

**Minutes of a Meeting of the
Tennessee Board of Architectural and Engineering Examiners
University of Tennessee Knoxville
Knoxville, Tennessee**

October 14, 2011

Board Members Present

Hal Balthrop, Professional Engineer
Wilson Borden, Public Member
Robert Campbell, Jr., Professional Engineer
James Hastings, Registered Architect
Philip Lim, Professional Engineer
Bill Lockwood, Registered Landscape Architect
Richard Thompson, Registered Architect
David Schuermann, Registered Architect
Leslie Shankman-Cohn, Registered Interior Designer

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

Guests

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

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)
Susanne Tarovella, American Institute of Architects of Tennessee (AIA TN)
Intern Development Program (IDP) Coordinator
Bryon Fortner, Professional Engineer
Les Beaver, Professional Engineer
Cindy Ponke, Tennessee Section of the Institute of Transportation Engineers
(TSITE)
Joe Carson, Professional Engineer

CALL TO ORDER

David Schuermann, chair, called the meeting to order at 9:10 a.m. A quorum of Board members was present, and the meeting, having been duly convened, was ready to proceed with business.

The chair acknowledged and welcomed guests to the Board meeting.

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Mr. Cothron introduced Wilson Borden as the newly appointed public member of the Board.

No changes were made to the meeting agenda.

An Emeritus Certificate was presented to Brenda Wood who served as the public member of the Board from 2007-2011.

OPEN FORUM

Several persons were present to observe the Board meeting.

CONSENT AGENDA

Approval of Minutes (attached)

Motion was made by Mr. Lockwood and seconded by Ms. Shankman-Cohn, to accept the minutes of the August 18, 2011, meeting as written. The motion passed unanimously.

Approval of the Staff Complaint Report (attached)

Motion was made by Mr. Hastings and seconded by Ms. Shankman-Cohn, to accept the Complaints for Board Decision as presented. The motion passed unanimously.

PROFESSIONAL SOCIETY REPORTS

1. *Candy Toler, TSPE/ACEC*, submitted the following report:
 - The Societies are talking about the industrial exemption.
 - March 6, 2012, is Engineers' Day on the Hill.
 - TSPE/ACEC is accepting entries for the Engineering Excellence Awards.
 - The Societies will work toward the continuation of the Architectural and Engineering Examiners Board.
 - Mr. Cothron has been invited to speak at professional development seminars planned by the architects and engineers to be held in three parts of the state.

2. *Nathan Ridley, American Society of Landscape Architects Tennessee*

Mr. Ridley announced that the ASLA-TN will hold its Annual Meeting in Knoxville next week and their annual planning session will be held in November.

3. *Don Baltimore, Tennessee Interior Design Coalition*, being unable to attend the Board meeting, asked Ms. Shankman-Cohn to give his report:
 - The American Society of Interior Designers (ASID) State Conference was held in September in Franklin and was well attended.
 - The proposed task force of TIDC and AIA-TN which was intended to seek common ground on Interior Design legislation was scuttled by AIA -TN at their state meeting in Memphis.

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- The “Licensed Interior Designers Act” (HB1741/SB0867) is still before the General Assembly since 2012 is the second year of a 2-year session. TIDC is considering strategies and options to pursue when the State Legislature meets in January.

Open Forum -- Continued

Joe Carson arrived. He promoted the registration of engineers who are federal employees and encouraged the elimination of the industrial exemption.

