

**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 December 13, 2012, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present:

Architects

Robert A. Boynton
Clint Good
Michael F. LeMay

Professional Engineers

Wiley V. Johnson, III
Carolyn B. Langelotti

Land Surveyors

Patrick D. Leary
Nancy E. McIntyre

Interior Designers

Lorri Finn
Sheila E. Wilson

Landscape Architects

A. Cabell Crowther
Andrew M. Scherzer

Board members John L. Combs and Paul deC. Holt, Jr. were not present for the meeting.

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 of part of the meeting were:

Gordon N. Dixon, Director
Bonnie Rhea-Adams, Director, Compliance and Resolution
Kristin Clay, Legal Analyst

There was no representative from the office of the Attorney General present.

Mr. Johnson, Chair, called the meeting to order at 9:41 a.m.

Call to Order

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

**Emergency
Evacuation
Procedures**

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

Approval of Agenda

Mr. LeMay moved to approve the minutes as amended for the following

Approval of Minutes

meetings:

- September 25, 2012, APELSCIDLA Board Meeting;
- September 25, 2012, Informal Fact-Finding Conference;
- September 26, 2012, Informal Fact-Finding Conference;
- October 18, 2012, Informal Fact-Finding Conference;
- November 14, 2012, Professional Engineers Section Meeting;
and
- November 15, 2012, Land Surveyors Section Meeting.

Ms. Finn seconded the motion which was unanimously approved by members: Boynton, Crowther, Finn, Good, Johnson, Langelotti, Leary, LeMay, McIntyre, Scherzer and Wilson.

Mr. Dominic Venuto, Commonwealth Architects, was present to address the Board. Mr. Venuto expressed the importance of the Board's continued regulation of certified interior designers as it is important for his business to maintain its competitiveness. Also, if the certification program were to be eliminated, it would adversely affect his business, as well as other businesses because of Title 13.1 of the Code which requires that two thirds of a PC's officers be licensed (or certified) professionals. If interior designers were no longer certified, the PC would not meet this requirement. Mr. Venuto stated that he would need to sell his shares or take on new licensed professionals for the business' officers, just to meet this requirement. Mr. Venuto state this could be very expensive and detrimental to businesses simply to meet the Code requirement.

Public Comment
Period

Chris Good, KSA Interiors, was present to address the Board. Mr. Good concurred with Mr. Venuto's comments and expressed his support that the Board continues to regulate interior designers.

Barbara Goodwin was present to address the Board. Ms. Goodwin expressed her support of the Board's continued regulation of certified interior designers. Ms. Nosbisch informed the Board that Ms. Goodwin was the first certified interior designers in Virginia.

Bob Marshall, a licensed OSE and a licensed OSS operator, was present to address the Board. Mr. Marshall discussed Chapter 4 of Title 54.1 of the *Code of Virginia*, the Board's regulation 18VAC10-20-760. Mr. Marshall stated that, as a licensed OSE, his profession does not have a sealing requirement in its regulations. He asked the Board to consider working with the WWWOSSP Board to design a seal requirement for its OSE regulations.

James Slusser, licensed AOSE, was present to address Board. Mr. Slusser explained how he has questioned VDH regarding work products and the exemptions to PE licensure in §54.1-402 of the Code. Mr. Slusser stated that he met with a committee of the Board of Health, discussing the issue of work

products and inconsistencies in VDH's administration of its statutes and regulations regarding who is allowed to design sewage systems under the exemption of §54.1-402.A.11 of the Code and how that is administered by VDH. Mr. Slusser received correspondence from VDH Commissioner Remley regarding his June 2012 complaint. The letter assured him that processes are in place to consistently and effectively administer §54.1-402.A.11 of the Code.

Mr. Slusser is concerned that VDH is allowing incomplete work products to be submitted for permit approval and there is no assurance as to what the final product is. This is unacceptable in his opinion, and the result of this incomplete work product is the result of a failure to apply a seal.

Frank Potts was present to address the Board. Mr. Potts addressed the issue of LSB's and their authority under statute to design waterline extensions pursuant to §54.1-408. Mr. Potts stated that Stafford County does not allow an LSB to design waterline extensions and requires a PE seal on those plans. He further asked the Board to consider communicating the design authority of LSB's under §54.1-408 to VDH and DEQ.

