

**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 August 13, 2014, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present:

Architects

Robert A. Boynton
Clint Good
Christine Snetter

Professional Engineers

Wiley V. Johnson, III
Carolyn B. Langelotti
Christopher M. Stone

Land Surveyors

Charles F. Dunlap
Patrick D. Leary
Nancy E. McIntyre

Interior Designers

Lorri Finn
Sheila E. Wilson

Landscape Architects

Andrew M. Scherzer

Board member Cabell Crowther was not present for the meeting.

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

Kathleen (Kate) R. Nusbisch, Executive Director
Amy Goobic, Administrative Assistant

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

Jay W. DeBoer, Director
Nick A. Christner, Deputy Director, Regulatory Programs and Compliance
Mark N. Courtney, Senior Director, Regulatory & Public Affairs
Bonnie Rhea-Adams, Director, Complaint Analysis Resolution
Joseph Haughwout, Assistant Director, Adjudication

Jim Flaherty, Assistant Attorney General, was present from the office of the Attorney General.

Ms. Finn, Chair, called the meeting to order at 9:33 a.m.

Call to Order

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

**Emergency
Evacuation
Procedures**

Ms. Finn welcomed and introduced new PE board member, Christopher M. Stone.

**Welcome &
Introduction of New
Board Member –
Christopher M.
Stone**

Ms. Nusbisch stated that Mr. Crowther sends his regrets.

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

Approval of Agenda

Mr. Johnson moved to approve the minutes of the following meetings as amended:

Approval of Minutes

- March 19, 2014, APELSCIDLA Board Meeting;
- March 19, 2014, Land Surveyor Section Meeting;
- March 19, 2014, Landscape Architects and Certified Interior Designers Section Meeting;
- May 7, 2014, Regulatory Review Committee Meeting; and
- June 16, 2014, APELSCIDLA Board Meeting.

Mr. Scherzer seconded the motion which was unanimously approved by members: Boynton, Dunlap, Finn, Good, Johnson, Langelotti, Leary, McIntyre, Scherzer, Snetter, Stone and Wilson.

Mr. James Slusser was present to address the Board. Mr. Slusser is a licensed AOSE and has concerns with the ability of an AOSE to characterize wastewater when of an accessory use, and when the characterization must be performed by a PE. Mr. Slusser also expressed concerns with VDH and discrepancies with their definition of 'accessory use' wastewater. Mr. Slusser referred to the Board's Guidance Document "Onsite Sewage Systems Designed by Professional Engineers & Onsite Soil Evaluators," commenting that the document does not address an AOSE's ability to characterize wastewater.

**Public Comment
Period**

Mr. Bob Marshall was present to address the Board. Mr. Marshall, a licensed AOSE, also has concerns with the ability to perform wastewater characterization and with the VDH program.

Mr. Jeff Walker was present to address the Board. Mr. Walker, a licensed AOSE and Professional Soil Scientist, also expressed concerns with the ability to perform wastewater characterization under the exemption from a PE license, and with the VDH program. Mr. Walker believes that the Onsite Sewage System Professionals Workgroup consisting of members of the WWWOSSP Board, APELSCIDLA Board, VDH and industry professionals should reconvene to readdress this matter.

Ms. Nobsch introduced audience member Christopher Born, PE. Mr. Born will be serving on the PE Advisory Committee.

Mr. Johnson stated that he knew Mr. Marston and he had dealings with the law firm for which he works. Mr. Johnson affirmed that he was able to consider the case fairly and impartially.

**File Number 2013-
02622, Adam Joshua
Cohen**

Mr. Brett Marston, counsel for Mr. Cohen, was present to address the Board.

Mr. Marston provided background information on Mr. Cohen's professional career and education. Mr. Marston believes Mr. Cohen meets the comity licensing requirements

Mr. Cohen was present to address the Board. Mr. Cohen provided additional background information on his education and experience. Mr. Cohen feels the Board should be able to make interpretation for a case such as his, where his credentials do not exactly match the requirements contained in the regulations.

