

**Minutes of a Meeting of the  
Tennessee Board of Architectural and Engineering Examiners  
Andrew Johnson Tower, 3<sup>rd</sup> Floor Conference Room  
Nashville, Tennessee**

February 18, 2010

**Board Members Present**

Hal Balthrop, Professional Engineer  
Bob Campbell, Professional Engineer  
James Hastings, Registered Architect  
Philip Lim, Professional Engineer  
Bill Lockwood, Registered Landscape Architect  
David Schuermann, Registered Architect  
Leslie Shankman-Cohn, Registered Interior Designer  
Richard Thompson, Registered Architect  
Brenda Wood, Public Member

**Associate Board Members Present**

Dennis Henderson, Professional Engineer  
Alton Hethcoat, Professional Engineer  
Carlton Norris, Professional Engineer

**Staff Present**

Robert Herndon, Legal Counsel  
John Cothron, Executive Director  
Wanda Phillips, Administrative Manager  
Wanda Garner, Administrative Assistant

**Guests**

The following were present for all or part of the meeting:

Laura Betty, litigator for the Department of Commerce and Insurance  
Don Baltimore, Tennessee Interior Design Coalition (TIDC)  
Candy Toler, Tennessee Society of Professional Engineers/American Council of  
Engineering Companies of Tennessee (TSPE/ACEC-TN)  
Nathan Ridley, Tennessee Chapter American Society of Landscape Architects  
(ASLA -TN)  
Connie Wallace, American Institute of Architects of Tennessee (AIA-TN)

**CALL TO ORDER**

Robert Campbell, chair, called the meeting to order at 9:05 a.m. A quorum of Board members was present, and the meeting, having been duly convened, was ready to proceed with business.

Mr. Lockwood, seconded by Ms. Shankman-Cohn, moved to approve the agenda with no changes. The motion passed unanimously.

## CONSENT AGENDA

1. *Approval of Minutes* (attached)

Mr. Lockwood, seconded by Ms. Shankman-Cohn, moved to accept the minutes of the December 10, 2009, meeting as written. The motion passed unanimously.

2. *Approval of the Staff Complaint Report* (attached)

Mr. Schuermann, seconded by Mr. Hastings, moved to accept the Complaints for Board Decision as presented. The motion passed unanimously.

## PROFESSIONAL SOCIETY REPORTS

1. *Don Baltimore*, (TIDC), reported the following:

- a. TIDC has completely rewritten a bill which seeks to license and regulate the practice of interior design. Though introduced in the legislature, TIDC is not trying to pass the bill this year.
- b. TIDC supports continuation of the Board of Architectural and Engineering Examiners (SB2428/HB2593), but opposes the Senate amendment which would remove the provision requiring the Governor to appoint Board members from a list of nominees submitted by “the representative professional society.”

2. *Nathan Ridley*, ASLA-TN, stated that ASLA-TN also opposes the amendment to SB2428, which would remove the provision requiring the Governor to appoint Board members from a list of nominees submitted by “the representative professional society.”

3. *Candy Toler*, TSPE/ACEC-TN, announced that March 2, 2010, is Engineers Day on the Hill. Also, Board members have been invited to a Legislative Reception and an Engineering Excellence Awards Banquet.

Ms. Toler distributed handouts which communicated TSPE/ACEC-TN’s position on Board-related pending legislation:

TSPE/ACEC-TN opposes bills or amendments to bills which would

- a. remove the provision requiring the Governor to appoint Board members from a list of nominees submitted by “the representative professional society;”
- b. allow applicants with engineering technology degrees to sit for the Principles and Practice of Engineering exam;
- c. allow the title “Engineer” to be used in the name of a company when no Professional Engineer is on staff;
- d. restrict the ability of state agencies to contract with the private sector for services;
- e. allow local preference for goods and services, and
- f. they oppose adding Rule 26 to the Tennessee Rules of Civil Procedure, which would allow plaintiffs to discover insurance liability limits.

