

**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 15, 2016, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present:

Architects

Robert A. Boynton
R. Corey Clayborne

Professional Engineers

Wiley V. Johnson, III
Carolyn B. Langelotti
Chris Stone

Land Surveyors

Doyle B. Allen
Charles F. Dunlap

Interior Designers

Cameron Stiles
Sheila Wilson

Landscape Architects

A. Cabell Crowther

Board members Andrew M. Scherzer, Christine Snetter and Mike Zmuda were not present for the meeting.

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

Kathleen (Kate) R. Nosbisch, Executive Director

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

Jay W. DeBoer, Director
Mark N. Courtney, Senior Director, Regulatory & Public Affairs
Amy Goobic, Executive Assistant

Elizabeth Peay, Assistant Attorney General, was present from the office of the Attorney General.

Mr. Boynton, called the meeting to order at 9:36 a.m.

Call to Order

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

**Emergency
Evacuation
Procedures**

Mr. Dunlap moved to approve the agenda as amended. Ms. Stiles seconded the motion which was unanimously approved by members: Allen, Boynton, Clayborne, Crowther, Dunlap, Johnson, Langelotti, Stiles, Stone and Wilson.

Approval of Agenda

Mr. Crowther moved to approve the minutes of the following meetings as

Approval of Minutes

amended:

- December 17, 2015, APELSCIDLA Board Meeting;
- December 17, 2015, Architects, Certified Interior Designers & Landscape Architects Section Meeting;
- February 10, 2016, PE and Land Surveyor Section Meeting;
and
- February 10, 2016, Land Surveyor Exam Review Session.

Ms. Langelotti seconded the motion which was unanimously approved by members: Allen, Boynton, Clayborne, Crowther, Dunlap, Johnson, Langelotti, Stiles, Stone and Wilson.

There was no public comment.

**Public Comment
Period**

Regarding **File Number 2016-01253, Francisco L. Bituin** the Board members reviewed the Consent Order as seen and agreed to by Mr. Bituin. Mr. Crowther moved to accept the Consent Order which cites the following violations of the Board's regulations: 18VAC10-20-790.A.2 (Count 1); 18VAC10-20-720.1 (Count 2); and 18VAC10-20-790.A.1 (Count 3). For these violations, Mr. Bituin agrees to pay the following monetary penalties: no monetary penalties for the violations contained in Counts 1 and 2; \$500 for the violation contained in Count 3; and \$150.00 in Board costs, for a total monetary penalty of \$650.00. In addition, Mr. Bituin agrees to the revocation of his license for the violations contained in Counts 1 and 2. Mr. Johnson seconded the motion which was unanimously approved by members: Allen, Boynton, Clayborne, Crowther, Dunlap, Johnson, Stiles, Stone and Wilson. As the presiding Board member, Ms. Langelotti was not present for the discussion or vote.

**File Number 2016-
01253, Francisco L.
Bituin**

Regarding **File Number 2016-01290, Haroon R. Hussain**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the application file, transcripts and exhibits, and the Summary of the Informal Fact-Finding Conference as well as the Section's recommendation. Mr. Johnson moved to accept the recommendation of the presiding officer and approve Mr. Hussain to sit for the PE examination. Mr. Crowther seconded the motion which was unanimously approved by members: Allen, Boynton, Clayborne, Crowther, Dunlap, Johnson, Stiles, Stone and Wilson. As the presiding Board member, Ms. Langelotti was not present for the discussion or vote.

**File Number 2016-
01290, Haroon R.
Hussain**

Regarding **File Number 2016-01291, Brian M. Haskins**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the application file, transcripts and exhibits, and the Summary of the Informal Fact-Finding Conference as well as the Section's recommendation. Mr. Johnson moved to accept the recommendation of the

**File Number 2016-
01291, Brian M.
Haskins**

presiding officer and not approve Mr. Haskin's application to sit for the PE examination. Mr. Allen seconded the motion which was unanimously approved by members: Allen, Boynton, Clayborne, Crowther, Dunlap, Johnson, Stiles, Stone and Wilson. As the presiding Board member, Ms. Langelotti was not present for the discussion or vote.

