

**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 March 17, 2015, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present:

Architects

Robert A. Boynton
Clint Good
Christine Snetter

Professional Engineers

Wiley V. Johnson, III
Carolyn B. Langelotti

Land Surveyors

Doyle B. Allen
Charles F. Dunlap
Michael Zmuda

Interior Designers

Cameron Stiles
Sheila E. Wilson

Landscape Architects

Andrew M. Scherzer
A. Cabell Crowther

Board member Christopher M. Stone was not present for the meeting.

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

Kathleen (Kate) R. Nosbisch, Executive Director
Tonia B. Harrison, Board Administrator
Amy Goobic, Administrative Assistant

Agency Staff present for all or part of the meeting was:

Jay W. DeBoer, Director
Nick Christner, Deputy Director for Regulatory programs and Compliance
Mark N. Courtney, Senior Director, Regulatory & Public Affairs
Bonnie Rhea-Adams, Director, Complaint Analysis & Resolution
Jeff Waite, Budget and Financial Services Manager
Joseph Haughwout, Assistant Director, Adjudication

Jim Flaherty, Assistant Attorney General, was present from the office of the Attorney General.

Mr. Boynton, called the meeting to order at 9:33 a.m. and also informed Board members, and audience members, that the building administration would be conducting a tornado drill at 9:45 a.m.

Call to Order

Ms. Noshbisch informed members that Patrick Leary, Land Surveyor member and Board Chair, resigned from the Board. Ms. Noshbisch stated that as vice chair, Mr. Boynton would assume the position of chair and an election for vice-chair was needed. As the positions rotate through the five professions, a Landscape Architect would be elected as vice-chair. Mr. Scherzer nominated Mr. Crowther as vice-chair. Mr. Johnson seconded the motion which was

**Transfer of Chair &
Election of Vice-
Chair**

unanimously approved by members: Allen, Boynton, Crowther, Dunlap, Good, Johnson, Langelotti, Scherzer, Snetter, Stiles, Wilson and Zmuda.

Ms. Nosbisch welcomed and introduced new board member, Doyle B. Allen, LS.

**Welcome &
Introduction of New
Board Member –
Doyle B. Allen**

Ms. Nosbisch introduced audience members: Ms. Helen Dreiling Combs, CEO, VSAIA; Mr. Ron Clements, Virginia Building Code Officials Association (VBCOA); Mr. Drew Hammonds, Department of Environmental Quality (DEQ); and Mr. David Gardy, Virginia Association of Surveyors (VAS).

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

**Emergency
Evacuation
Procedures**

Ms. Nosbisch informed the Board that a business agreement would be added to the agenda as item number 12. Ms. Stiles moved to approve the agenda as amended. Mr. Zmuda seconded the motion which was unanimously approved by members: Allen, Boynton, Crowther, Dunlap, Good, Johnson, Langelotti, Scherzer, Snetter, Stiles, Wilson and Zmuda.

Approval of Agenda

Ms. Nosbisch recognized National Engineers Week, February 22-28, National Surveying Week, March 16-22 and National Architecture Week, April 12-18, and Landscape Architecture Month, April. Ms. Nosbisch designated the day APELSCIDLA Certified Interior Designer Day, as they do not have a nationally recognized day. Ms. Nosbisch thanked all Board members for their time and expertise devoted to their professions and the Board.

**Recognition of
Professions**

Ms. Nosbisch informed the Board that in honor of Engineers Week and to promote “Girls In Engineering,” she, Ms. Langelotti and Ms. Olivia Jenkins, EIT, gave two presentations at C.C. Wells Elementary School, in Chesterfield County. One presentation was given to third grade girls and the second was to the entire 5th grade class. Ms. Nosbisch thanked Ms. Langelotti for her participation, and thanked Mr. Johnson and Mr. Stone, as their companies donated promotional items for the children and teachers.

Ms. Stiles moved to approve the minutes of the following meetings:

Approval of Minutes

- December 10, 2014, APELSCIDLA Board Meeting;
- December 10, 2014, Architects, Landscape Architects & Certified Interior Designers Section;
- December 10, 2014, Land Surveyor Exam Review; and
- February 3, 2015 Architect Section Meeting.

Ms. Langelotti seconded the motion which was unanimously approved by members: Allen, Boynton, Crowther, Dunlap, Good, Johnson, Langelotti, Scherzer, Snetter, Stiles, Wilson and Zmuda.

Mr. Johnson moved to approve the minutes of the following meeting as amended:

- February 4, 2015, PE and Land Surveyor Section Meeting

The minutes stated “an OSE does not have a seal,” when the minutes should have read “an OSE is not required to have seal.”

Ms. Dunlap seconded the motion which was unanimously approved by members: Allen, Boynton, Crowther, Dunlap, Good, Johnson, Langelotti, Scherzer, Snetter, Stiles, Wilson and Zmuda.

