

**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 June 15, 2015, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present:

Architects

Robert A. Boynton
Christine Snetter

Professional Engineers

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

Land Surveyors

Doyle B. Allen (arrived 9:45 a.m.)
Charles F. Dunlap
Michael Zmuda

Interior Designers

Cameron Stiles

Landscape Architects

Andrew M. Scherzer
A. Cabell Crowther

Board members Clint Good and Sheila Wilson were not present for the meeting.

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

Kathleen (Kate) R. Nobsch, Executive Director
Tonia B. Harrison, Board Administrator
Amy Goobic, Administrative Assistant

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

Jay W. DeBoer, Director
Mark N. Courtney, Senior Director, Regulatory & Public Affairs
Joseph Haughwout, Assistant Director, Adjudication

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

Mr. Boynton, called the meeting to order at 9:31 a.m.

Call to Order

Mr. Boynton advised the Board of the emergency evacuation procedures.

**Emergency
Evacuation
Procedures**

Ms. Nobsch welcomed and introduced new Board counsel Elizabeth Peay. Ms. Nobsch stated that Ms. Peay has worked in the Attorney General's office for nine years and prior to that, clerked for the Henrico Circuit Court judges. Ms. Peay received her law degree from the University of Richmond, and undergraduate degree from the University of Georgia. Ms. Peay grew up in Richmond.

**Welcome &
Introduction of
Board Counsel &
CIDQ Guest**

Ms. Nosbisch also welcomed and introduced Lori Barker, Governance Manager for CIDQ and NCIDQ Exam. Ms. Barker traveled from Washington, DC and is the first representative from CIDQ to visit the Virginia Board.

Mr. Dunlap moved to approve the agenda. Ms. Stiles seconded the motion which was unanimously approved by members: Boynton, Crowther, Dunlap, Johnson, Langelotti, Scherzer, Snetter, Stiles, Stone and Zmuda.

Approval of Agenda

Ms. Langelotti moved to approve the minutes of the following meetings as amended:

Approval of Minutes

- March 17, 2015, APELSCIDLA Board Meeting;
- March 17, 2015, Landscape Architects & Certified Interior Designers Section;
- May 6, Professional Engineers and Land Surveyors Section Meeting; and
- May 6, 2015, Land Surveyor Exam Review.

Mr. Dunlap seconded the motion which was unanimously approved by members: Boynton, Crowther, Dunlap, Johnson, Langelotti, Scherzer, Snetter, Stiles, Stone and Zmuda.

Mr. Harold Scrimgeour, LS, was present to address the Board. Mr. Scrimgeour stated that a large portion of his work is storm water management plans and has concerns with the Department of Environmental Quality (DEQ) storm water management regulations and the requirement for a PE to sign/seal record drawings. Mr. Scrimgeour also had questions regarding the exemptions for licensure in §54.1-402 and agricultural structures.

Public Comment Period

Regarding **File Number 2015-01425, Rodney A. Hall**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Hall. Ms. Stiles 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. Hall agrees to pay \$150 for the violation contained in Count 1, and \$150 in board costs, for a total monetary penalty of \$300. Ms. Snetter seconded the motion which was approved by members: Boynton, Crowther, Johnson, Langelotti, Scherzer, Snetter, Stiles, Stone and Zmuda. As the presiding Board member, Mr. Dunlap was not present for the discussion or vote.

File Number 2015-01425, Rodney A. Hall

Regarding **File Number 2015-01912, Daniel McNulty**, the Board members reviewed the Consent Order as seen and agreed to by Mr. McNulty. Mr. Crowther 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. McNulty agrees to pay \$100 for the violation contained in Count 1; and \$150 in board costs, for a total monetary penalty of \$250. Mr.

File Number 2015-01912, Daniel McNulty

Dunlap seconded the motion which was approved by members: Boynton, Crowther, Dunlap, Johnson, Scherzer, Snetter, Stiles, Stone and Zmuda. As the presiding Board member, Ms. Langelotti was not present for the discussion or vote.