Mr. J. Everette Fauber III, was present to address the Board on behalf of Mr. Cohen. Mr. Fauber, a former board member, believes it is the role of the Board to make decisions such as this. Mr. Fauber stated that Mr. Cohen is clearly qualified, as he is licensed in three other states.

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. McIntyre moved to accept the recommendation of the presiding Board member and deny Mr. Cohen's application for architect licensure via comity. Mr. Leary seconded the motion.

Discussion was held regarding the requirements for licensure via comity compared to the documentation of education, experience and examination provided by Mr. Cohen. Board members expressed concerns regarding setting precedence.

The Board recessed from 10:40 a.m. to 11:00 a.m.

Upon return from the recess, the motion was approved by members: Boynton, Dunlap, Finn, Good, Langelotti, Leary, McIntyre, Snetter, Stone and Wilson. Johnson and Scherzer were opposed to the recommendation. As the presiding Board member, Mr. Boynton was not present during the discussion or vote.

Regarding **File Number 2014-03251, Raymond Pate**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Pate. Mr. Scherzer moved to accept the Consent Order which cites the following violation of the Board's regulations: 18VAC10-20-750.C (Count 1). For this violation, Mr. Pate agrees to pay \$400 for the violation contained in Count 1, and \$150 in board costs. For a total monetary penalty of \$550. Mr. Johnson seconded the motion which was unanimously approved by members: Boynton, Dunlap, Finn, Good, Johnson, Leary, McIntyre, Scherzer, Snetter, Stone and Wilson. As the presiding Board member, Ms. Langelotti was not present for the discussion or vote.

Recess

File Number 2013-02622, Adam Joshua Cohen

File Number 2014-03251, Raymond Pate

Regarding **File Number 2014-00477, Johnny D. Kincer**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Kincer. Mr. Boynton moved to accept the Consent Order which cites the following violation of the Board's regulations: 18VAC10-20-730.A (Count 1); and 18VAC10-20-730.C (Count 2). For these violations, Mr. Kincer agrees to pay \$2,500 for the violation contained in Count 1, \$2,500 for the violation contained in Count 2, and \$150 in board costs. For a total monetary penalty of \$5,150. In addition, the Board shall waive the monetary penalties for Counts 1 and 2, provided that Mr. Kincer:

File Number 2013-00477, Johnny D. Kincer

1. Shall no longer engage in the practice of Land Surveying in which boundary lines are determined, moved, or created until such time as he obtains a license to practice Land Surveying in the Commonwealth of Virginia; and
2. Submits to the Board a copy of a revised plat of the Pifer Subdivision, signed by a licensed Land Surveyor, and properly recorded in the appropriate jurisdiction's court within six (6) months of the effective date of this Order.

If Mr. Kincer fails to comply with these conditions, then the full monetary penalties will be automatically imposed. Mr. Dunlap seconded the motion which was unanimously approved by members: Boynton, Dunlap, Finn, Good, Johnson, Leary, McIntyre, Scherzer, Snetter, Stone and Wilson. Former Board member John McAden was the presiding officer.

Regarding **File Number 2013-03518, Stephen P. Maslan**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Maslan. Mr. Boynton moved to accept the Consent Order which cites the following violations of the Board's regulations: 18VAC10-20-750.B (Count 1); and 18VAC10-20-750.C (Count 2). For these violations, Mr. Maslan agrees to pay \$400 for the violation contained in Count 2, and \$150 in board costs. For a total monetary penalty of \$550. There was no monetary penalty for the violation contained in Count 1. Mr. Scherzer seconded the motion which was unanimously approved by members: Boynton, Dunlap, Finn, Good, Langelotti, Leary, McIntyre, Scherzer, Snetter, Stone and Wilson. As the presiding Board member, Mr. Johnson was not present for the discussion or vote.