Mr. Smith and Mr. Michael Germano, counsel for Mr. Smith, were present to address the Board. Mr. Germano stated that Mr. Smith would like to request a third Informal Fact-Finding conference, and that Mr. Smith feels the sanctions recommended in the IFF Summary were disproportionate. Mr. Smith reviewed background information regarding his case.

File Number 2011-00683, Russell Ross Smith

Mr. Germano provided a letter to the Board with Mr. Smith's request. The letter initially provided to the Board contained an incomplete sentence, Mr. Germano provided a copy of the letter from his file which contained the complete sentence.

The Board recessed from 10:32 a.m. to 10:45 a.m. to review the letter from Mr. Germano on behalf of Mr. Smith.

Recess

Regarding **File Number 2011-00683, Russell Ross Smith**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits, and the Summary of the Informal Fact-Finding Conference as well as the presiding Board member's recommendation. Mr. Johnson, Chair, inquired what the Board's options were. Ms. Nobsch advised the Board, at its discretion, if it determined there were violations, could send the case back for a third IFF, approve the presiding Board member's recommendation, or come up with alternative sanctions. Mr. Boynton moved to accept the Summary of the Informal Fact-Finding Conference as to the facts, which cites the following violations of the Board's regulations: 18VAC10-20-740.D (Count 1); 18VAC10-20-730.C (Count 2); 18VAC10-20-740.C (Count 3); 18VAC10-20-700.A (Count 4); and 18VAC10-20-760.B.3 (Count 5). Mr. LeMay seconded the motion which was unanimously approved by members:

File Number 2011-00683, Russell Ross Smith

Boynton, Crowther, Finn, Good, Johnson, Langelotti, Leary, LeMay, Scherzer and Wilson. As the presiding Board member, Ms. McIntyre, was not present during the discussion or vote.

After Ms. Clay indicated that there have been no prior disciplinary actions against Mr. Smith, Mr. Boynton moved to accept the Summary of the Informal Fact-Finding Conference as to the sanctions recommended by the presiding Board member for a total monetary penalty of \$8,500.00 and revocation of license. Mr. Leary seconded the motion which was approved by members: Boynton, Crowther, Finn, Good, Johnson, Langelotti, Leary, Scherzer and Wilson. Mr. LeMay was opposed to the sanctions as presented. Ms. Finn proposed reviewing the sanctions individually.

Ms. Langelotti moved to accept the recommended sanction and impose a monetary penalty of \$500.00 for the violation contained in Count 1. Mr. Leary seconded the motion which was unanimously approved by members: Boynton, Crowther, Finn, Good, Johnson, Langelotti, Leary, LeMay, Scherzer and Wilson. Mr. Boynton moved to accept the sanction recommended and impose a monetary penalty of \$2,500.00 for the violation contained in Count 2. Ms. Langelotti seconded the motion which was approved by members: Boynton, Finn, Johnson, Langelotti, Leary, Scherzer and Wilson. Members LeMay, Crowther and Good were opposed. Mr. Good moved to reduce the recommended monetary penalty of \$2,500.00 to \$500.00 for the violation contained in Count 3. Mr. LeMay seconded the motion which was unanimously approved by members: Boynton, Crowther, Finn, Good, Johnson, Langelotti, Leary, LeMay, Scherzer and Wilson. Mr. Good moved to reduce the recommended monetary penalty of \$2,500.00 to \$500.00 for the violation contained in Count 4. Mr. LeMay seconded the motion which was unanimously approved by members: Boynton, Crowther, Finn, Good, Johnson, Langelotti, Leary, LeMay, Scherzer and Wilson. Mr. Boynton moved to accept the recommended sanction and impose a monetary penalty of \$500.00 for the violation contained in Count 5. Mr. Leary seconded the motion which was unanimously approved by members: Boynton, Crowther, Finn, Good, Johnson, Langelotti, Leary, LeMay, Scherzer and Wilson. For a total monetary penalty of \$4,500.00. As the presiding Board member, Ms. McIntyre, was not present during the discussion or vote.

