

**PROFESSIONAL ENGINEER, LAND SURVEYOR
& ARCHITECT
SECTION MEETING**

MINUTES

The Professional Engineer and Land Surveyor Sections of the Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board) met on November 19, 2014, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present:

Charles F. Dunlap (LS)
Wiley V. Johnson, III (PE)
Carolyn B. Langelotti (PE)
Patrick D. Leary (LS)
Andrew M. Scherzer (LA)
Christopher M. Stone (PE)
Michael W. Zmuda (LS)

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

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

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

Jay W. DeBoer, Director

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

Ms. Langelotti, Chair, called the meeting to order at 9:31 a.m.

Call to Order

Ms. Langelotti advised the Section members of the emergency evacuation procedures.

**Emergency Evacuation
Procedures**

Ms. Langelotti introduced and welcomed new Board member Mike Zmuda, LS.

**Welcome & Introduction
of New Board Member
– Mike Zmuda, LS**

Ms. Nusbisch introduced audience members, Trisha Henshaw, Executive Director and Kristen Clay, Board Administrator, both from the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals; and Rebecca Golden, Virginia Society of Professional Engineers representative.

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

**Approval of
Agenda**

Ms. Rebecca Golden, Vice President, Virginia Society of Professional Engineers (VSPE) was present to address the Sections regarding agenda items #7 and #8. Ms. Golden stated that VSPE does not agree with the exemption for accessory use wastewater characterization and does not think the guidance document should be revised. She further commented on the new requirement for PEs to sign and seal BMPs, VSPE believes this is in conflict with the Board's regulations.

Public Comment Period

Mr. Jeff Walker, OSE, PSS and President of Virginia Association of Professional Soil Scientists (VAPSS) was present to address the Sections. Mr. Walker was in attendance for the discussion of the guidance document and wastewater characterization. Mr. Walker also expressed concerns about Professional Soil Scientists need of a seal to show responsibility on design work.

Mr. Douglas Canody, PE, was present to address the Sections. Mr. Canody stated that the majority of his work is onsite sewage systems and wastewater characterization. He was in attendance for the discussion of the guidance document and wastewater characterization.

Ms. Langelotti handed the Chair position to Mr. Leary, to lead the discussion on the Land Surveyor case.

File Number 2014-02199, George L. Nyfeler, III

Regarding **File number 2014-02199, George L. Nyfeler, III**, the Section members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits and the summary and recommendation of the presiding Board member. Mr. Dunlap moved to accept the Summary of the Informal Fact-Finding Conference which cites the following violation of the Board's regulations: 18VAC10-20-370D.2.b (Count 1). Mr. Zmuda seconded the motion which was unanimously approved by members: Dunlap, Leary and Zmuda.

Ms. Nosbisch informed the section that Mr. Nyfeler had no prior violations. Mr. Dunlap moved to recommend that the Board accept the recommended sanctions as contained in the Summary of the Informal Fact-Finding Conference: \$100 for the violation contained in Count 1; and be required to take four (4) classroom hours of continuing education pertaining to boundary survey regulations and/or other equivalent course approved by the Board and provide proof of attendance and successful completion within six (6) months of the effective date of this Order. Mr. Zmuda seconded the motion which was unanimously approved by members: Dunlap, Leary and Zmuda.

Former Board member Nancy McIntyre was the presiding Board member.

Mr. Leary returned the Chair position to Ms. Langelotti.

Section members recessed from 9:58 am to 10:09 am.

Recess

Ms. Nosbisch provided background information for the discussion on the guidance document and wastewater characterization. She explained that discussions began at the August 13 APELSCIDLA Board meeting on the guidance document Onsite Sewage Systems Designed by PE's and Onsite Soil Evaluators and the issue of wastewater characterization. The issue was further addressed at the PE and LS Section meeting later the same day. Section members agreed to defer the discussion to the next section meeting, allowing time for document review and possible revisions. Section members agreed by consensus that no revisions to the guidance document were needed and will take the decision to the full Board in December.

Review of Guidance Document – Onsite Sewage Systems Designed by PE's and Onsite Soil Evaluators & Wastewater Characterization

Discussion was also held on wastewater characterization and what is deemed 'accessory use.' Mr. Johnson stated that with 'residential accessory use,' one must look at the context by which it is used.

Discussion was held on the current guidance document regarding Onsite Sewage Systems Designed by PE's and Onsite Soil Evaluators. Section members agreed that no revisions were necessary. The Section's decision will be presented to the full Board at its December 10 meeting.

Discussion was held on new stormwater management regulation 9VAC25-870-55, implemented by DEQ. The regulation requires a PE to sign and seal record drawings. The PE section members agreed this is in direct conflict with the Board's regulations. Section members reviewed excerpts from 2008 minutes, where the issue of signing record drawings was discussed with DGS. The Board determined at that time, professionals were not to sign record drawings, as they did not have direct supervision of the work being represented on the drawings. Section members discussed 'certifying' or 'qualifying' statements that have been used in the past on record drawings. Mr. Stone commented that nationally there has been a big push back on certifying statements, as insurance companies are saying they cannot insure, especially with regards to dam and levy certification.

Signing & Sealing BMPs

Section members discussed the white paper presented by Rebecca Golden, VSPE Vice President, stating VSPE's opposition to the new requirement. Section members agreed with VSPE's position. Mr. Dunlap requested VSPE use the term "professional" in lieu of "engineer," as some Land Surveyor B and Landscape Architects are permitted to design stormwater management systems.

Section members further discussed the signing requirements implemented by DEQ agreeing that they would not sign and seal the documents, as they would not have direct control and personal supervision.

Ms. Nosbisch suggested drafting a letter to be sent to DEQ, stating that the new regulation was in conflict with the Board's regulations. Further stating that it is not the purview of the Board to instruct another state agency, but may bring issues to their attention that may conflict with the Board's regulations. Section members agreed by consensus. A draft of the letter will

be presented to the full Board at its December 10 meeting for approval.

Ms. Nosbisch reported that the PE civil exam has been updated; the updates will take effect for the April exam administration. Ms. Nosbisch also reported that the NCEES online verification system, implemented in March 2013, has provided 35,000 electronic verifications and 53 jurisdictions are using the service.

NCEES Update

Ms. Nosbisch stated that since the implementation of computer based testing for the FE and FS exams, 653 have taken the FS and 25,878 have taken the FE. In Virginia 27 have taken the FS and 799 the FE. The Land Surveyor exam will be the next exam switched to CBT.

Ms. Nosbisch informed the Section members that she has not yet received information on the Zone meeting, but will keep them posted. Also, the NCEES Annual meeting will be held in Williamsburg, VA, August 19-22, 2015.

Mr. Stone stated that he may participate in an ASCE committee that will be drafting position paper on the NCEES Model Law regarding the issue of BS + 30 hours. Ms. Nosbisch stated that the Board uses Model Law as a guideline, as some of the requirements contained in the Board's regulations differ from Model Law. Ms. Nosbisch also commented that when Board members serve on committees or participate in a professional organization, they are not acting as a representative of the Board.

Section members reviewed correspondence regarding possible conflicts of interest between VDOT and a firm hired to perform compaction testing. The firm is also performing testing for Stafford and Spotsylvania counties, which VDOT is working with. Section members agreed by consensus that the issue does not involve DPOR, and appears to be a contractual issue.

Other Business

Conflict of Interest forms were completed by all members present.

**Conflict of Interest
Forms**

There being no further business, the meeting was adjourned at 11:28 a.m.

Adjourn

Carolyn B. Langelotti, Chair

Jay W. DeBoer, Secretary