TSPE/ACEC-TN supports bills or amendments to bills which would

- a. continue the Board of Architectural and Engineering Examiners;

- b. adopt the 2006 International Building Code statewide;
- c. protect engineers and architects from having to get additional licenses to continue to practice engineering and architecture, and
- d. permit architects, engineers, or contractors to provide construction management or advisor services for schools.

## DIRECTOR'S REPORT

1. Mr. Cothron submitted the following report:
  - Bill Lockwood has been approved to attend the Council of Landscape Architectural Registration Boards (CLARB) Spring Meeting in Dallas, Texas on February 26-27, 2010.
  - Rick Thompson has been approved to attend the National Council of Architectural Registration Boards (NCARB) Regional Meeting in Jackson Hole, Wyoming on March 18-20, 2010.
  - The following grant contracts have been approved: University of Memphis, University of Tennessee at Chattanooga, Tennessee Technological University, Tennessee State University, and Middle Tennessee State University. Contracts with the University of Tennessee at Martin and the University of Tennessee at Knoxville are still in process.
  - The suspension of Jeffrey Blackledge's architectural registration for failure to pay child support has been lifted.
  - Deans Warder and Ranta have been contacted about our October meeting at the University of Memphis, and they are making plans to accommodate us.
  - Bob Campbell and John Perdue (a former Associate Engineer member) addressed a group of engineers at Eastman Chemical regarding engineering licensure on January 26, 2010.
  - Hal Balthrop, Alton Hethcoat, and I attended an open forum of the Tennessee Structural Engineers Association on February 10, 2010, at which a proposal for separate licensure of structural engineers was discussed.
  - I have been asked to speak at the Tennessee Building Officials Association annual meeting on April 27, 2010, regarding changes to the *Reference Manual for Building Officials and Design Professionals* and other relevant issues.
3. *Licensing Data* (attached) was submitted for informational purposes only.
4. *Complaint Data* (attached) was submitted for informational purposes only.
5. *Financial Data* (attached)

Mr. Lim and Mr. Balthrop reviewed a preliminary financial report on the revenue and expenses for the second quarter of Fiscal Year 2010.

Connie Wallace, AIA-TN, arrived and, at the request of the Chair, Ms. Wallace reported that

- constitutional officers are revising the architectural and engineering selection criteria for state work and have made annotation to AIA-TN's recommendations.

- AIA-TN is revisiting fee schedules and state contracts for architects and engineers for presentation in 2011. AIA-TN anticipates recommending changes to the contract.
- Architects Day on the Hill is March 24, 2010. In addition to meeting with legislators, there will be a session regarding how to get state work and a tour of the Executive Mansion and ballroom.

## **OLD BUSINESS**

### *1. Action Items (attached)*

- Mr. Cothron sent letters to colleges and universities regarding the change of the fall deadline date for senior students applying for the Fundamentals of Engineering exam and the requirement to register with NCEES in order to sit for the exam.

Mr. Balthrop asked Mr. Cothron to ascertain whether the deans of Tennessee colleges and universities require seniors to take the Fundamentals of Engineering exam prior to graduation and, if so, which discipline(s) falls under the requirement.

- Mr. Cothron will send letters to colleges and universities explaining the registration requirements of the Board after the legislature makes a decision on the proposed engineering technology bill.
- Marie Murphy has been contacted for an article about electronic plans submission to be placed in the Spring/Summer 2010 issue of the Board's newsletter.
- The agenda has allotted time for a discussion of the draft rules for a rulemaking hearing.
- Newsletter articles from Mr. Thompson and Ms. Wood are forthcoming.

### *2. Proposed Rule Changes (attached)*

Mr. Thompson, seconded by Mr. Lockwood, moved to remove the repeal of the Residency Requirements and to conduct a rulemaking hearing for the remaining proposed rule changes. The motion passed unanimously.