Mr. Crowther moved to approve the minutes of the following meeting as amended:

- Correction to November 19, 2014, PE and Land Surveyor Section Meeting

During public comment Mr. Jeff Walker’s (AOSE, PSS) comment was incorrectly written “professional soil scientists need of a seal,” it should have read “onsite soil evaluators need of a seal.”

Mr. Dunlap seconded the motion which was unanimously approved by members: Allen, Boynton, Crowther, Dunlap, Good, Johnson, Langelotti, Scherzer, Snetter, Stiles, Wilson and Zmuda.

Board and audience members participated in a tornado drill from 9:45 a.m until 9:57 a.m.

Tornado Drill

Mr. Jeff Walker, President, VAPSS, was present to address the Board. Mr. Walker expressed concerns with the proposed change to the guidance document regarding sewage system designs by onsite soil evaluators. Mr. Walker stated that he has filed complaints in the past regarding plans that are under the exemption from an engineering license, but do not have any certification by a licensed professional.

Public Comment Period

Mr. Bob Marshall, AOSE, was present to address the Board. Mr. Marshall expressed concerns regarding an AOSE license, whose regulatory authority was transferred from the Virginia Department of Health (VDH) to DPOR in 2009, that there is a conflict of interest with VDH and the authority of the Environmental Health Officials over AOSEs.

Regarding **File Number 2015-00789, Robert V. Nangia**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Nangia. Mr. Scherzer moved to accept the Consent Order which cites the following violation of the Board’s regulations: 18VAC10-20-750.C (Count 1). For this violation, Mr. Nangia agrees to pay \$100 for the violation contained in Count 1, and \$150 in board costs, for a total monetary penalty of \$250. Ms. Snetter seconded the motion which was approved by members: Boynton, Crowther,

File Number 2015-00789, Robert V. Nangia

Dunlap, Good, Langelotti, Scherzer, Snetter, Stiles, Wilson and Zmuda. Mr. Allen abstained. As the presiding Board member, Mr. Johnson was not present for the discussion or vote.

Regarding **File Number 2015-00780, Arwin D. Priest**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Priest. Mr. Dunlap moved to accept the Consent Order which cites the following violations of the Board's regulations: 18VAC10-20-750.C (Count 1 and Count 2). For these violations, Mr. Priest agrees to pay \$100 for the violation contained in Count 1; \$100 for the violation contained in Count 2; and \$150 in board costs, for a total monetary penalty of \$350. Mr. Scherzer seconded the motion which was approved by members: Boynton, Crowther, Dunlap, Good, Langelotti, Scherzer, Snetter, Stiles, Wilson and Zmuda. Mr. Allen abstained. As the presiding Board member, Mr. Johnson was not present for the discussion or vote.

File Number 2015-00780, Arwin D. Priest

After reviewing the application and Agreement for Registration, Mr. Johnson moved to accept the Agreement for Registration as seen and agreed to by HDR Engineering Inc. of the Carolinas. Ms. Snetter seconded the motion which was approved by members: Boynton, Crowther, Dunlap, Good, Johnson, Langelotti, Scherzer, Snetter, Stiles, Wilson and Zmuda. Mr. Allen abstained.

Business Agreement 2015-06, HDR Engineering Inc. of the Carolinas

After reviewing the application and Agreement for Registration, Mr. Scherzer moved to accept the Agreement for Registration as seen and agreed to by Appalachian Coal Services, LLC. Ms. Stiles seconded the motion which was unanimously approved by members: Allen, Boynton, Crowther, Dunlap, Good, Johnson, Langelotti, Scherzer, Snetter, Stiles, Wilson and Zmuda.

Business Agreement 2015-07, Appalachian Coal Services, LLC

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

Review of Compliance & Investigations Activity

Board members were provided financial statements for informational purposes. Jeff Waite, Budget and Financial Services Manager, was present to address the Board and answer questions regarding the financial statements. Mr. Waite stated that according to the present financial status, it appears there will not need to be a fee increase until FY19 or FY20, however, the regulatory process to implement a fee increase takes about two years.

Review of Board Financial Statements

Board members reviewed correspondence received DEQ, regarding the new stormwater management regulation requiring PEs to sign and seal record drawings. The letter was in response to correspondence Ms. Nobsch sent at the request of the Board. Drew Hammond and Elizabeth Andrews from DEQ were present for the discussion and to answer questions from the Board.

Review of Correspondence from DEQ

Mr. Hammond stated that DEQ had taken over the stormwater management regulations from the Department of Conservation and Recreation (DCR) in 2013. He informed that Board that DEQ continues to fact find. Ms. Langelotti expressed concerns that the regulations may be deemed an unfunded mandate, as previously a PE was not required to sign and seal the record drawings. The new regulations require a PE to sign and seal, which will be an added cost to the project, and localities may not have factored in the cost of a PE.