Mr. Leary moved to accept the Summary of the Informal Fact-Finding Conference and impose revocation of license for the violations contained in Count 1-5. Ms. Langelotti seconded the motion. Mr. Scherzer proposed amending the motion and in lieu of revocation, require two years of probation and continuing education in ethics. Mr. Good recommended 10 hours of continuing education, the ten hours would be in addition to the required 16 hours of continuing education to be completed within the probation period. The amended motion was approved by members: Boynton, Crowther, Finn, Good, Johnson, Langelotti, Leary, Scherzer and Wilson. Mr. LeMay was opposed. As the presiding Board member, Ms. McIntyre, was not present

during the discussion or vote.

Regarding **File Number 2013-00851, In-Kyu Lim**, 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. Leary moved to accept the recommendation of the presiding Board member and deny Dr. Lim's application for licensure as a professional engineer via comity. Mr. Boynton seconded the motion which was unanimously approved by members: Boynton, Crowther, Finn, Good, Langelotti, Leary, LeMay, McIntyre, Scherzer and Wilson. As the presiding Board member, Mr. Johnson, was not present during the discussion or vote.

File Number 2013-00851, In-Kyu Lim

Mr. Okpala was present to address the Board.

Regarding **File Number 2012-02508, Sylvester Okpala**, 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. Crowther moved to accept the recommendation of the presiding Board member and approve Mr. Okpala's application for licensure as a professional engineer via comity. Mr. Leary seconded the motion which was unanimously approved by members: Boynton, Crowther, Finn, Good, Langelotti, Leary, LeMay, McIntyre, Scherzer and Wilson. As the presiding Board member, Mr. Johnson, was not present during the discussion or vote.

File Number 2012-02508, Sylvester Okpala

Ms. Hemp was present to address the Board.

Regarding **File Number 2013-00852, Caroline Z. Hemp**, 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. LeMay moved to reject the presiding Board member's recommendation and approve Ms. Hemp's application for the PE examination. Discussion was held on the length of Ms. Hempt's work experience. Mr. LeMay withdrew his motion. Mr. LeMay moved to accept the recommendation of the presiding Board member and deny Ms. Hemp's application to sit for the April 2013 professional engineer examination. Mr. Leary seconded the motion which was unanimously approved by members: Boynton, Crowther, Finn, Good, Langelotti, Leary, LeMay, McIntyre, Scherzer and Wilson. As the presiding Board member, Mr. Johnson, was not present during the discussion or vote.

File Number 2013-00852, Caroline Z. Hemp

After reviewing the application and Agreement for Registration, Mr. Scherzer moved to accept the Agreement for Registration as seen and agreed to by RPA Engineering, PA, PC. Mr. LeMay seconded the motion which was unanimously approved by members: Boynton, Crowther, Finn, Good, Johnson, Langelotti, Leary, LeMay, McIntyre, Scherzer and Wilson.

Agreement for Registration 2013-03, RPA Engineering, PA, PC

After reviewing the application and Agreement for Registration, Mr. Crowther moved to accept the Agreement for Registration as seen and agreed to by Civil & Environmental Consultants, Inc. Ms. Langelotti seconded the motion which was unanimously approved by members: Boynton, Crowther, Finn, Good, Johnson, Langelotti, Leary, LeMay, McIntyre, Scherzer and Wilson.

Agreement for Registration 2013-04, Civil & Environmental Consultants, Inc.

Mr. Johnson provided background information PE plans on survey plats as discussed at the PE and LS Section meetings. Board members reviewed correspondence from Mr. Chuck Dunlap, LSB, and the Virginia Department of Health (VDH) regarding the need for a PE seal and signature on surveys that include a septic field, and also reviewed the minutes from the PE and LS Section meetings. The PE and LS Sections agreed by consensus that according to the Board's regulations, a PE seal is required for septic design. If a surveyor submits a plat with a septic field, the PE sealed design plans should be included, or a reference to the design must be made by the surveyor to the sealed design plans.

Discussion of PE Plans on Survey Plats

Board members were provided a letter from the Virginia Association of Surveyors (VAS) supporting the clarification request from Mr. Frank Potts, LSB, regarding the authority of an LSB to design a water line extension. Board members also reviewed a draft response to localities explaining that according to §54.1-408 of the Code of Virginia, an LSB is permitted to design water line extensions.

Request for Clarification of Term "Pressure Hydraulic" in Relation to §54.1-408

The Board recessed from 11:50 a.m. to 12:10 p.m. to review the letter from VAS and the draft response.