Regarding **File Number 2015-01917, Atwell, LLC**, the Board members reviewed the Consent Order as seen and agreed to by Mr. McNulty for Atwell, LLC. Mr. Dunlap moved to accept the Consent Order which cites the following violation of the Board's regulations: 18VAC10-20-750.C (Count 1 – two counts). For this violation, Atwell, LLC agrees to pay \$100 each for the violations contained in Count 1; and \$150 in board costs, for a total monetary penalty of \$350. Mr. Johnson seconded the motion which was approved by members: Boynton, Crowther, Dunlap, Johnson, Scherzer, Snetter, Stiles, Stone and Zmuda. As the presiding Board member, Ms. Langelotti was not present for the discussion or vote.

File Number 2015-01917, Atwell, LLC

Mr. Allen arrived at 9:45 a.m.

Board Member Arrival

Regarding **File Number 2015-00826, Stephen C. Hoffman**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Hoffman. Mr. Crowther moved to accept the Consent Order which cites the following violation of the Board's regulations: 18VAC10-20-750.C (Count 1 – six counts). For this violation, Mr. Hoffman agrees to pay \$100 each for the violations contained in Count 1; and \$150 in board costs, for a total monetary penalty of \$750. Ms. Stiles seconded the motion which was approved by members: Allen, Boynton, Crowther, Dunlap, Langelotti, Scherzer, Snetter, Stiles, Stone and Zmuda. As the presiding Board member, Mr. Johnson was not present for the discussion or vote.

File Number 2015-00826, Stephen C. Hoffman

Regarding **File Number 2015-00826, Everett A. Horton**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Horton. Ms. Stiles moved to accept the Consent Order which cites the following violations of the Board's regulations: 18VAC10-20-700.C (Count 1); and 18VAC10-20-750.C (Count 2). For these violations, Mr. Horton agrees to pay \$1,500 for the violation contained in Count 1; \$150 for the violation contained in Count 2; and \$150 in board costs, for a total monetary penalty of \$1,800. Mr. Dunlap seconded the motion which was approved by members: Allen, Boynton, Crowther, Dunlap, Langelotti, Scherzer, Snetter, Stiles, Stone and Zmuda. As the presiding Board member, Mr. Johnson was not present for the discussion or vote.

File Number 2015-01381, Everett A. Horton

Regarding **File Number 2015-01389, Marshall T. Ferrell**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Ferrell. Ms. Snetter 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. Hoffman agrees to pay \$100 for the violation contained in Count 1; and \$150 in board costs, for a total monetary penalty of \$250. Mr.

File Number 2015-01389, Marshall T. Ferrell

Allen seconded the motion which was approved by members: Allen, Boynton, Crowther, Dunlap, Langelotti, Scherzer, Snetter, Stiles, Stone and Zmuda. As the presiding Board member, Mr. Johnson was not present for the discussion or vote.

Regarding **File Number 2015-01392, Brooke T. Carpenter**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Carpenter. Ms. Langelotti 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. Carpenter agrees to pay \$100 for the violation contained in Count 1; and \$150 in board costs, for a total monetary penalty of \$250. Mr. Scherzer seconded the motion which was approved by members: Allen, Boynton, Crowther, Dunlap, Langelotti, Scherzer, Snetter, Stiles, Stone and Zmuda. As the presiding Board member, Mr. Johnson was not present for the discussion or vote.

File Number 2015-01392, Brooke T. Carpenter

Regarding **File Number 2015-01427, Kevin R. Alford**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Alford. Ms. Langelotti 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. Alford agrees to pay \$100 for the violation contained in Count 1; and \$150 in board costs, for a total monetary penalty of \$250. Mr. Dunlap seconded the motion which was approved by members: Allen, Boynton, Crowther, Dunlap, Langelotti, Scherzer, Snetter, Stiles, Stone and Zmuda. As the presiding Board member, Mr. Johnson was not present for the discussion or vote.

