



**TENNESSEE BOARD OF ARCHITECTURAL AND ENGINEERING EXAMINERS
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243**

Board Meeting Minutes for February 2, 2023
First Floor Conference Room 1-A
Davy Crockett Tower

Tennessee Board of Architectural and Engineering Examiners met on February 2, 2023, and the following business was transacted:

BOARD MEMBERS PRESENT: Alton Hethcoat, Robert Campbell, Blair Parker (Microsoft Teams), Frank Wagster (Microsoft Teams), Brian Tibbs, Rob Barrick, Melanie Doss, Rick Thompson, Jason Carder, Ashraf Elsayed (Microsoft Teams), James Collins, Jeff Nalley

BOARD MEMBERS ABSENT: None

STAFF MEMBERS PRESENT: Glenn Kopchak, Stuart Huffman, Heidi Overstreet, Megan Maleski, Tammy Roehrich

CALL TO ORDER / ROLL CALL / NOTICE OF MEETING

Rick Thompson called the meeting to order at 9:06 am and Director Glenn Kopchak took roll call.

ANNOUNCEMENTS

The board took a moment to welcome two new members to the board, Mr. Collins, an Associate Engineer out of West Tennessee, and Public Member, Jeff Nalley. Tammy Roehrich was also introduced and welcomed as a new member to the licensing division for regulatory boards.

AGENDA

Rob Barrick made a motion to adopt the agenda as written. This was seconded by Robert Campbell. The motion passed by unanimous voice vote.

DECEMBER MINUTES

Robert Campbell made a motion to approve the December minutes. This was seconded by Rob Barrick. The motion passed by unanimous voice vote.

PROFESSIONAL SOCIETY REPORTS

Kasey Anderson, Tennessee Society of Professional Engineers/American Council of Engineering Companies of Tennessee (TSPE/ACEC-TN), provided updates regarding bills filed with legislation and meeting those deadlines. Ms. Anderson related that ACEC-TN held a senior principals forum on

January 5, 2023, where several senior leaders met to discuss activities within the state.

Ashley Cates, Executive Director of the American Institute of Architects (AIA-TN), discussed a planning retreat that was held with the state board for 2023 goals, which included creating a public outreach committee where members talked about the value of architecture and the outlook of the profession for future architects.

Nathan Ridley, from the TN chapter of the American Society of Landscape Architects (ASLA-TN), provided an update on the Tennessee General Assembly legislative session, which started on January 10, 2023, where approximately 1,500 bills were submitted just before the end of the recent filing deadline.

DIRECTOR'S REPORT

Budget Report

Director Kopchak revisited the items "Other" in Edison for the new members to the board noting that in August and September, there was a large allocation and then a reallocation to fix an error resulting in a deficit for August, and a large surplus in September. This was due to grants initially being placed under the incorrect budget line but was then corrected. Director Kopchak also noted an increase for technology expenses in August due to upgrading to the cloud and other IT related expenses. Director Kopchak pointed out that in September line item "Other" under Admin Costbacks, September was the catch-up month for billing. This is a normal practice due to the closing period in June. Lastly, Director Kopchak provided an overview of the reserves for the past year.

NCEES MBA Committee Meeting

Ricky Bursi provided an update to the meeting held on January 9, 2023, noting that a federal law has been passed that appears to grant universal licensure to military personnel and spouses. Ricky Bursi further stated that in Continuing Professional Development rules, the word "deployed" should be used in lieu of "active" duty due to the circumstance that "active" duty includes standard duty station assignments for military personnel.

LEGAL

Legal Report (presented by Stuart Huffman)

1. 2022049351

First Licensed: 07/17/1997

Expiration: 12/31/2024

Type of License: Professional Engineer

History (5 yrs.): None.

Respondent self-reported that his license had lapsed in July 2021 however he had not stamped any plans while the license was expired. Respondent has since renewed the license.

Reviewed by Board member: Robert Campbell

Mitigating Factors: No plans were stamped while license was expired.

Aggravating Factors:

Recommendation: Send Letter of Caution and pass the Laws and Rules Exam.

Board Decision: Concur.

2. 2022050881

First Licensed: N/A (Unlicensed)

Expiration: N/A

Type of License: Professional Landscape Architect

History (5 yrs.): None.

Respondent submitted plans with contact information and a Colorado stamp on a Tennessee project. Respondent is not licensed in Tennessee. Respondent immediately removed their contact information and stamp when requested. Respondent also stated the client will seek a Tennessee licensed landscape architect to submit plans and work on the project.

Reviewed by Board member: Blair Parker

Mitigating Factors: Immediately removed contact information and stamp.

Aggravating Factors: Unlicensed activity.

Recommendation: Authorize a \$500.00 penalty for unlicensed activity.

Board Decision: Concur.

3. 2022052121

First Licensed: N/A (Unlicensed)

Expiration: N/A

Type of License: Professional Engineer

History (5 yrs.): None.

Complainant alleges Respondent submitted a traffic report by email to the city and several County Commissioners. The report contains calculations for vertical curves, stopping distance, and intersection sight distance triangles. The city claims Respondent is not licensed.

Respondent explains that the Planning Commission was considering a high-density zoning change and concerned residents, including Respondent, completed measurements of a dangerous intersection in opposition of the change. None of the residents are engineers nor did they involve an engineer in their measurements and report. The residents used information from the internet to make the calculations and drawings.

After review, there is nothing to show that Respondent implied or construed to being an engineer or performed engineering services to the public. These drawings were developed by concerned

neighbors and used in opposition of a zoning change hearing.

Reviewed by Board member: Jason Carder

Mitigating Factors: No violations found

Aggravating Factors:

Recommendation: Close.

Board Decision: Concur.

