed the Consent Order as seen and agreed to by Mr. Callis. Mr. Boynton moved to accept the Consent Order which cites the following violation of the Board's regulations: 18VAC10-20-790.A.1 (Count 1). For this violation, Mr. Callis agrees to pay \$150.00 for the violation contained in Count 1, and \$150.00 in board costs. For a total monetary penalty of \$300.00. Mr. Leary seconded the motion which was unanimously approved by members: Boynton, Crowther, Finn, Good, Langelotti, Leary, LeMay, McIntyre and Scherzer. As the presiding Board member, Mr. Johnson was not present during the discussion or vote.

File Number 2013-02211, Stephen I. Callis

Regarding **File Number 2013-02218, Fouad A. Emara**, Board members reviewed the Consent Order as seen and agreed to by Mr. Emara. Mr. Crowther moved to accept the Consent Order which cites the following violation of the Board's regulations: 18VAC10-20-790.A.1 (Count 1). For this violation, Mr. Emara agrees to pay \$150.00 for the violation contained in Count 1, and \$150.00 in board costs. For a total monetary penalty of \$300.00. Mr. Boynton seconded the motion which was unanimously approved by members: Boynton, Crowther, Finn, Good, Langelotti, Leary, LeMay, McIntyre and Scherzer. As the presiding Board member, Mr. Johnson was not present during the discussion or vote.

File Number 2013-02218, Fouad A. Emara

Regarding **File Number 2013-02322, Adnan Sahli**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Sahli. Mr. Boynton moved to accept the Consent Order which cites the following violation of the

File Number 2013-02322, Adnan Sahli

Board's regulations: 18VAC10-20-790.A.1 (Count 1). For this violation, Mr. Sahli agrees to pay \$150.00 for the violation contained in Count 1, and \$150.00 in board costs. For a total monetary penalty of \$300.00. Ms. Langelotti seconded the motion which was unanimously approved by members: Boynton, Crowther, Finn, Good, Langelotti, Leary, LeMay, McIntyre and Scherzer. As the presiding Board member, Mr. Johnson was not present during the discussion or vote.

Regarding **File Number 2013-02324, John H. Rickerman**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Rickerman. Mr. Boynton moved to accept the Consent Order which cites the following violation of the Board's regulations: 18VAC10-20-790.A.1 (Count 1). For this violation, Mr. Rickerman agrees to pay \$150.00 for the violation contained in Count 1, and \$150.00 in board costs. For a total monetary penalty of \$300.00. Mr. Leary seconded the motion which was unanimously approved by members: Boynton, Crowther, Finn, Good, Langelotti, Leary, LeMay, McIntyre and Scherzer. As the presiding Board member, Mr. Johnson was not present during the discussion or vote.

File Number 2013-02324, John H. Rickerman

Regarding **File Number 2013-02703, Ronald J. Keller**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Keller. Mr. Good moved to accept the Consent Order which cites the following violation of the Board's regulations: 18VAC10-20-760.B (2 violations - Count 1). For this violation, Mr. Keller agrees to pay \$300.00 for the violation contained in Count 1 (2 at \$150.00 each), and \$150.00 in board costs. For a total monetary penalty of \$450.00. Mr. Boynton seconded the motion which was unanimously approved by members: Boynton, Crowther, Finn, Good, Langelotti, Leary, LeMay, McIntyre and Scherzer. As the presiding Board member, Mr. Johnson was not present during the discussion or vote.

File Number 2013-02703, Ronald J. Keller

Regarding **File Number 2014-00551, Jeffrey Stark**, the Board members reviewed the licensing Agreement as seen and agreed to by Mr. Stark. Mr. Boynton moved to not accept the Agreement for Licensure which states that the Board shall waive the sixteen (16) hours of continuing education requirement for renewal or reinstatement as required in 18VAC10-20-683, for the October 1, 2011- September 30, 2013, time period due to undue hardship. Mr. Stark agrees to complete sixteen (16) hours of required continuing education as stated in 18 VAC 10-20-683 for the next licensing cycle. Mr. McIntyre seconded the motion. Discussion was held on concerns held by Mr. Boynton and Ms. McIntyre, regarding Mr. Stark's ability to complete continuing education requirements due to his hardship issue. Mr. Boynton suggested not waiving the requirement or extending the allotted time frame to complete. Mr. LeMay called for the question. Mr. Boynton moved to not accept the Agreement for Licensure; Crowther, Finn, Good, Langelotti, Leary, LeMay, McIntyre and Scherzer were opposed. Mr. Good moved to accept the Agreement for Licensure. Mr. LeMay seconded the motion which was approved by members: Crowther, Finn, Good, Langelotti, Leary, LeMay, McIntyre and Scherzer. Mr. Boynton was opposed.

File Number 2014-00551, Jeffrey Stark

After reviewing the application and Agreement for Registration, Mr. Boynton moved to accept the Agreement for Registration as seen and agreed to by Johnson, Spellman & Associates, Inc. Mr. Crowther seconded the motion which was approved by members: Boynton, Crowther, Finn, Good, Johnson, Langelotti, Leary, McIntyre and Scherzer. Mr. LeMay was opposed.