File Number 2015-01427, Kevin R. Alford

Regarding **File Number 2015-01895, Dennis L. Batty**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Batty. Mr. Allen 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. Batty agrees to pay \$100 for the violation contained in Count 1; and \$150 in board costs, for a total monetary penalty of \$250. Mr. Crowther seconded the motion which was approved by members: Allen, Boynton, Crowther, Dunlap, Langelotti, Scherzer, Snetter, Stiles, Stone and Zmuda. As the presiding Board member, Mr. Johnson was not present for the discussion or vote.

File Number 2015-01895, Dennis L. Batty

Regarding **File Number 2015-02328, Mark E. Patterson**, 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. Scherzer moved to accept the recommendation of the presiding Board member and approve Mr. Patterson's application for licensure via comity as a professional engineer. Mr. Stone seconded the motion which was unanimously approved by members: Allen, Boynton, Crowther, Dunlap, Langelotti, Scherzer, Snetter, Stiles, Stone and Zmuda. As the presiding Board member, Mr. Johnson was not present for the discussion or vote.

File Number 2015-02328, Mark E. Patterson

Regarding **File Number 2015-02496, Michael T. Biffel, 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. Ms. Langelotti moved to accept the recommendation of the presiding Board member and deny Mr. Biffel's application to sit for the Professional Engineer's exam. If Mr. Biffel applies again, he will be given credit for three years of qualifying experience, effective June 2015. Mr. Zmuda seconded the motion which was unanimously approved by members: Allen, Boynton, Crowther, Dunlap, Langelotti, Scherzer, Snetter, Stiles, Stone and Zmuda. As the presiding Board member, Mr. Johnson was not present for the discussion or vote.

File Number 2015-02496, Michael T. Biffel, Jr.

Ms. Stiles disclosed that she has worked with the applicant in the past, however this did not have any effect on her ability to be fair and impartial.

File Number 2015-02325, Christopher M. Humes

Regarding **File Number 2015-02325, Christopher M. Humes**, 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. Stone moved to accept the recommendation of the presiding Board member and deny Mr. Humes' application for licensure as an architect. Ms. Snetter seconded the motion which was unanimously approved by members: Allen, Crowther, Dunlap, Johnson, Langelotti, Scherzer, Snetter, Stiles, Stone and Zmuda. As the presiding Board member, Mr. Boynton was not present for the discussion or vote.

After reviewing the application and Agreement for Registration, Mr. Johnson moved to accept the Agreement for Registration as seen and agreed to by Design Republic Partners Architects, LLP. Mr. Scherzer seconded the motion which was approved by members: Allen, Boynton, Crowther, Dunlap, Johnson, Langelotti, Scherzer, Snetter, Stiles, Stone and Zmuda.

Business Agreement 2015-08, Design Republic Partners Architects, LLP

After reviewing the application and Agreement for Registration, Mr. Crowther moved to accept the Agreement for Registration as seen and agreed to by Tylk Gustafson Reckers Wilson Andrews, LLC. Ms. Snetter seconded the motion which was unanimously approved by members: Allen, Boynton, Crowther, Dunlap, Johnson, Langelotti, Scherzer, Snetter, Stiles, Stone and Zmuda.

Business Agreement 2015-09, Tylk Gustafson Reckers Wilson Andrews, LLC

After reviewing the application and Agreement for Registration, Ms. Stiles moved to accept the Agreement for Registration as seen and agreed to by ABB, Inc. Mr. Zmuda seconded the motion which was unanimously approved by members: Allen, Boynton, Crowther, Dunlap, Johnson, Langelotti, Scherzer, Snetter, Stiles, Stone and Zmuda.

Business Agreement 2015-10, ABB, Inc.

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**

Board members considered the following 2016 meeting dates:

**Consideration of
2016 Meeting Dates**

APELSCIDLA Board

March 15
June 9
September 14
December 13

PE/LS Sections

February 10
May 12
August 11
November 10

LA, CID & Architects

March 15
June 9
September 14
December 13

Mr. Dunlap moved to approve the 2016 meeting dates. Mr. Crowther seconded the motion which was unanimously approved by members: Allen, Boynton, Crowther, Dunlap, Johnson, Langelotti, Scherzer, Snetter, Stiles, Stone and Zmuda. Ms. Nosbisch stated that with combining the Architects with the Landscape Architects and certified Interior Designers section meetings it is not only fiscally responsible, but also allows Sections that may have meetings canceled due to lack of business, the opportunity to meet and discuss any issues regarding their professions.