File Number 2013-03518, Stephen P. Maslan

Regarding **File Number 2014-01292, Scott B. Clark**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Clark. Ms. Langelotti moved to accept the Consent Order which cites the following violation of the Board's regulations: 18VAC10-20-790.A.5 (Count 1). For this violation, Mr. Clark agrees to the voluntary surrender of his license. Mr. Leary seconded the motion which was unanimously approved by members: Boynton, Dunlap, Finn, Good, Langelotti, Leary, McIntyre, Scherzer, Snetter,

File Number 2014-01292, Scott B. Clark

Stone and Wilson. As the presiding Board member, Mr. Johnson was not present for the discussion or vote.

Regarding **File Number 2014-01626, Kelly S. Chang**, the Board members reviewed the Consent Order as seen and agreed to by Ms. Chang. Ms. Langelotti moved to accept the Consent Order which cites the following violation of the Board's regulations: 18VAC10-20-790.A.5 (Count 1). For this violation, Ms. Chang agrees to the voluntary surrender of her license. Mr. Dunlap seconded the motion which was unanimously approved by members: Boynton, Dunlap, Finn, Good, Langelotti, Leary, McIntyre, Scherzer, Snetter, Stone and Wilson. As the presiding Board member, Mr. Johnson was not present for the discussion or vote.

File Number 2014-01626, Kelly S. Chang

Regarding **File Number 2014-01545, Hebert W. Sullivan**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Sullivan. Mr. Scherzer moved to accept the Consent Order which cites the following violation of the Board's regulations: 18VAC10-20-790.A.5 (Count 1). For this violation, Mr. Sullivan agrees to the voluntary surrender of his license. Mr. Boynton seconded the motion which was unanimously approved by members: Boynton, Dunlap, Finn, Good, Langelotti, Leary, McIntyre, Scherzer, Snetter, Stone and Wilson. As the presiding Board member, Mr. Johnson was not present for the discussion or vote.

File Number 2014-01545, Herbert W. Sullivan

Regarding **File Number 2014-01547, John M. Wall, Jr.**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Wall. Mr. Boynton moved to accept the Consent Order which cites the following violation of the Board's regulations: 18VAC10-20-790.A.5 (Count 1). For this violation, Mr. Wall agrees to the voluntary surrender of his license. Mr. Leary seconded the motion which was unanimously approved by members: Boynton, Dunlap, Finn, Good, Langelotti, Leary, McIntyre, Scherzer, Snetter, Stone and Wilson. As the presiding Board member, Mr. Johnson was not present for the discussion or vote.

File Number 2014-01547, John M. Wall, Jr.

After reviewing the application and Agreement for Registration, Mr. Good moved to accept the Agreement for Registration as seen and agreed to by Pier Structural Engineering, Corp. Mr. Johnson seconded the motion which was unanimously approved by members: Boynton, Dunlap, Finn, Good, Johnson, Langelotti, Leary, McIntyre, Scherzer, Snetter, Stone and Wilson.

Business Agreement 2014-03, Pier Structural Engineering, Corp.

After reviewing the application and Agreement for Registration, Mr. Scherzer moved to accept the Agreement for Registration as seen and agreed to by Aria Architects, Inc. Mr. Boynton seconded the motion which was unanimously approved by members: Boynton, Dunlap, Finn, Good, Johnson, Langelotti, Leary, McIntyre, Scherzer, Snetter, Stone and Wilson.

Business Agreement 2014-05, Aria Architects, Inc.

After reviewing the application and Agreement for Registration, Mr. Scherzer moved to accept the Agreement for Registration as seen and agreed to by Millman Surveying, Inc. Mr. Johnson seconded the motion which was unanimously approved by members: Boynton, Dunlap, Finn, Good, Johnson, Langelotti, Leary, McIntyre, Scherzer, Snetter, Stone and Wilson.