**Agreement for
Registration 2014-03,
Johnson, Spellman &
Associates, Inc.**

Ms. Brooks stated that board staff is working with the Compliance and Investigations staff to conclude the CE audit. All outstanding audit cases have been sent to Compliance and Investigations.

CE Audit Update

Ms. Nosbisch informed the Board that the proposed regulations have been approved by the Governor. She further informed the Board that the 60-day public comment period on Town Hall will be December 30, 2013-February 28, 2014. A public hearing has been scheduled for January 9, 2014 at 2:00 p.m. Any comments received from the public will be reviewed at the March 19, 2014, APELSCIDLA Board meeting for Board response. Ms. Nosbisch stated that there may be further revisions based on public comment, followed by another public comment period.

Regulatory Update

Mr. Dixon provided background information regarding the need for added assistance for the professional engineer application review process, due to the volume of applications. Mr. Dixon informed the Board a subcommittee will be appointed to review applications, the committee members will have a more diverse engineering background. The committee will review applications, and then make their recommendation to the PE Section.

**Application Review
Update**

Mr. Courtney stated there will be an application for those interested in becoming a member of the committee. The applicants will be vetted, appointed committee members will sign a two-year personal service contract, there will be no financial compensation.

Discussion was held regarding the number of committee members. Mr. Dixon stated that he thought the committee should have three members. Mr. Dixon also informed the application would be for "Professional Engineer – Auxiliary member." Mr. Good suggested using 'advisory' in lieu of 'auxiliary.' The PE Section agreed to this change.

Mr. Dixon stated that the professional associations may want to submit applicants. Ms. Nosbisch commented that former board members were eligible to submit applications as well.

Ms. McIntyre moved to proceed with the establishment of the application review committee. Mr. Boynton seconded the motion which was unanimously approved by members: Boynton, Crowther, Finn, Good, Johnson, Langelotti, Leary, LeMay, McIntyre and Scherzer.

Mr. Johnson thanked Mr. Dixon and staff for their work on the committee and guidelines.

Board members were provided a comprehensive report of enforcement activity since the last board meeting for informational purposes.

**Review of
Compliance &
Investigations
Activity**

Board members were provided financial statements for informational purposes. Ms. Nosbisch informed the Board the agency budget director indicated there would be no need for a fee increase until FY17 or FY18.

**Review of Board
Financial Statements**

Ms. Nosbisch provided cost savings information as requested by Mr. Scherzer at the September 2013 board meeting. Ms. Nosbisch reported that 22 meetings had been scheduled for 2013, 12 of which were canceled. She further reported it was estimated that 8 human resource hours were required for each meeting, thus saving 96 human resource hours. The Finance Department is working on a monetary value for the human resource hours saved.

Ms. Nosbisch reported that the December administration for the LARE was December 2-14, and registration for the April LARE opens December 30. She also informed the Board of a CLARB webcast December 18.

**NCEES, NCARB,
CLARB & CIDQ
Updates**

Ms. Nosbisch informed the Board she attended an NCARB Board of Directors meeting the week before, and the following items were discussed: funding for the MBE and two board members to attend the annual meeting in June was approved, board members do not have to be architect or citizen members; 29 states officially became signatories to the new mutual agreement recognition agreement with Canada, effective January 1, 2014; the Board of Directors approved the final test specs outlining the division structure for ARE 5.0 to six divisions, approved to launch in 2016. Ms. Nosbisch reminded the Board that July 2014 marks five years since the June 2009 update to the NCARB rolling clock. Any division of the ARE passed before January 1, 2006, will expire unless all divisions are passed by July 1, 2014.

Ms. Nosbisch reported that NCEES is soliciting nominations for awards to be presented at the 93rd Annual Meeting in Seattle, August 20-23. Nominations are due January 31, 2014. Ms. Nosbisch informed the Board that at the PE Section meeting in November, the Section recommended candidates for the FE and FS, be able to sit for the computer-based exam and then apply with the Board. Computer-based testing begins January 2, 2014 with the first exam results January 8, 2014. She further informed the Board that she had queried other state boards regarding early testing for PEs, and will provide a detailed report at the next PE/LS meeting.

Mr. Boynton moved to designate former Board member and architect, J. Everette (Ebo) Fauber, as a Board member emeritus. Mr. Boynton provided background information on Mr. Fauber's service to the Board and NCARB. Ms. Nosbisch informed the Board this was an honorary title. Mr. LeMay seconded the motion which was unanimously approved by members:

Other Business

Boynton, Crowther, Finn, Good, Johnson, Langelotti, Leary, LeMay, McIntyre and Scherzer.

Ms. Nosbisch thanked the Board members for completing the required COIA training and reminded them their financial disclosure statements are due by January 15, 2014.

Mr. LeMay requested clarification regarding the issue of unlicensed activity as discussed at the Architect Section meeting. Mr. Courtney stated that unlicensed activity is a criminal offense in Virginia and that when the agency receives a complaint, the Compliance and Investigations team investigates and seeks to achieve compliance and may use the cease and desist tool when appropriate. If compliance is not achieved, the matter is sent to the Commonwealth's Attorney.

Conflict of Interest forms were completed by all board members present.

**Conflict of Interest
Forms**

There being no further business, the meeting was adjourned at 10:52 a.m.

Adjourn

Lorri Finn, Chair

Gordon N. Dixon, Secretary