Regarding **File Number 2016-00261, Son Huu Nguyen**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Nguyen. Mr. Crowther moved to accept the Consent Order which cites the following violation of the Board's regulations: 18VAC10-20-760.A (Count 1). For this violation, Mr. Nguyen agrees to pay the following monetary penalties: \$1000 for the violation contained in Count 1; and \$150.00 in Board costs, for a total monetary penalty of \$1,150. In addition, Mr. Nguyen agrees to complete at least four (4) classroom hours of continuing education pertaining to ethics and/or other equivalent course approved by the Board and provide proof of attendance and successful completion within six (6) months of the effective date of this Order. Ms. Langelotti seconded the motion which was unanimously approved by members: Allen, Boynton, Clayborne, Crowther, Dunlap, Langelotti, Stiles, Stone and Wilson. As the presiding Board member, Mr. Johnson was not present for the discussion or vote.

File Number 2016-00261, Son Huu Nguyen

Ms. Nosbisch provided background information on File Number 2014-02472. At its December 10, 2014 meeting, the Board denied Mr. Gustard's application for licensure via comity. Mr. Gustard appealed the Board's decision and the Henrico Circuit Court remanded the case to the Board for a reconvened Informal Fact-Finding conference. Ms. Nosbisch read correspondence from Mr. Gustard, as he was unable to appear in person.

File Number 2014 - 02472, Christopher I. Mr. Gustard

Regarding **File Number 2014-02472, Christopher I. Gustard**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the application file, transcripts and exhibits, and the Summary of the Informal Fact-Finding Conference as well as the Section's recommendation. Mr. Johnson moved to accept the recommendation of the presiding officer with additional recommendations of vacating the previous Board decision and requiring an agreement for licensure to be agreed to and signed by Mr. Gustard, and approve Mr. Gustard's application for licensure as a landscape architect via comity. Ms. Stiles seconded the motion. Discussion was held on establishing terms of a licensure agreement that must be signed and agreed to by Mr. Gustard. The motion was approved by members: Allen, Boynton, Dunlap, Johnson and Stiles. Members Clayborne, Crowther, Langelotti, Stone and Wilson were opposed. The motion failed. Mr. DeBoer stated that a motion was still needed. Further discussion was held on regulations regarding applicants with criminal convictions; terms of parole/probation; and additional terms for the licensure agreement.

Mr. Johnson moved to vacate the 2014 Final Order denying Mr. Gustard's application for licensure; and amend the presiding officer's recommendation to offer an Agreement for Licensure to include the following terms:

The Agreement for Licensure shall remain in effect until Mr. Gustard is released from his court ordered probation;

- Mr. Gustard agrees to provide the Board with a copy of his terms of probation within 48 hours after meeting with his probation officer for the first time;
- During the term of the Agreement for Licensure, Mr. Gustard shall not violate any term of his probation or parole and agrees to immediately report (within 48 hours) any such violation to the Board;
- During the term of the Agreement for Licensure, Mr. Gustard agrees not to violate any federal, state, or local law and shall immediately report (within 48 hours) any violation, arrest, or conviction to the Board;
- During the term of the Agreement for Licensure, Mr. Gustard agrees to remain in good standing in any jurisdiction in regards to criminal activity;
- Mr. Gustard shall comply with all of the Board's regulations and agrees to immediately report (within 48 hours) to the Board any violations of the regulations;
- Mr. Gustard agrees to submit documentation of 16 hours of continuing education obtained in the 24 months preceding each license renewal;
- During the term of the Agreement for Licensure, Mr. Gustard shall authorize his probation officer to provide to the Board, every six months, a letter regarding Mr. Gustard's adjustment to and compliance with his probation;
- During the term of the Agreement for Licensure, Mr. Gustard shall authorize his probation officer to immediately report to the Board any violation or suspected violation of his probation;
- Mr. Gustard agrees that the Board can modify the terms of the Agreement for Licensure once the terms of Mr. Gustard's probation are established, after any modification of the terms of his probation, or at the request of his probation officer; and
- Mr. Gustard further agrees that any violation of the terms of the Agreement for Licensure shall be deemed a violation of Board Regulation 18 VAC10-20-790(A)(1).

The motion also includes that the Agreement for Licensure must be executed by Mr. Gustard and returned to the Board within 30 days of receipt. If Mr. Gustard declines or fails to comply with this requirement, then his license application will be denied. Ms. Stiles seconded the motion

which was approved by members: Allen, Boynton, Clayborne, Dunlap, Johnson and Stiles. Members Crowther, Langelotti, Stone and Wilson were opposed.