DIRECTOR’S REPORT

1. Mr. Cothron submitted the following report:

- Hal Balthrop, Robert Campbell, Jr., Robert Herndon and I attended the National Council of Examiners for Engineering and Surveying (NCEES) Annual Meeting in Providence, RI on August 24-27, 2011.
- Bill Lockwood and I attended the Council of Landscape Architectural Registration Boards (CLARB) Annual Meeting in Chicago, IL on September 15-17, 2011.
- Board member Hal Balthrop spoke to students at Tennessee Technological University on September 15 regarding engineering licensure and ethics.
- Leslie Shankman-Cohn and I have been approved to attend the National Council for Interior Design Qualification (NCIDQ) Annual Meeting in Alexandria, VA on November 11-12, 2011.
- I have been approved to attend the National Council of Architectural Registration Boards, Member Board Executives (NCARB MBE) Workshop in Arlington, VA on November 4-5, 2011, at NCARB’s expense.
- David Schuermann, Bill Lockwood, Leslie Shankman-Cohn, Alton Hethcoat, Robert Campbell, Jr., Rick Thompson, Robert Herndon and I attended the Joint Government Operations Committee sunset hearing on September 21, 2011. Since the hearing was more procedural than substantive, the committee did not ask any questions. They recommended that the Board be extended for one year. However, it is likely that the Board will actually be extended for a longer period after legislators agree on changes to the Board member appointment process in our statute.
- David Schuermann, Rick Thompson, Leslie Shankman-Cohn, Rob Herndon and I met with representatives of the American Institute of Architects, Tennessee Chapter (AIA-TN), on September 21, to discuss the failure of many local jurisdictions to select design professionals for local public works projects by qualifications-based selection (QBS), as required by T.C.A. § 12-4-106. AIA-TN is urging the Board to adopt a rule change that would prohibit registrants from competitively bidding on such projects.
- Candy has invited me (and any Board members who wish to attend) to make presentations for this year's professional development "road show" in Knoxville, Nashville and Memphis on November 30-December 2. The tentative topic is a review of A&E Board policies.

Motion was made by Mr. Hastings and seconded by Mr. Lockwood, to approve Mr. Cothron to speak on behalf of Board and to receive travel reimbursement. The motion passed unanimously.

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- My request to unfreeze a vacant Administrative Assistant position in our office has been approved, and we will begin interviewing for the position next week.
 - Todd Staley, Research Analyst for the House Commerce Committee, contacted me regarding T.C.A. §§ 62-2-406 and 62-2-508, which exempt architects and engineers born before 1928 from the continuing education requirements. He asked if there was still a need for these statutes, and I responded that we still have 12 actively registered architects and 39 actively registered engineers who qualify for this exemption. I also explained that the Board is opposed to such exemptions, and thus would not want to modify the statutes in question.
 - Wayne Waggoner (Tennessee Fire Sprinkler Contractors Association) and Fred Garbler (State Fire Marshal's Office) recently contacted me regarding the problem of Professional Engineers not following the Standard of Care for Fire Sprinkler System Design, particularly on sprinkler drawings used for bid purposes. This makes it difficult for sprinkler contractors to bid on the project and ultimately costs the owner.
2. *Complaint Data* (attached) was submitted for informational purposes only.
 3. *Financial Report* (attached) was submitted by Mr. Lim for informational purposes only.

OLD BUSINESS

1. *Action Items* (attached)

The action items taken from the August meeting were reviewed and the required action had been taken or soon will be taken. The correct date for Mr. Campbell to observe during an Accreditation Board for Engineering and Technology (ABET) accreditation visit at the University of Tennessee Knoxville is November 6-8, 2011.

2. *Committee Assignments*

Mr. Borden was assigned to the following committees:

- Continuing Education Committee
- Law and Rules/Policies Committee
- Grants to Higher Education Committee

NEW BUSINESS

1. *Report on CLARB Annual Meeting* (attached)

Mr. Cothron and Mr. Lockwood submitted a written report.

2. *Report on NCEES Annual Meeting* (attached)

Messrs. Cothron, Balthrop, Campbell, and Herndon submitted a written report.

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3. *2012 Proposed Travel (attached)*

Motion was made by Mr. Lim and seconded by Ms. Shankman-Cohn, to propose that six board members, rather than three, be approved to attend the NCEES Southern Zone Meeting in Huntsville, AL in April 2012; thus, increasing the cost to \$9,000 and the total of all travel to \$64,700. The motion passed unanimously.

4. *Application/Examination Deadline Dates (attached)*

Motion was made by Mr. Hastings and seconded by Mr. Lockwood, to approve the proposed 2012 application/examination deadlines. The motion passed unanimously.

Break: 10:15-10:45 a.m.

COMMITTEE REPORTS (Documents referred to for discussion are attached.)

1. *Interior Design Committee*

Ms. Shankman-Cohn had nothing to report.

2. *Architect Committee*

Mr. Thompson reported that the committee discussed proposed changes to the continuing education requirements which were based on action taken by the NCARB earlier this year. The provisions include: (1) requiring that all hours be in health, safety, and welfare (HSW); (2) twelve HSW hours must be earned each calendar year; and (3) prohibiting carryover hours to the next renewal cycle.