## **NEW BUSINESS**

### *1. Call for Officer Nominations*

- Mr. Schuermann, seconded by Ms. Shankman-Cohn, moved to accept Brenda Wood as a nominee for chair of the Board for 2010-2011. The motion passed unanimously.
- Mr. Hastings, seconded by Mr. Lockwood, moved to accept David Schuermann as nominee for vice-chair of the Board for 2010-2011. The motion passed unanimously.
- Mr. Hastings, seconded by Mr. Lockwood, moved to accept Philip Lim as nominee for secretary of the Board for 2010-2011. The motion passed unanimously.

2. *Legislative Update* (attached)

Mr. Lockwood, seconded by Ms. Wood, moved that the Board take the following positions on 2010 pending legislation:

Oppose

- a bill which would amend TCA § 62-2-401 to allow engineering technology degrees (SB2691/HB2686), and
- a bill which would encourage boards to adopt a timely notification of licensees when a complaint is received and a statute of limitations (SB3819/HB3465).

Support

- the bill which would extend the Board of Architectural and Engineering Examiners to June 30, 2013, but without the Senate amendment which removes the provision requiring the Governor to appoint Board members from a list of nominees submitted by “the representative professional society” (SB2428/HB2593);
- a bill that would require approval of the Tennessee Department of Transportation (TDOT) to place traffic surveillance cameras on state highways based on engineering studies (SB2648/HB2489);
- a bill which would allow architects, engineers or contractors to provide construction management or advisor services for schools (SB3070/HB2754), and
- a bill which would require the Secretary of State to send applications submitted by LLC’s and LLP’s to the appropriate licensing board, but oppose any amendment which would allow a company with “engineering” in its company name to operate without a Professional Engineer on staff (SB3331/HB3226).

Take no position on

- a bill which allows suspension or revocation of a license for failure to pay student loans (SB2650/HB3014);
- a bill which clarifies that a duly licensed architect or engineer performing normal architectural and engineering services within his/her area of competence is not required to obtain additional licensure, certification, or registration to perform such services (SB3083/HB3730);
- a bill which requires boards to prepare a statement of benefit when making rule changes (SB3550/HB3350), and
- a bill which requires approval of the General Assembly before a permanent rule becomes effective (SB3787/HB3289).

Mr. Schuermann, seconded by Mr. Lim, moved to oppose the bill which would license and regulate the practice of interior design (SB3642/HB3746). The motion passed with Ms. Shankman-Cohn voting against the motion. Ms. Shankman-Cohn asked Board members to relate to her their specific reasons for their objection to the bill.

3. *Review of 2009 Performance Audit*

Mr. Cothron reported the following audit findings from the Comptroller's audit of the professional regulatory boards:

- Complaint processing procedures need improvement.
- Concern about Regulatory Boards System security controls was expressed.
- Most boards are not performing criminal background checks.
- Observations were made concerning the method of computing cost backs and the perception that the public member of this Board may not be able to appropriately represent the consumer and general public's interests due to a potential conflict of interest.

Mr. Schuermann, seconded by Mr. Lockwood, moved to express support for the Board's public member. The motion passed unanimously.

4. *Letter from Mark Scheuer, PS Engineering (attached)*

Mr. Thompson, seconded by Ms. Shankman-Cohn, moved to accept the recommendation of the Engineer Committee to grant Mark Scheuer a grace period of six additional months to pass the Principles and Practice of Engineering exam. The motion passed unanimously.

**LEGAL CASE REPORT** (presented by Robert Herndon) (attached)

*New Complaints*

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|----------------------------------|------------------------------|
| 1. Case # L09-AEL-RBS-2009024181 | <i>Complaint # 200902418</i> |
| Case # L09-AEL-RBS-2009024182    | <i>Complaint # 200902418</i> |
| Case # L09-AEL-RBS-2009024183    | <i>Complaint # 200902418</i> |

Mr. Thompson, seconded by Mr. Schuermann, moved that Mr. Henderson review the cases to determine the existence of misconduct. The motion passed unanimously.