Ms. Nosbisch addressed the issue of Mr. Gustard's request for reimbursement costs incurred in his appeal of \$1000. Ms. Nosbisch stated that the Board cannot reimburse costs. Ms. Peay added that the Circuit Court remanded the appeal back to the Board for the license application issue, with no mention of reimbursement of costs incurred.

The Board recessed from 11:18 a.m. until 11:32 a.m.

Recess

Regarding **File Number 2016-01287, Utility Service Co., Inc.**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the application file, transcripts and exhibits, and the Summary of the Informal Fact-Finding Conference as well as the presiding Board member's recommendation. Mr. Crowther moved to accept the recommendation of the presiding officer and approve Utility Service Co., Inc.'s business registration without the requirement of an Agreement of Licensure. Ms. Stiles seconded the motion which was unanimously approved by members: Allen, Boynton, Clayborne, Crowther, Dunlap, Langelotti, Stiles, Stone and Wilson. As the presiding Board member, Mr. Johnson was not present for the discussion or vote.

File Number 2016-01287, Utility Service Co., Inc.

Regarding **File Number 2016-01533, McLaren, Wilson & Lawrie, Inc.**, the Board members reviewed the record of the Informal Fact-Finding Conference, which consisted of the application file, transcripts and exhibits, and the Summary of the Informal Fact-Finding Conference as well as the presiding Board member's recommendation. Mr. Crowther moved to accept the recommendation of the presiding officer and approve McLaren, Wilson & Lawrie Inc.'s business registration without the requirement of an Agreement of Licensure. Ms. Langelotti seconded the motion which was unanimously approved by members: Allen, Boynton, Clayborne, Crowther, Dunlap, Johnson, Langelotti, Stiles, Stone and Wilson. Mr. Scherzer was the presiding Board member, and was absent for the meeting.

File Number 2016-01533, McLaren, Wilson & Lawrie, Inc.

After reviewing the application and Agreement for Registration, Mr. Crowther moved to accept the Agreement for Registration as seen and agreed to by Ferrell Engineering, Inc. Mr. Dunlap seconded the motion which was approved by members: Allen, Boynton, Clayborne, Crowther, Dunlap, Johnson, Langelotti, Stiles, Stone and Wilson.

Business Agreement 2016-12, Ferrell Engineering, Inc.

After reviewing the application and Agreement for Registration, Mr. Allen moved to accept the Agreement for Registration as seen and agreed to by Logical Systems, LLC. Mr. Dunlap seconded the motion which was unanimously approved by members: Allen, Boynton, Clayborne, Crowther, Dunlap, Johnson, Langelotti, Stiles, Stone and Wilson.

**Business Agreement
2016-13, Logical
Systems, LLC**

After reviewing the application and Agreement for Registration, Mr. Allen moved to accept the Agreement for Registration as seen and agreed to by Boora Architects, Inc. Mr. Johnson seconded the motion which was unanimously approved by members: Allen, Boynton, Clayborne, Crowther, Dunlap, Johnson, Langelotti, Stiles, Stone and Wilson.

**Business Agreement
2016-15, Boora
Architects, Inc.**

Mr. Courtney provided a brief update on the 2016 General Assembly. Mr. Courtney reviewed several house and senate bills that have relationships to the agency, but none directly affecting the APAELSCIDLA Board.

**General Assembly
Update**

Mr. Dunlap provided a brief update on the Land Surveyor Apprenticeship Committee. Mr. Dunlap stated that the Committee will meet prior to the June APELSCIDLA Board meeting, and he will report at the full Board meeting June 9.

**Land Surveyor
Apprenticeship
Committee Update**

Ms. Nosbisch reported that the new Board regulations became effective January 1, 2016. She further reported that the new regulations were subject to a periodic regulatory review, with public comment received January 11-February 1, with the following four comments received and the Board responses:

Regulatory Update

**Received from Irwin Stanton, PE:
18VAC10-20 Regulation Architect, Engineers, Surveyors and Landscape Architects**

As I understand it these regulations are up for review as to whether these regulations should be repealed, amended, or retained. These regulations are necessary to help protect public health, safety, and welfare. As such these regulations should not be repealed. I have no specific recommendations for amending the regulations at this time.

Board Response: The Board concurs.