Ms. Andrews stated that the regulations came from DCR and had taken approximately seven years to go through the regulatory process. The regulations went through the required public comment processes, and were approved. Ms. Langelotti commented that the language may have been written with unintended consequences. Mr. Hammond stated that they could go back to the regulatory package and perhaps determine the intent. He further commented that it may have stemmed from requirements in the Clean Water Act. Discussion was held regarding concerns the Board has with signing and sealing record drawings, and violating the Board's regulations.

Ms. Nosbisch suggested the PE and LS Sections of the Board discuss at their next Section meeting, and draft language that DEQ could utilize in their regulations to clarify issue. Ms. Andrews and Mr. Hammond agreed. Mr. Scherzer stated that as Landscape Architects also work with stormwater management designs, he would like the Landscape Architects Section be included in the conversation.

Ms. Nosbisch informed the Board that the Guidance Document pertaining to Onsite Sewage Systems Designed by PE's and Onsite Soil Evaluators was reviewed by the PE and LS Sections at their meeting February 4, 2015. The original document stated in the summary "In situations when conditions 1-3 above are met, the system may be designed, **signed, and sealed by a licensed onsite soil evaluator.**" As a licensed onsite soil evaluator is not required to use a seal, the Sections agreed to replace the language with "by a licensed onsite soil evaluator in accordance with §54.1-402.A.11." Ms. Langelotti moved to approve the language as recommended by the PE and LS Sections. Mr. Zmuda seconded the motion which was unanimously approved by members: Boynton, Crowther, Dunlap, Good, Johnson, Langelotti, Scherzer, Snetter, Stiles, Wilson and Zmuda. Mr. Allen abstained.

Guidance Document Update

Ms. Nosbisch provided a brief regulatory update, informing the Board that the regulation package is in its final stages and is currently under review at the Secretary of Commerce and Trade office. The package will then go to the governor's office for final review and to the Registrar for final 30-day comment period.

Regulatory Update

Ms. Nosbisch provided an update on NCEES. She informed the Board that information requested by NCEES for their enforcement exchange database

NCEES, NCARB, CLARB & CIDQ

was provided by the agency Records Management Section, March 10. Ms. Nosbisch reported that the NCEES Annual meeting, to be held in Williamsburg August 19-22, will have 500 plus attendees. She further informed the Board that as the host state, we are responsible for two invocations and will need volunteers. Ms. Nosbisch reminded the Board members that NCEES is taking applications for committee service; appointments will be made in July.

Updates

Ms. Nosbisch provided 2014 computer based testing stats for the FE and FS:
FE – 29, 710
FS – 744

Ms. Nosbisch provided a brief update on NCARB, stating that the requested information for NCARB's data sharing initiative was provided by the agency IS Department, March 10. Ms. Nosbisch reported that she and Ms. Snetter attended the NCARB Regional Summit in Long Beach, CA, March 12-15 and that the Annual meeting will be held June 18-20, in New Orleans. Ms. Snetter informed the Board that Summit discussions included streamlining of IDP, changes to the BEA and BEFA, and resolutions that will be voted on at the Annual meeting in June.

Ms. Nosbisch informed the Board that CIDQ had published their first quarterly newsletter and that their practice exam would be March 28. Ms. Nosbisch provided exam statistics for the fall 2014 exams: First time test takers 48.8% passed; professional exam 53.2% passed; and 65.9% passed the practice exam.

Ms. Nosbisch gave brief update on CLARB. Ms. Nosbisch informed the Board that there would be a webcast presentation March 18, and that the CLARB Annual meeting would be in New Orleans, September 17-19, 2015.

The Board recessed from 11:18 a.m. until 11:30 a.m.

Recess

Board members viewed a short presentation that was included in a CLARB webcast January 21, 2015. The presentation contained regulatory board information for landscape architects.

NCEES, NCARB, CLARB & CIDQ Updates Continued

Board members reviewed an article regarding the use of Virginia orthographic maps and their inclusion in a database system created by Virginia Information Technologies Agency. The article stemmed from discussions at the PE and LS Sections meeting and was written by Mr. Dunlap. Mr. Courtney stated that the reference to 18VAC10-20-382.B.11, should be §54.1-402.C. Mr. Dunlap moved to approve the article as amended for use in the board newsletter. Mr. Zmuda seconded the motion which was unanimously approved by members: Allen, Boynton, Crowther, Dunlap, Good, Johnson, Langelotti, Scherzer, Snetter, Stiles, Wilson and Zmuda. Mr. Johnson requested the article be placed on the DPOR Facebook page as well.