**Business Agreement
 2014-06, Millman
 Surveying, Inc.**

After reviewing the application and Agreement for Registration, Mr. Johnson moved to accept the Agreement for Registration as seen and agreed to by Universal Ensco, Inc. Mr. Leary seconded the motion which was unanimously approved by members: Boynton, Dunlap, Finn, Good, Johnson, Langelotti, Leary, McIntyre, Scherzer, Snetter, Stone and Wilson.

**Business Agreement
 2015-01, Universal
 Ensco, Inc.**

After reviewing the application and Agreement for Registration, Mr. Johnson moved to accept the Agreement for Registration as seen and agreed to by Norton & Schmidt consulting Engineers, PLLC. Mr. Good seconded the motion which was unanimously approved by members: Boynton, Dunlap, Finn, Good, Johnson, Langelotti, Leary, McIntyre, Scherzer, Snetter, Stone and Wilson.

**Business Agreement
 2015-02, Norton &
 Schmidt Consulting
 Engineers, LLC**

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.

**Review of Board
 Financial Statements**

Ms. Nosbisch informed the Board that according to the rotation policy, the vice-chair assumes the position of chair and then a board member from the next profession is elected vice-chair. Mr. Leary is the current vice chair, and will assume the position of Board Chair; the Architects are the next profession in the rotation. Mr. Johnson moved to nominate Mr. Boynton as Vice-Chair. Mr. Leary seconded the motion which was unanimously approved by members: Boynton, Dunlap, Finn, Good, Johnson, Langelotti, Leary, McIntyre, Scherzer, Snetter, Stone and Wilson.

Election of Officers

The following meeting dates for 2015 were considered.

**Consideration of
 2015 Meeting Dates**

ARCHITECTS		PEs and LAND SURVEYORS
Tuesday, February 3		Wednesday, February 4
Tuesday, May 12		Wednesday, May 6
Tuesday, August 11		Wednesday, August 12
Wednesday, November 4		Wednesday, November 19

LAs and CERT. INTERIOR DESIGNERS		APELSCIDLA BOARD
Tuesday, March 17		Tuesday, March 17
Monday, June 15		Monday, June 15
Tuesday, September 15		Tuesday, September 15
Thursday, December 17		Thursday, December 17

Mr. Johnson moved to approve the 2015 meeting dates. Ms. McIntyre seconded the motion which was unanimously approved by members: Boynton, Dunlap, Finn, Good, Johnson, Langelotti, Leary, McIntyre, Scherzer, Snetter, Stone and Wilson.

Board members reviewed the final draft of the Department of Housing and Community Development (DHCD) 2009 Statewide Fire Prevention Code & Related Laws Package – A/E seal document. Ms. McIntyre moved to approve the draft. Mr. Leary seconded the motion which was unanimously approved by members: Boynton, Dunlap, Finn, Good, Johnson, Langelotti, Leary, McIntyre, Scherzer, Snetter, Stone and Wilson.

Review of A/E Seal Document

Ms. Nosbisch will send the finalized version to DHCD for publication in their Related Laws Package.

Board members reviewed public comment received on the proposed regulations and draft responses prepared by the Regulatory Review Committee. Mr. Johnson moved to approve the Committee’s responses to the public comments. Mr. Boynton seconded the motion which was unanimously approved by members: Boynton, Dunlap, Finn, Good, Johnson, Langelotti, Leary, McIntyre, Scherzer, Snetter, Stone and Wilson.

Regulatory Update

Ms. Nosbisch informed the Board that to meet the filing deadline, the proposed regulations needed to be adopted as final. Mr. Scherzer moved to adopt the proposed regulations as final, as amended with change stemming from public comments. Mr. Boynton seconded the motion which was unanimously approved by members: Boynton, Dunlap, Finn, Good, Johnson, Langelotti, Leary, McIntyre, Scherzer, Snetter, Stone and Wilson.

Ms. Nosbisch informed the Board that the NCEES Annual meeting will be held August 20-23, in Seattle, WA. Ms. Nosbisch, Ms. Snetter, Mr. Dunlap and Mr. Johnson will be attending as funded delegates.