The Committee supported a rule change to require those registrants whose license is in "retired" status to put "retired" after their title, such as, "PE (retired)." The Committee asked that it be made clear on the *Affidavit Claiming Inactive Status* that one claiming inactive status may not use his/her professional title while inactive. It was emphatically stated that individuals with an expired certificate of registration may not use the title.

3. *Continuing Education Committee*

Mr. Henderson stated that, after much discussion, the committee recommended that each profession review the current continuing education requirements and submit suggestions to the Committee. It was suggested that the Board could create separate requirements for architects.

4. *Licensure Outreach Committee*

Mr. Lockwood reported that the Board will be meeting with the Deans at the Board's Retreat in October 2012.

5. *Law and Rules/Policies Committee*

Mr. Thompson reported that changes to the continuing education requirements were discussed at length and that the committee did not support allowing registrants serving in combat zones to renew at no cost.

The committee supported a rule change to prohibit competitive bidding on local public works projects using the South Carolina language as a model.

Mr. Hethcoat and Mr. Cothron will work on revising the Law and Rules exam to make the questions less confusing; one exam will be developed for all professions.

6. *Engineer Committee*

Mr. Lim reported that the Engineer Committee supports:

- The proposed amendment to the Examinations Rule [Examinations -- General rule (0120-01-.13)] regarding the invalidation of an applicant's examination results if the examinee is deemed to have violated exam policies and candidate agreements.
- The proposed amendment to the rules concerning the Use of Titles (0[0120-01-.25, 0120-04-.08, and 0120-05-.02) and to revise the *Affidavit Claiming Inactive Status* to state that one claiming inactive status may not use his/her professional title while inactive.
- All proposed "Housekeeping Changes."
- Updating the statutory citation and names of exams in the "Engineering Examination Choices" policy.
- The development of a new application review policy authorizing the Executive Director to review comity applications (and re-applications) meeting established criteria (e.g., Model Law Engineers) and make a recommendation to the Board regarding eligibility for registration; thus expediting the application review process while also complying with the requirements of T.C.A §62-2-302.
- An amendment to the Rules Professional Conduct regarding the prohibition of competitive bidding on local public works projects.
- An amendment to the rules requiring retired registrants to note their license status after the title, and a change to the inactive affidavit noting that registrants may not use the title while inactive.

The Engineer Committee does not support an addition to the Rules of Professional Conduct stating that registrants must provide services for which they receive payment.

The Engineer Committee formed a sub-committee made up of Mr. Hethcoat, chair; Mr. Balthrop, Mr. Henderson, and Mr. Norris to consider:

- An additional rule giving authority to require passage of a law and rules exam, additional continuing education hours, or probation with peer review of work (at respondent's expense) in disciplinary cases.
- An amendment to rules 0120-02-.07 [MISCONDUCT] and 0120-04-.10 [PROFESSIONAL CONDUCT] stating that, "A registrant may be deemed by the Board to be guilty of misconduct in his professional practice if he fails to comply with a lawful order of the board."

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- An amendment to rule 0120-02-.08(6)(b) prohibiting undocumented design changes by contractors.

Mr. Henderson reported on the work of the Industrial Exemption Task Force. The task force has decided to focus on the following areas, in order of priority:

- Academia
- Government agencies
- Electric cooperatives and utilities
- Industry

Mr. Henderson raised several issues:

- Engineering graduates working in industry often do not work under a PE or have design experience.
- What is the benefit to faculty becoming registered?
- How would university faculty obtain experience? Does research count as experience?

The Committee took no action on setting additional requirements for individuals reapplying for registration or returning to active status from inactive or retired status, or allowing registrants serving in combat zones in the military to renew at no cost.

The Committee will discuss the increase in the cost of exams when they meet in December.

7. *Landscape Architect Committee*

Mr. Lockwood reported that the Landscape Architect Committee concurred with the recommendations of the other committees.

8. *Finance Committee*

Mr. Lim reported that the Finance Committee did not meet.