Ms. Nosbisch reminded the Board that at the March board meeting, Mr. Boynton, Vice-Chair, became Chair due to the resignation of then Chair, Patrick Leary, Mr. Crowther was elected as Vice-Chair at that meeting. Due to the transfer of Chair in March, Mr. Boynton and Mr. Crowther will remain in their respective offices until June 2016. At that time, Mr. Crowther will assume the position of Chair, and a professional engineer will be elected to serve as vice-chair, according to the established rotation policy.

Election of Officers

Ms. Peay provide an update on the appeal by Mr. Gustard regarding the denial of his license application. Ms. Peay informed the Board that a transfer of venue motion had been filed, as his appeal was originally filed with the Richmond Circuit Court, it should have been the Henrico Circuit Court.

**Update on File
Number 2014-02472,
Christopher I.
Gustard**

The Board recessed from 10:08 a.m. until 10:21 a.m.

Recess

**Draft Language for
DEQ Storm Water
Regulations**

Ms. Nosbisch provided background for the discussion on the draft language for DEQ and the storm water management regulation's requirement for a PE to sign/seal record drawings which violates the Board's regulations. Ms. Nosbisch stated that at the March 17, 2015, full board meeting, discussions with Drew Hammond and Elizabeth Andrews, DEQ, indicated that DEQ was receptive to having the Board draft a statement that could be added for clarification, as it could take years to make a change to the regulations.

Discussion was held on why the storm water regulations now require a PE to sign/seal the plans. Ms. Rebecca Golden, VSPE, addressed the Board stating that the decision to require a PE seal stemmed from a suit filed by the Environmental Protection Agency (EPA) against Virginia due to Chesapeake Bay issues. However, jurisdictions may have concerns with the additional cost of having a PE in direct control and personal supervision of storm water projects. Ms. Golden suggested researching the regulations from other states bordering the Chesapeake Bay.

Board members reviewed the draft statement and made suggested changes. After much discussion, Board members recommended obtaining information from other states bordering the Bay to determine their requirements. Board members expressed concerns with how localities would receive the information regarding the statement. Ms. Nosbisch stated that the information would need to be disseminated by DEQ. The Board agreed to establish a committee to research and discuss information gleaned from other states. Ms. Nosbisch stated that the topic will be discussed at the August 12, PE/LS Section meeting, DEQ representatives will be invited to attend. Ms. Langelotti, Mr. Stone, Mr. Scherzer and Mr. Dunlap will serve as the committee. Mr. Stone nominated Ms. Langelotti as Chair of the committee. The Board agreed by consensus. The committee will meet July 9, 2015, 1:00 p.m.

Ms. Nosbisch provided background information for the discussion on the guidance document. Ms. Nosbisch informed the Board that the article regarding the use of Virginia orthographic maps and their inclusion in a database system created by Virginia Information Technologies Agency, written by Mr. Dunlap, was approved for use at the March 17 APELSCIDLA Board meeting. After review by senior agency staff, it was suggested that the article may be better suited as a Guidance Document, in lieu of a newsletter article. The PE and LS Sections discussed at their May 6 section meeting, and agreed to have the article drafted as a Guidance Document.

**Draft Guidance
Document**

Ms. Nosbisch suggested incorporating the information into the current published guidance document regarding topographic surveys. Discussion was held on whether to combine the two documents or have them as stand-alone documents. Mr. Dunlap moved to combine the two documents. Mr. Stone seconded the motion which was unanimously approved by members: Allen, Boynton, Crowther, Dunlap, Johnson, Langelotti, Scherzer, Snetter, Stiles, Stone and Zmuda.