4. 2022051031

First Licensed: 11/14/2019

Expiration: 11/30/2023

Type of License: Professional Engineer

History (5 yrs.): None.

Complainant is President of an HOA involved with a property owner that began work on their lot by covering and extending an operational culvert without written permission. The HOA gave the owner the choice of either returning the culvert to its original condition or have an engineer, Respondent, complete a report showing that the buried work done would not hinder the flow of drainage water. Complainant alleges Respondent provided an unethical report with a mixture of engineering opinion, legal interpretations of the HOA covenants, and a suggestion to sue the HOA for emotional distress. The lot owners eventually agreed to return the culvert to its original condition.

Respondent states that he was contacted and hired by the lot owners to investigate a culvert installed on their property. The lot owners explained to Respondent that the culvert had been installed about a year ago and was verbally permitted by a former HOA member. Respondent gathered more information about the property and went to investigate. Given the circumstances and the drop inlet being secured with specialty screws, a survey could not be conducted and only a visual inspection was the only option. Respondent found that the culvert is not functioning properly, due to the inlet being raised above grade, water was visible at the base of the inlet, and the outlet was full of dust, leaves, and other debris, suggesting improper water flow. The HOA forced the lot owner to *"define a viable way for the existing culvert to once again perform its intended function without its flow being hindered or blocked in any manner"*. Respondent prepared a report but felt was absurd for the lot owner to hire an engineer when it was obvious that the culvert was not functioning and incurred the expense. The HOA sent a disparaging email to the lot owners stating they did not follow the covenant procedures and threatened legal action. Respondent believed the lot owners did follow the procedures and should not have been put through this and that the HOA's actions are punitive in nature. Respondent believes the HOA has a personal issue with him and did not hire another engineer to dispute his findings.

Reviewed by Board member: Rob Barrick

Mitigating Factors: No violations found.

Aggravating Factors:

Recommendation: Close.

Board Decision: Concur.

5. 2023001381

First Licensed: 08/11/1987

Expiration: 01/31/2025

Type of License: Professional Engineer

History (5 yrs.): None.

Respondent self-reported that he performed work while his license was expired. Respondent provided evidence of six (6) projects being stamped during the expiration period. Respondent has since renewed his license.

Reviewed by Board member: Alton Hethcoat

Mitigating Factors: Self-reported

Aggravating Factors: Practicing on an expired license

Recommendation: Authorize a \$3,000.00 penalty for stamping plans on six (6) projects while license was expired and pass the Laws and Rules Exam.

Board Decision: Concur.

RE-PRESENTATIONS

6. 2022035571

First Licensed: 02/25/1984

Expiration: 07/31/2024

Type of License: Professional Engineer

History (5 yrs.): None.

Complainant is the city engineer that reviewed site plans for traffic and stormwater drafted by Respondent. Respondent submitted the stamped site plans on 8/9/2022 but the license expired on 7/31/2022. Respondent also alleges that the city requested that a Land Disturbance Permit (LDP) be obtained after work began again at the site. Respondent submitted various items on 12/21/21, 4/12/22, and 5/2/22. The submittals were reviewed using the standard LDP Site Plan checklist and found numerous items were not addressed. The plans were missing typical features such as a legend and details. Few, if any, erosion prevention and sediment control (EPSC) items were shown and several proposed contours did not connect to existing contours. City comments were e-mailed to Respondent on 5/23/22. Respondent made a second submittal on 8/16/22 and few, if any, of the comments were addressed. Other revisions were made which were not related to the comments but did not apply to EPSC. A retaining wall was proposed off the property that appears to be a railroad right-of-way with no

reference of obtaining a ROW or easement. The city believes that the submitted plans do not offer enough detail to be constructible and do not meet the standard of care.

Further, it is alleged that the Respondent's LLC firm has not filed a firm disclosure.

Respondent believes the standard of care allegations are a matter of opinion and that the Complainant has disagreed with numerous other Engineer's plans in the past. Respondent started his renewal in June because his expiration date was 7/31/2022. He does admit that his renewal payment was late and that he did submit plans on 8/9/2022 while the renewal was in process and license recently expired. Payment for the renewal was not received until 8/26/2022. Respondent also states that TDEC approved the SWPPP that Complainant alleges had errors and all appropriate items were addressed.

Reviewed by Board member: Alton Hethcoat

Mitigating Factors:

Aggravating Factors: Submitted plans on an expired license.

Recommendation: Authorize a civil penalty of \$750.00 for practicing on an expired license and pass the Laws and Rules Exam. Further, instruct Respondent to file a Firm Disclosure within 30 days.

Board Decision: Investigate further and re-present complaint at the February 2023 meeting.

New Information: After another review there is no additional information to be disclosed.

New Recommendation: Authorize a civil penalty of \$750.00 for practicing on an expired license and pass the Laws and Rules Exam. Further, instruct Respondent to file a Firm Disclosure within 30 days.

New Board Decision: Concur.

Disciplinary History:

Brian Tibbs made a motion to adopt the redline of the policy regarding complaints, noting that discipline which occurred over five years ago is automatically issued a letter of caution. Melanie Doss seconded this motion the motion passed by unanimous voice vote.

Agreed Citation Schedule:

Director Kopchak introduced a standardized agreed citation, letter and guidelines which assess a one hundred dollar (\$100) fine for all those licensees who fail to produce the required CE certificates during an audit. The board made one amendment further requiring the violation to also include taking and passing the rules and laws exam. Robert Campbell made a motion to approve the agreed citation, letter, and guidelines with the amendment. This was seconded by Brian Tibbs. The motion passed by unanimous voice vote.

ADJOURNMENT

There being no new business, Rick Thompson adjourned the meeting at 10:26 a.m.