Recess

The Board agreed by consensus to approve the draft response. Ms. Nobsich stated that Mr. Potts also recommended sending the letter to the Virginia Department of Health, Department of Conservation & Recreation and the Department of Environmental Quality. Board members agreed by consensus and also recommended sending to the Virginia Association of Counties, Virginia Municipal League and the Virginia Association of Surveyors.

Request for Clarification of Term "Pressure Hydraulic" in Relation to §54.1-408

Ms. Nobsich informed the Board of the November 15, 2012, Land Surveyor section discussion on exam writing qualifying for continuing education credit. The Board agreed by consensus to allow continuing education credit for exam writing, as long as it meets the criteria of 18VAC10-20-683.

Discussion on Exam Writing Qualifying for CE Credit

Mr. Johnson provided an update on the Continuing Education Audit conducted in March. 386 audit letters were mailed in March: 325 have been processed, 41 are in process and 20 did not respond. Mr. Johnson commended Ms. Brooks on the work she has done on the audit. Mr. Dixon reported that the recent reorganization in the agency included a new education section, which will ensure the education requirements are more streamlined among the Boards.

Continuing Education Audit Report

Ms. Nosbisch provided an update on the proposed regulations which are currently at the Governor's office for review and approval. After approval the regulations will go to the Register, followed by a 60 day comment period. Following the 60 day comment period, the regulations will have a final executive branch review and approval. The final regulations will be published in the Register followed by a 30-day comment period. Board members reviewed a summary of public comments and draft board responses regarding the Governor's Regulatory Reform Initiative. The purpose of the initiative was to allow public comment on regulations deemed to be unnecessary or burdensome. The Board agreed by consensus to further review the comments and draft responses independently, and discuss at the board workshop scheduled for January 4-5 2013.

Regulatory Update

Ms. Nosbisch reported that former Board member Stanley Harris, PE, was in the Richmond Times Dispatch business section announcing his receipt of the NCEES Distinguished Service Award with Special Commendation. She further reported that NCEES computer-based testing was on track, set to begin January 2014 for the FE and FS exams.

NCEES, NCARB, CLARB & NCIDQ Updates

Ms. Nosbisch informed the Board that NCARB will undergo a conversion for content and candidate management for the ARE to another vendor. There will be a blackout period for up to ten weeks for both member boards and candidates beginning July 1, 2013. NCARB will add ten weeks to the five year ARE rolling clock. Ms. Nosbisch has been in contact with the agency IT department regarding any effect this would have on the three year exam eligibility dates.

Mr. Boynton informed the Board that Ms. Nosbisch was elected to the NCARB Board of Directors as the Member Board Executive representative.

Ms. Scherzer reported that CLARB is also moving to computer-based testing.

Ms. Finn stated that three section of the NCIDQ exam would be computer based, the practicum will remain pen and paper. She also reported that Jeff Kinney, NCIDQ Executive Director, would be leaving his position in February 2013.

Board members were provided a comprehensive report of enforcement activity since the last board meeting.

Compliance & Investigations Activity

Board members were provided financial statements for informational purposes. Ms. Nosbisch reported that Jeff Waite, Budget Director, reviewed the APELSCIDLA financials and stated that there would be no fee increase

Review of Board Financial Statements

until possibly the 2017-2018 biennium.

Board members reviewed a draft letter to be sent to localities regarding arc flash analysis being the practice of engineering. The Board agreed by consensus to send the letter as amended. Board members also recommended the letter be sent to the Virginia Association of Counties and the Virginia Municipal League, in addition to the localities issuing RFP's for the procurement of an arc flash analysis.

Other Business

Mr. Johnson informed the Board that the PE Section is considering options for the application review process, as they review between 1,500 and 1,600 applications a year. The PE Section will discuss further at their joint meeting with the LS Section on February 6. Ms. Nobsisch stated that Mr. Boynton will be invited to the PE Section meeting, as he previously served on a task force on this issue, and could provide historical background. Former Board member Stanley Harris, PE, will also be invited to the meeting.

Ms. Nobsisch reminded Board members to electronically submit their Financial Disclosure Statements to the Secretary of the Commonwealth office.

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

**Conflict of Interest
Forms**

There being no further business, the meeting was adjourned at 1:00 p.m.

Adjourn

Wiley V. Johnson III, Chair

Gordon N. Dixon, Secretary