NCEES, NCARB, CLARB & CIDQ Updates

Ms. Nosbisch reported that she, Ms. Snetter, Mr. Good and Mr. Boynton, attended the NCARB Annual meeting June 18-22, in Philadelphia, PA.

Ms. Nosbisch informed the Board that the CLARB Annual meeting will be held in Reston, VA, September 25-27. Mr. DeBoer has been invited to

provide the welcoming address, and Ms. Nobsch will be making a presentation.

Regarding CIDQ, Ms. Nobsch stated that there will be a webinar September 16, and the Annual meeting will be held November 14-15 in Albuquerque, NM.

The Board recessed from 11:35 a.m. until 11:53 a.m.

Recess

Board members reviewed correspondence requesting the Board's opinion on whether an architect could design a foundation for a 30,000 square foot pre-engineered structure. Mr. Johnson moved to respond stating the design of a foundation for a 30,000 square foot pre-engineered structure is the practice of engineering, and would require the seal of a PE. Mr. Boynton seconded the motion. Discussion was held on whether they could provide an opinion due to insufficient information on the situation, and that the response should include the definition of the practice of engineering, not alluding to what an architect may or may not do. Mr. Johnson moved to respond as amended. Mr. Boynton seconded the motion which was approved by members: Boynton, Dunlap, Finn, Johnson, Langelotti, Leary, McIntyre, Scherzer, Snetter, Stone and Wilson. Mr. Good abstained.

Other Business

Discussion was held on the topic of wastewater characterization and VDH referred to during the public comment period by Mr. Slusser, Mr. Marshall and Mr. Walker. Ms. Slusser elaborated on the issue stating that as an independent AOSE, performing work under the exemption in §54.1-400, their plans are often not accepted for permitting by local health departments. The localities will defer to VDH practices and require a PE seal on the wastewater characterization. However, Mr. Slusser maintains that VDH plans are approved without a PE seal. The AOSE's also content that the term 'accessory use' is not well defined, there is a difference between an 'accessory structure' and accessory use' with regards to wastewater characterization.

Mr. Courtney provided some historical information on the subject, stating in 2007 the OSE regulatory program moved from VDH to DPOR. The PE's were concerned that the OSE's were practicing engineering. The two bills put forth in the General Assembly in 2008, created the exemption and definition of residential wastewater.

Mr. Leary moved to table the discussion of wastewater characterization and discuss the issue at the Architect, PE and Land Surveyors Section meeting following the full board meeting. Mr. Scherzer seconded the motion which was approved by members: Boynton, Dunlap, Finn, Good, Johnson, Langelotti, Leary, McIntyre, Scherzer, Snetter, Stone and Wilson.

Ms. Nobsch informed the Board that she contacted CIDA, the interior design program accreditation agency, regarding use of the term "interior

architecture” at schools, including JMU, as the term “architect” and any derivative, is a protected title. CIDA Accreditation Coordinator, Cassandra TenHoopen, stated that schools were trending to this title for their interior design programs, although the University of Louisville program was reversing course. Ms. Finn expressed concern that it becomes an issue with non-accredited schools, as students may not be aware, and in the end cannot sit for either the interior design exam or the architecture exam. Ms. Finn stated that she and Ms. Wilson would help draft a letter for staff to send to Virginia schools regarding use of the term “interior architect.” Ms. Nosbisch stated that CIDA records continue to have JMU listed as an “interior design” program.

Ms. Nosbisch reported that it was brought to her attention; an applicant contacted all board members with questions about his application. Ms. Nosbisch reiterated that Board members should not reply to such requests regarding application or disciplinary cases, but forward any messages to her.

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

**Conflict of Interest
Forms**

The meeting was adjourned at 1:05 p.m.

Adjourn

Lorri Finn, Chair

Jay W. DeBoer, Secretary