

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 February 8, 2011, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present:

John L. Combs
Nico De León
Wiley V. Johnson, III

Staff present for all or part of the meeting were:

Gordon N. Dixon, Director
Mark N. Courtney, Deputy Director of Licensing and Regulation
Kathleen (Kate) R. Nosbisch, Executive Director
Marian Brooks, Board Administrator
Justin Garofalo, Board Administrator
Amy Goobic, Administrative Assistant
Earlyne Perkins, Legal Analyst

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

Mr. Johnson, Chair, called the meeting to order at 9:05 a.m.

Call to Order

Mr. Johnson reviewed the emergency evacuation procedures.

Emergency Evacuation Procedures

Mr. Johnson introduced and welcomed new board member, John L. Combs.

Welcome & Introduction of New Board Member

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

Approval of Agenda

Mr. Craig Moore, VSPE, was present to address the Section. Mr. Moore stated that he was present to answer any questions with regards to the agenda item discussing dam safety regulations and the Bander Smith company. In addition, as a private citizen, he was interested in the discussion of signing and sealing topographic surveys.

Public Comment Period

Regarding **File Number 2011-01593, David M. Hesterlee**, the Section members reviewed the Consent Order as seen and agreed to by Mr. Hesterlee. The Section concurred with the recommendation of the presiding Board member. Mr. De León moved to recommend the Board accept the Consent Order which cites the following violations of the Board's regulation: 18VAC10-20-750.C (Count 1). For this violation, Mr. Hesterlee agrees to the following monetary penalty: \$150.00 for the violation

File Number 2011-01593, David M. Hesterlee

contained in Count 1 and Board costs in the amount of \$150.00, for a total of \$300.00. Mr. Combs seconded the motion which was unanimously approved by members: Combs, De León and Johnson.

In addition, Mr. Hesterlee agrees to a one (1) year probation of his license as of the effective date of this Order. The probation is to run concurrent with the probation term outlined in the Final Order entered into by Mr. Hesterlee and the State of Alabama Board of Licensure for Profession Engineers and Land Surveyors on May 20, 2010.

Regarding **File Number 2011-01663, John Franklin Germ**, the Section members reviewed the Consent Order as seen and agreed to by Mr. Germ. The Section concurred with the recommendation of the presiding Board member. Mr. Combs moved to recommend the Board 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. Germ agrees to the following monetary penalty: there was no monetary penalties for the violations contained in Count 1 and Count 2; Board costs in the amount of \$150.00, for a total of \$150.00. Mr. De León seconded the motion which was unanimously approved by members: Combs and De León.

File Number 2011-01663, John Franklin Germ

As the presiding board member, Mr. Johnson was not present for the discussion or vote.

Regarding **File Number 2011-02462, Richard W, McCoy**, the Section members reviewed the Consent Order as seen and agreed to by Mr. McCoy. The Section concurred with the recommendation of the presiding Board member. Mr. Combs moved to recommend the Board 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. McCoy agrees to the following monetary penalties: \$150.00 for the violation contained in Count 1; \$150.00 for the violation contained in Count 2; and Board costs in the amount of \$150.00, for a total of \$450.00. Mr. De León seconded the motion which was unanimously approved by members: Combs and De León.

File Number 2011-02462, Richard W. McCoy

As the presiding board member, Mr. Johnson was not present for the discussion or vote.

Discussion was held on correspondence received from Mr. Craig Moore regarding Bander Smith, LLC, and Virginia dam safety regulations. Mr. Courtney emphasized to the Section that this was not a complaint requiring a decision and that compliance with the dam safety regulations would need to be determined by Department of Conservation and Recreation (DCR). Ms. Nusbisich stated that the purpose of consideration was solely to determine

Discussion of Dam Safety Regulations & Correspondence Received from Craig Moore, VSPE

what non-engineers are allowed to do regarding dam inspections.

The Section agreed that no action needed to be taken.

At the request of Nancy McIntyre, Land Surveyor and APELSCIDLA Board member, the Section reviewed correspondence she received regarding the preparation of topographic surveys as part of site plan development. Discussion was held on whether the surveys could be prepared by a professional other than a surveyor, as incidental work, unregulated topographic surveys and who signs and seals a survey that is part of a site plan. Mr. Courtney reported that the issue would be addressed when the new regulations became effective, as the Regulatory Review Committee made proposed changes to the language.

**Discussion of Preparing
Topographic Surveys as
Part of Site Plan
Development**

Mr. Courtney suggested a Guidance Document be drafted for clarification of 18VAC10-20-382.B.11, that when a PE or architect does do *incidental* surveying, he needs to put the "Name of Professional," Cite 54.1-402 A1, A2, & C and 18VAC10-20-730.C and bring all those cites full circle. The Section agreed to have staff draft a guidance document for approval of the full board.

Ms. Nosbisch informed the Section of the 2010 NCEES Engineering Awards and also noted that she and Mr. Johnson would be attending the NCEES Board President's Assembly in Atlanta, February 10-13.

NCEES Update

Ms. Nosbisch also reported that Dave Widmer, NCEES Northeast Zone Vice-President, requested a Virginia board representative speak at the upcoming Zone meeting regarding the request to rezone the Virginia board from the Northeast to the Southern Zone.

The Section reviewed and discussed regulations pertaining to document ownership and signing documents. Discussion included the risk management involved in the use of another professional's document. Whether ownership is violated would ultimately be left up to the judgment of the Board on a case by case basis as a regulatory issue, should a case be opened. Violating contract issues regarding payment, etc. is a separate civil courts issue.

Other Business

The Section also agreed that when multiple professionals are working together, each professional is responsible for signing and sealing their section of the design. The professional in responsible charge of the design will sign and seal the final document.

Conflict of Interest forms were completed by all members present.

**Conflict of Interest
Forms**

There being no further business, the meeting was adjourned at 10:43 a.m. **Adjourn**

Wiley V. Johnson III, Chair

Gordon N. Dixon, Secretary

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