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| 2. Case # L10-AEL-RBS-2010000481 | <i>Complaint # 201000048</i> |
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Mr. Lockwood, seconded by Mr. Hastings, moved to authorize a Consent Order for a civil penalty of \$1,000 for deliberate violations of the licensing law. The motion passed unanimously.

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| 3. Case #L10-AEL-RBS-2010000651 | <i>Complaint #201000065</i> |
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Ms. Shankman-Cohn, seconded by Mr. Hastings, moved to dismiss and close the case. The motion passed unanimously.

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| 4. Case #L10-AEL-RBS-2010000701 | <i>Complaint #201000070</i> |
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Mr. Lim, seconded by Mr. Balthrop, moved to authorize a Consent Order for a civil penalty of \$500.00 per occurrence for a total of \$1,500.00. The motion passed with Mr. Schuermann opposing the motion.

5. Case #L09-AEL-RBS-2009026961 *Complaint #200902696*

Mr. Lockwood, seconded by Mr. Hastings, moved that a Board member review the case to determine the existence of misconduct. The motion passed unanimously.

Results of Board Member Review

1. Case #L09-AEL-RBS-2009015951 *Complaint #200901595*

Mr. Hastings, seconded by Mr. Lockwood, moved to issue a Letter of Caution relative to communication issues. The motion passed unanimously.

2. Case #L09-AEL-RBS-2009019341 *Complaint #200901934*  
Case #L09-AEL-RBS-2009019342 *Complaint #200901934*

Mr. Schuermann, seconded by Mr. Thompson, moved, at the request of Mr. Hastings who initially reviewed the file, that there be further review by Mr. Lockwood for landscape architecture competence issues. The motion passed unanimously.

3. Case #L09-AEL-RBS-2009021141 *Complaint #200902114*  
Case #L09-AEL-RBS-2009021142 *Complaint #200902114*

Mr. Thompson, seconded by Mr. Hastings, moved to dismiss and close the case. The motion passed unanimously.

4. Case #L09-AEL-RBS-2009022281 *Complaint #200902228*

Mr. Lockwood, seconded by Mr. Hastings, moved to authorize a formal hearing and to open Board complaints against other involved individuals. The motion passed unanimously.

Results of Informal Conferences

1. Case #L09-AEL-RBS-2009027251 *Complaint #200902725*  
Case #L09-AEL-RBS-2009016861 *Complaint #200901686*

Mr. Schuermann, seconded by Ms. Shankman-Cohn, moved to issue a Letter of Caution relative to the sensitivity of the perception of engineering involving a public figure. The motion passed unanimously.

2. Case #L09-AEL-RBS-2009016591 *Complaint #200901659*

Mr. Schuermann, seconded by Mr. Lockwood, moved to authorize a formal hearing incorporating an additional violation for misrepresentation of continuing education units for renewal; await submission of final plans to the reviewing panel by the end of business on Friday, February 26, 2010. NOTE: This hearing should also incorporate the previous ruling of a civil penalty of \$1,000 for unlicensed practice. The motion passed unanimously.

Complied-With Consent Orders

1. Case #L09-AEL-RBS-2009022991

Complaint #200902299

Mr. Schuermann, seconded by Mr. Hastings, moved to accept the completed Consent Order. The motion passed unanimously

2. Case #L09-AEL-RBS-2009023341

Complaint #200902334

Mr. Lockwood, seconded by Ms. Shankman-Cohn, moved to accept the completed Consent Order. The motion passed unanimously.

Mr. Lockwood, seconded by Mr. Lim, moved to adjourn. The motion passed unanimously. There being no further business to come before the meeting, the meeting was adjourned at 12:45 p.m.

ATTACHMENTS

Minutes of the December 10, 2009 meeting  
Complaints for Board Decision  
Licensing Data  
Complaint Data  
Financial Data  
Action Items  
Proposed Rule Changes  
2010 Pending Legislation Update  
Mark Scheuer's letter of January 11, 2010  
Legal Case Report