

**PROFESSIONAL ENGINEERS & LAND SURVEYORS
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 February 6, 2013, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present:

Robert A. Boynton (Architect)
John L. Combs (PE)
Stanley C. Harris (PE, Emeritus Board Member)
Paul deC. Holt, Jr. (LS)
Wiley V. Johnson, III (PE)
Carolyn B. Langelotti (PE)
Patrick D. Leary (LS)
Nancy McIntyre (LS)

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

Kathleen (Kate) R. Nosbisch, Executive Director
Marian Brooks, Board Administrator
Justin Garofalo, Board Administrator
Amy Goobic, Administrative Assistant

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

Gordon N. Dixon, Director
Nick A. Christner, Deputy Director
Mark N. Courtney, Senior Director, Regulatory & Public Affairs
Trisha L. Henshaw, Executive Director, WWOSSP Board

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

Mr. Combs, Chair, called the meeting to order at 9:36 a.m.

Call to Order

Mr. Combs reviewed the emergency evacuation procedures.

**Emergency Evacuation
Procedures**

Ms. Nosbisch recognized National Engineers Week, February 17-23, National Surveyors Week, March 17-23, and thanked the Section members for their service to the Board.

**Recognition of National
Engineers Week and
National Surveyors
Week**

Mr. Leary moved to approve the agenda. Mr. Johnson seconded the motion which was unanimously approved by members: Combs, Holt, Johnson, Langelotti, Leary and McIntyre.

**Approval of
Agenda**

Public Comment Period

Mr. Joel Pinnix, PE, representing the Virginia Society of Professional Engineers (VSPE), was present to address the Sections regarding agenda item #7 and agenda item #8, bullet 4. Mr. Pinnix provided a handout regarding Fauquier County's requirement for soil evaluations for treatment works be performed by a Certified Professional Soil Scientist (item #7), which restricts the design authority of the PE. Mr. Pinnix stated that pursuant to §32.1-163.6 of the Code of Virginia, PE have authority to design treatment works, to include soil evaluations. Mr. Pinnix suggested the Board write a letter to Fauquier County.

Mr. Pinnix also provided a handout regarding the Virginia Department of Health's (VDH) policies concerning Onsite Soil Evaluators (OSE), asserting that the policies result in unlicensed persons practicing engineering. Mr. Pinnix cited VDH's GMPs (Guidance Memorandum & Policies) 116, 127 and 135, indicating that they allow contractors to make drainfield substitutions without approval from the designer. Mr. Pinnix further asserted that VDH is accepting incomplete designs for septic systems by issuing permits for the system without a pump designated on the plan, contractors are choosing the pump to use in the design.

Mr. Pinnix also contended that OSEs are writing onsite permits without identifying the treatment system, and using the generic term 'ATU.' Identifying the treatment system is then left either to the homeowner or real estate agent to notify the county what type of system is being used. Mr. Pinnix stated that this also constitutes the practice of engineering.

Mr. James Slusser, AOSE, was present to address the Sections regarding agenda item #8. Mr. Slusser expressed concerns he has with §54.1-410 B of the Code of Virginia, and requested interpretation. Mr. Slusser asserted that drafting a permit is the function of a regulator and design may be done by a licensed AOSE under the exemption of §54.1-402.A.11. Mr. Slusser contends that VDH is usurping the design authority of the AOSE by issuing permits for systems designed by individuals not under the exemption of §54.1-402.A.11.

Ms. Nosbisch introduced Bob Boynton, Architect and APELSCIDLA Board member, and Stanley Harris, PE and Board member emeritus. Ms. Nosbisch stated that Mr. Boynton and Mr. Harris were invited to the meeting to provide historical perspective on the topic of the PE application review process, as they were both on the Board when the issue was addressed in the early 1990's.

**Discussion on
Application Review
Process**

Mr. Combs provided background for the discussion on the PE application review process. PE Section members review approximately 1,000 applications a year, assessing applicants' experience to determine eligibility for licensure in accordance with board regulations. The current application review process occurs twice a year, in conjunction with the national

examination schedule. As the national exam moves toward computer-based testing, anticipated in 2014, the exam will be conducted more than twice a year, and the application review will occur more frequently as well. Engineering disciplines coming through the PE application process have increased significantly. Currently, the PE section members review all disciplines.

Mr. Boynton stated he was the Chair of a committee in 1993, addressing the same issue. Discussion at that time involved additional seats on the Board for PE's or splitting the Board into PE/LS, and Architects, Landscape Architects and Certified Interior Designers. Mr. Boynton remarked that the national trend is the combination of boards, that the creation of a sub-committee or advisory committee may be helpful.

Mr. Harris stated that the issue has been around for a long time, and noted that with the increase in engineering disciplines and the complexity of the regulations, it may get worse. Mr. Harris recommended taking steps to streamline, similar to the NCEES Model Law Engineer.