Ms. Nosbisch provided a brief regulatory update, informing the Board that the regulation package is at the governor's office for review. **Regulatory Update**

Ms. Nosbisch provided an update on NCEES. Ms. Nosbisch informed the Board that the last pencil and paper LS exam will be April 2016, the exam will transition to computer-based testing. Ms. Langelotti stated that there were discussions at the Southern Zone meeting regarding coordinating continuing education hours; requiring an ethics course for renewals; and making structural a separate engineering license. Ms. Nosbisch added that there are discussions regarding taking the PE exam prior to years of experience. Mr. Allen commented that he attended the NE Zone meeting, and the land surveyors were not in favor of allowing the exam before the experience is gained. Ms. Nosbisch also reminded the Board that the NCEES Annual meeting will be held in Williamsburg, August 18-22.

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

Ms. Nosbisch informed the Board that the NCARB Annual meeting was being held June 17-20, in New Orleans. Ms. Nosbisch, Ms. Langelotti, Mr. Good and Mr. Boynton are all attending. The Architect Section members will discuss the resolutions to be considered at their Section meeting immediately following the full board meeting.

Ms. Nosbisch stated that Mr. Crowther will be attending the CLARB Annual meeting in New Orleans, September 16-19.

Ms. Nosbisch reported that the CIDQ Annual meeting will be held in Atlanta, in November. Ms. Barker provided a brief update on the NCIDQ exam, stating that the computer based practicum will be put into place soon, CIDQ will be using the same system that NCARB uses. She stated that when the practicum goes online, they will be fully paperless.

Ms. Nosbisch informed the Board that World Interiors Day was May 30.

Other Business

Ms. Nosbisch informed the Board that she had received several calls and emails from land surveyors and county officials from Accomack County regarding storm water management plans in an agricultural zone. Board members reviewed Ms. Nosbisch's responses to the questions:

1. Can a land surveyor in Accomack County sign and seal storm water management plans in an agriculture zone? It is dependent on the complexity of the storm water management plan.

2. Should storm water plans, designed by a land surveyor be accepted? 3. Can a VA Land Surveyor (LS) design and seal SWM plans in VA and is there an official policy for this at this time? Not all storm water management plans are the same. Some are very complex and require an LSB and some are less complex and may fall under the scope of a Land Surveyor. Storm water management designs can vary in complexity. It depends on the complexity as

to who can perform the work. A Land Surveyor (LS) can design "grading, drainage on the surface, culverts and erosion control measures, as indicated in the definition of the practice of land surveying found in 54.1-400. A Land Surveyor B may, for subdivisions, site plans and plans of development only, prepare plats, plans and profiles for roads, storm drainage systems, sanitary sewer extensions, and water line extensions, and may perform other engineering incidental to such work, but excluding the design of pressure hydraulic, structural, mechanical, and electrical systems as stated in §54.1-408. At the point of design of pressure hydraulic, structural, mechanical and electrical systems, a PE would be required. If the storm water plans fall under the scope of work a land surveyor may perform, it should be acceptable. There is not a policy on this subject - only what is written in regulation and statute.

Ms. Nosbisch further stated that a locality has the authority to impose its own requirements and can require more than, but not less than, the Board's regulations. Therefore, if a locality requires a professional to perform work that is exempt, it may do so (see§ 54.1-410).

Mr. Crowther moved to approve Ms. Nosbisch's response. Mr. Allen seconded the motion which was unanimously approved by members: Allen, Boynton, Crowther, Dunlap, Johnson, Langelotti, Scherzer, Snetter, Stiles, Stone and Zmuda.

Discussion was also held on §54.1-402 and whether the exemptions from licensure applied only to structures. The Board agreed by consensus that the exemptions only apply to structures.

Ms. Langelotti inquired about the current members of the PE Application Review Committee that assists PE Board members with review of exam and comity applications. Ms. Nosbisch reported that Christopher Born, PE with Clark-Nexsen and former board member, Stanley Harris, PE, were on the committee.

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

**Conflict of Interest
Forms**

The meeting was adjourned at 12.35 p.m.

Adjourn

Robert A. Boynton, Chair

Jay W. DeBoer, Secretary