Review of Draft Article – Use of Virginia Orthographic Maps

Other Business

Board members reviewed correspondence received from the Structural Building Components Association (SBCA) regarding building code officials and their authority to approve and/or deny plans. Ron Clements, Virginia VBCOA, was present for the discussion and to answer any questions. Mr. Clements added that if an issue occurs, there is an appeals process.

In their correspondence, SBCA expressed concerns with building officials denying approval of plans by a professional engineer based on personal opinions and not based on building code or regulatory reasons. The SBCA further maintains that when a building official (not licensed as a PE) denies plans signed and sealed by a PE, they are in practicing engineering without a license.

Ms. Rebecca Golden, Virginia Society of Professional Engineers (VSPE), was present to address the Board. Ms. Golden stated that the VSPE received the same letter from SBCA, and that the 'components' manufactured by members of the SBCA may have been certified by a PE, but not necessarily a Virginia PE, which is required by statute and regulation. She further stated that many components are site specific, and local building officials are aware of the requirements. Mr. Courtney referenced §54.1-410.B which provides statutory authority to building code officials.

Ms. Nosbisch suggested staff draft a letter in response to SBCA stating that the Board reviewed the letter, and inform them if someone is in violation they may file a complaint and refer to §54.1-410.B and the authority provided to building officials. Mr. Good moved to have draft letter prepared. Ms. Stiles seconded the motion, which was unanimously approved by members: Allen, Boynton, Crowther, Dunlap, Good, Johnson, Langelotti, Scherzer, Snetter, Stiles, Wilson and Zmuda.

Board members were provided information on the recent Supreme Court decision regarding the North Carolina State Board of Dental Examiners vs. the Federal Trade Commission, and its impact on state regulatory boards. Board members also reviewed information from NCEES and NCARB and their stance on the decision. Ms. Nosbisch stated that the information provided was to keep them abreast of the situation. Mr. Flaherty informed the Board that there has been a task force formed with the Office of the Attorney General to explore the issue, and that he welcomes any questions to take to the task force or the AG office. Mr. Flaherty also indicated that upon completion of the task force investigation, a representative from the AG office could provide a presentation to the Board.

Mr. Flaherty provided an update on the appeal of File Number 2014-02472, Christopher I. Gustard, which required the Board to convene in closed meeting.

Closed Meeting

At 12:15 p.m. Mr. Johnson moved that the meeting be recessed and that the Board immediately reconvene in closed meeting for the purpose of

consultation with legal counsel pertaining to legal matters within the jurisdiction of the Board as permitted by § 2.2-3711.A.7 of the Code of Virginia. The following non-members will be in attendance to reasonably aid the consideration of the topic: James Flaherty, Jay DeBoer, Kate Nosbisch and Joseph Haughwout. Ms. Snetter seconded the motion which was unanimously approved by members: Allen, Boynton, Crowther, Dunlap, Good, Johnson, Langelotti, Scherzer, Snetter, Stiles, Wilson and Zmuda.

At 12:30 p.m., Mr. Johnson moved to adjourn the closed meeting and to immediately reconvene in open meeting. Ms. Wilson seconded the motion which was unanimously approved by members: Allen, Boynton, Crowther, Dunlap, Good, Johnson, Langelotti, Scherzer, Snetter, Stiles, Wilson and Zmuda.

Open Meeting

Ms. Wilson read the following Certification of Closed Meeting:

Certification of Closed Meeting

WHEREAS, the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, § 2.2-3712 of the *Code of Virginia* requires a certification by the APELSCIDLA Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the APELSCIDLA Board hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the APELSCIDLA Board.

VOTE

AYES: 12

NAYS: 0

ABSENT DURING THE VOTE: Christopher Stone

ABSENT DURING THE MEETING: Christopher Stone

Mr. Johnson moved to have Board Counsel file the necessary court documents to have File Number 2014-02472 remanded back to the Board in order to reconvene an IFF. Mr. Good seconded the motion which was unanimously approved by members: Allen, Boynton, Crowther, Dunlap,

Other Business

Good, Johnson, Langelotti, Scherzer, Snetter, Stiles, Wilson and Zmuda.

Ms. Nosbisch reported that there would be an agency wide training for new board members, tentative dates are October 8-9, 2015. Ms. Nosbisch also informed the Board that the Architect Section changed the start time of their section meetings to 10:00 a.m.

Ms. Nosbisch informed the Board that Nico De León, PE and former board member was recently awarded the 2015 Engineer of the Year by the Richmond Joint Engineers Council. She also let the Board know that Board Counsel, Jim Flaherty, was leaving the Attorney General's office and going into private practice. Elizabeth Peay, Assistant Attorney General, will be filling in until a counsel replacement is named.

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

**Conflict of Interest
Forms**

The meeting was adjourned at 12.35 p.m.

Adjourn

Robert A. Boynton, Chair

Jay W. DeBoer, Secretary