Discussion was held on ways to manage the application review process more efficiently. Mr. Dixon suggested the Board consider a sub-committee comprised of Professional Engineers in all disciplines. The Board has the authority to create such a committee, Mr. Dixon stated that he will discuss further with the Attorney General's office, as to the steps that would need to be taken.

Ms. McIntyre stated that the issue is not limited to the PE profession, but is an issue for Land Surveyors as well, and moved to take the discussion to the full Board at its March 20 meeting. Mr. Leary seconded the motion, which was unanimously approved by members: Combs, Holt, Johnson, Langelotti, Leary and McIntyre.

The meeting recessed from 10:25 a.m. until 10:45 a.m.

Recess

Ms. Nosbisch provided background information for the discussion on Fauquier County's requirement for soil evaluations for treatment works be signed by a Certified Professional Soil Scientist. Discussion was held on the fact that PEs and Alternative Onsite Soil Evaluators (AOSE) design septic system, but not CPSSs. Section members agreed that the soil evaluation is an engineering function, however, pursuant to §54.1-410, the Board cannot assert any authority over Fauquier County or any other locality, which leaves the ultimate decision to the localities regarding which designs to accept and from which professionals.

Discussion on Fauquier County Requirement for Soil Evaluation by CPSS

Mr. Johnson moved to have staff draft a letter to Fauquier County advising them that the PE members of the APELSCIDLA Board are in agreement, that soil evaluation is engineering work. The letter should also cite the relevant

Board regulations and sections of the Code of Virginia. Ms. McIntyre seconded the motion which was unanimously approved by members: Combs, Holt, Johnson, Langelotti, Leary and McIntyre. The letter will be reviewed at the full board meeting March 20.

Section members reviewed public comment received during the Governor's Reform Initiative, regarding unqualified PEs performing soil evaluations. The Board previously discussed the comment at its January 4 workshop, and agreed that pursuant to 18VAC10-20-730.A 'the professional shall undertake to perform assignments only when qualified by education or experience.'

Onsite Sewage System Discussion – AOSE Public Comment Received

Ms. Nosbisch informed the Sections members that Mr. Johnson was invited to participate in a professional work group for the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals. The group will address issues and concerns of the onsite sewage system professionals and discuss the relationship between the PE's, AOSE,s, VDH, DPOR, and localities. Ms. Nosbisch reported that she had also been invited to the group's first meeting.

Onsite Sewage System Discussion – Invitation from WWOOSP Board to Mr. Johnson

Mr. Dwayne Roadcap, VDH, Environmental Health Coordinator, and Pieter Sheehan, Director of Environmental Health, Fairfax County Health Department, were present to address the Section members regarding submission of plans for onsite sewage systems.

Onsite Sewage System Discussion – Fairfax County Open Forum Regarding PE/LSB Submitting Plans for Onsite Sewage Systems

Mr. Roadcap provided a handout explaining how Fairfax County differs from other localities, as they are an urban county with an executive form of government. Pursuant to Chapter 678 of the 1994 Virginia Acts of Assembly, Fairfax County can provide local health services and are exempt from certain requirements. As such, Fairfax County accepts onsite sewage system designs only from PEs and OSEs.

Mr. Sheehan provided a handout outlining the Fairfax County Health Department's plan review submission requirements for onsite sewage systems and explained that Fairfax County is in discussion with VDH to determine whether the process needs to be revised.

Mr. Courtney remarked that pursuant to §54.1-402.A.11 of the Code of Virginia, conventional or alternative onsite sewage systems must be designed by a PE, an AOSE can design both as long as they meet the exemption. An LS does not have the authority to design either onsite sewage systems. The Sections agreed to this by consensus.

Ms. Nosbisch informed the Section members that the discussion on the design authority of AOSEs and VDH was requested by VSPE. Mr. Roadcap provided background information on VDH and their oversight of onsite sewage systems.

**Onsite Sewage System
Discussion –
AOSE/VDH Design
Authority**

Mr. Roadcap explained that VDH performs direct services but also directly supervises the services provided by non-VDH AOSE's. Discussion was held on the speculation that VDH had different expectations for private sector AOSE's and that VDH is accepting onsite sewage system designs by unlicensed individuals. Mr. Roadcap explained that VDH has 325 employees in 119 different counties approving permits and they are working to ensure that all employees of those counties are only accepting designs from licensed professionals. The expectation by VDH is that persons designing onsite sewage systems, has the required PE or AOSE license.