9. *Grants to Higher Education Committee*

Upon the recommendation of the Grants to Higher Education Committee as reported by Mr. Hethcoat, a motion was made by Mr. Balthrop and seconded by Mr. Lockwood to adopt the "alternate" proposed grant distribution. The motion passed unanimously.

10. *Publications Committee*

Ms. Shankman-Cohn had nothing to report.

GENERAL DISCUSSION OF FUTURE PLANS, ACTION ON ITEMS DISCUSSED

Mr. Henderson suggested that future agendas schedule committee meetings prior to the meeting of the Law and Rules Committee so that the professional committees can submit their recommendations to the Law and Rules Committee, thus eliminating repetitive reporting from each committee. The Law and Rules Committee would then compile ideas, resolve issues, and submit the recommendations to the full Board.

Mr. Henderson asked that Board members offer comments/suggestions to the Continuing Education Committee prior to the December meeting so that it may assess ideas before making recommendations to the full Board.

Mr. Lim encouraged Board members to write to the University of Tennessee Knoxville College of Architecture and Design and the College of Engineering expressing gratitude for providing accommodations for the Board's Fall Retreat and Board Meeting.

Board members expressed their desire to meet in a place that is more conducive to planning and discussion. They agreed that Tennessee State Parks offer suitable facilities for this purpose. Mr. Cothron will convey Board members' concerns to his superiors.

Motion was made by Mr. Thompson and seconded by Mr. Lockwood to

- Adopt the revisions to the "Engineering Examination Choices" policy which update the statutory citation and names of exams.
- Adopt the new "Comity Application Review" policy which authorizes the Executive Director to review comity applications (and re-applications) which meet established criteria (e.g., Model Law Engineers) and make a recommendation to the Board regarding eligibility for registration. The motion passed unanimously.

Mr. Cothron and Mr. Herndon were asked to craft language for amendments and additions to the rules which were, by consensus, approved by Board members.

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

Results of Litigation Activity

1. Case No.: L09-AEL-RBS-2009016591
Case No.: L11-AEL-RBS-2011010831

Complaint #200901659
Complaint #201101083

Motion was made by Mr. Lockwood and seconded by Ms. Shankman-Cohn to close the case and mark it for further action should the Respondent attempt to apply for a license. The motion passed unanimously.

Updated Privilege Tax Delinquency Cases

1. Case No.: L11-AEL-RBS-2011021531
2. Case No.: L11-AEL-RBS-2011021581
3. Case No.: L11-AEL-RBS-2011021631

Complaint #201102153
Complaint #201102158
Complaint #201102163

Motion was made by Mr. Hastings and seconded by Mr. Schuermann to rescind the previously approved Consent Orders to suspend registration until all delinquent privilege taxes are made current and issue a Letter of Warning against future delinquencies. The motion passed unanimously.

New Cases

1. *Case No.: L11-AEL-RBS-2011024111* *Complaint #201102411*
Motion was made by Ms. Shankman-Cohn and seconded by Mr. Hastings to issue a Consent Order to suspend registration until all delinquent privilege taxes are proven to be made current. The motion passed unanimously.

2. *Case No.: L11-AEL-RBS-2011025101* *Complaint #201102510*
Motion was made by Mr. Lockwood and seconded by Mr. Hastings to issue a Consent Order for a civil penalty of \$1,000.00, ninety (90) days to bring professional development hours current, an automatic audit of his continuing education hours at the next renewal cycle, and a requirement to take and pass the engineer law and rules examination. The motion passed 8-1, with Mr. Thompson opposing.

Board Member-Reviewed Cases

The following cases were deferred:

1. *Case No.: L11-AEL-RBS-2011021171* *Complaint #201102117*
2. *Case No.: L11-AEL-RBS-2011021391* *Complaint #201102139*
3. *Case No.: L11-AEL-RBS-2011021741* *Complaint #201102174*

Motion was made by Mr. Lim and seconded by Ms. Shankman-Cohn to adjourn. The motion passed unanimously.

The Board meeting adjourned at 12:00 noon.

ATTACHMENTS

Minutes of the August 18, 2011 meeting
Staff Complaint Report
Complaint Data
Complaint Data Report
Financial Report
Actions Items
CLARB Annual Meeting Report
NCEES Annual Meeting Report
2012 Proposed Travel
2012 Application/ Examination Deadline Dates
Documents Referred To For Discussion