Mr. Roadcap explained VDH's onsite sewage systems design permit approval process: Typically the PE or AOSE submits an onsite sewage system design to VDH without the pump; VDH approves the onsite sewage system design without the pump; VDH allows the contractor to choose the pump from a list of VDH-approved pumps – as they do not want to endorse any one pump over the other; the contractor chooses a pump; the contractor then either installs the pump and VDH inspects the onsite sewage system installation and performs tests, etc. to verify the pump is sufficient for the installed system or; the contractor selects a pump on paper and asks VDH for its approval of the onsite sewage system design, with the pump, prior to installing.

Mr. Courtney stated that onsite sewage system design issues have been debated for at least 20 years. Mr. Courtney emphasized that the workgroup Mr. Johnson and Ms. Nosbisch will participate in is advisory only. The group will discuss these issues and make recommendations only to VDH, as VDH is required to comply with its own laws in its oversight of onsite sewage system design approval programs.

Ms. Nosbisch stated that the Professional Work Group is meeting March 7, and asked Mr. Johnson to provide a report to the full board at its meeting March 20.

The meeting recessed from 12:05 p.m. until 12:20 p.m.

Recess

Section members were provided draft copies the Candidate Information Bulletin, formerly a joint document, now separated into individual documents for engineers and land surveyors.

**Discussion on
Candidate Information
Bulletin**

Ms. Nosbisch suggested that Section members independently review the draft bulletins and provide feedback to staff by the end of February. The Section members agreed by consensus. The draft bulletins, with suggested changes, will be reviewed by the full board at its meeting March 20, 2013.

Discussion was held on the possibility of transitioning to computer-based testing for the Land Surveyor state specific exam. Ms. McIntyre requested that staff research what processes are in place for other states who administer an additional state-specific test along with the NCEES PS exam. Staff will present its findings to the Board at its March meeting.

**Discussion on
Computer-Based
Testing for Virginia
Specific Surveyor Exam**

Ms. Nosbisch provided statistics for the FE, FS, PE, PLS and the LS state specific October exams.

Exam Statistics

Ms. Nosbisch reported that Mr. Johnson would be attending the Board President's Assembly in Atlanta, February 8-10.

NCEES Update

Ms. Nosbisch provided updates on the NCEES Southern Zone. The Zone is soliciting nominations for individuals who should be recognized for exemplary service to the Southern Zone; the NC Board announced the candidacy of Teresa Helmlinger Ratliffe, PE, PhD, for VP-Elect of the Southern Zone and of Gary Thompson, PLS, for NCEES Treasurer; and the Oklahoma Board nominated Glen W. Smith, PE, LS, for the Southern Zone Assistant VP.

Ms. Nosbisch offered updates on the computer-based testing transition: The FE and FS exams will be six hours in length, which will include a tutorial, breaks, the exam, and a brief survey at the conclusion of the exam; FE and FS exams will continue to be closed book, supplied reference material for the exams will be electronic and will be available on the NCEES website; the October 2013 exam administration will be the last administration of the FE and FS exams in pencil- and-paper format; Effective January 1, 2014, the FE and FS exams will only be offered via CBT; the PE and PS exams will continue to be offered twice each year (April and October) in pencil-and-paper format; Computer-based FE and FS exams will be administered only at approved Pearson VUE testing centers; registration for all exams will open November 4, 2013; the first available seating at a Pearson VUE testing center for the FE and FS exams will be January 2, 2014; registration for the PE and PS exams in pencil-and-paper format will be for the April 2014 administration. There will be four testing windows for the FE and FS exams annually. Each of these windows will last two months, with a month between them. Exam appointments will be available in January and February, with no exams offered in March; exam appointments available in April and May, with no exams offered in June, etc.; candidates for a CBT exam may take the exam only one time per testing window and no more than three times in a 12-month period; effective with the opening of registration on November 4, 2013, candidates registering to take the FE or FS exam will be required to pay NCEES directly for all exam-related fees.

Ms. Nosbisch reported that the Board newsletter "Dimensions" will be available online by the end of the week.

Other Business

Discussion was held on communication between board members regarding board business. Mr. Courtney stated that two or more members constitutes a meeting and would be considered a public meeting under FOIA. Mr. Dixon remarked that he would research the issue for greater clarity.

Mr. Holt congratulated Ms. McIntyre on her recent promotion.

Discussion was held regarding inviting a representative from the Department of Conservation & Recreation (DCR) to attend the next joint meeting of the PE and LS Sections to discuss their new regulations on storm water management. Ms. McIntyre stated that the new regulations would affect the Landscape Architects as well. Ms. Nosbisch suggested discussing the invitation to DCR at the full board meeting, March 20. The Sections agreed by consensus.

Conflict of Interest forms were completed by all members present.

**Conflict of Interest
Forms**

There being no further business, the meeting was adjourned at 12:45 p.m.

Adjourn

John L. Combs, Chair

Gordon N. Dixon, Secretary