**Received from Peter Skaredoff, PE:
18 VAC 10-20-210. Requirements for the Principles of Engineering (PE) examination**

The current requirements under this section for taking the PE examination state that a potential candidate needs to have some educational background, generally in the form of a college degree. Even without a degree, the board may judge that academic coursework meets the equivalent requirement. The results of this regulation is that an individual with either limited or no academic background has no chance of ever becoming a Professional Engineer, regardless of the years of

qualifying engineering experience. I believe this requirement creates a needless barrier to entry for the engineering field in Virginia by discouraging otherwise talented individuals from entering the field if there is a fixed ceiling on professional advancement. I believe this also creates an economic burden in the state by restricting both the supply of our native engineering talent pool and the earnings potential of Virginia citizens.

I suggest the current regulations should be amended to allow 20 years of qualifying engineering experience to be an acceptable means of satisfying the requirements of 18 VAC 10-20-210 without having any college level education.

Personally and professionally, I would respect any individual, with 20 years of qualifying engineering experience and having passed the PE exam, as a colleague and peer as a professional engineer.

Board Response: By consensus, the Board agreed to keep the requirements as they are at this time.

**Received from Garrison Cavell, PE:
18 VAC 10-20-210. Requirements for the Principles of Engineering (PE)
examination**

I respectfully suggest that the current regulations should be amended to allow 20 years of qualifying engineering experience to be an acceptable means of satisfying the requirements of 18 VAC 10-20-210 without having any college level education. If a person has this amount of qualifying experience, it should demonstrate a level of competence, determination, and an ability to learn and apply oneself to the profession. More importantly, the EIT and PE exams serve as excellent, rigorous and thorough filters to determine a person's depth and breadth of engineering knowledge.

Board Response: By consensus, the Board agreed to keep the requirements as they are at this time.

**Received from William Suffa, PE:
18 VAC 10-20-210. Requirements for the Principles of Engineering (PE)
examination**

The Board is considering whether or not to modify the regulations to permit 20+ years of experience in engineering to be equivalent to a Bachelors of Science degree for purposes of qualification for sitting for the PE examination.

The regulations currently permit such experience to qualify in lieu of the FE examination.

It is respectfully requested that the Board consider permitting 20+ years of experience EITHER to apply in lieu of the FE exam OR in lieu of the Bachelors of Science degree, but not both.

The skills required to pass both the FE and PE exams demonstrate a grasp of the knowledge and skills taught in a Bachelors curriculum. Neither examination is easily passed without such skills and knowledge.

Board Response: By consensus, the Board agreed to keep the requirements as they

are at this time.

Ms. Stiles moved to retain the regulations and public participation guidelines as written. Mr. Johnson seconded the motion which was approved by members: Allen, Boynton, Clayborne, Crowther, Dunlap, Johnson, Langelotti, Stiles, Stone and Wilson.

Ms. Nosbisch provide a brief update on the Regulatory Review Committee comprised of Mr. Johnson, Ms. Stiles, Mr. Boynton, Mr. Scherzer and Mr. Zmuda. She stated that the committee will meet prior to the June 9 full Board meeting. Mr. Stone moved to have the Committee review new regulations for changes. Mr. Boynton seconded the motion which was approved by members: Allen, Boynton, Clayborne, Crowther, Dunlap, Johnson, Langelotti, Stiles, Stone and Wilson. Mr. Allen requested the Committee consider the definition of “current.”

**Regulatory Review
Committee Update**

Ms. Nosbisch provided a brief update on the APELSCIDLA Advisory Committee, whose members will serve as presiding officers for Informal Fact-Finding conferences and examination application review. Ms. Nosbisch stated that the forms and application necessary had been completed.

**APELSCIDLA
Advisory Committee
Update**

Financial statements were provided to the Board for informational purposes.

Financial Statements

Ms. Nosbich provided brief updates on NCEES, NCARB, CLARB and CIDQ. Ms. Nosbisch reported that she attended the NCEES MBA meeting in Atlanta, February 5-7, where there were discussions on Model Law. She further reported thst she, Ms. Snetter and Mr. Boynton attended the NCARB Regional Summit in Savannah, March 10-13 in Savanna, GA.

**NCEES, NCARB,
CLARB & CIDQ
Updates**

Ms. Nosbisch congratulated Ms. Langelotti on receiving the Richmond Joint Engineering Council’s 2015 Engineer of the Year award.

**RJEC 2015 Engineer
of the Year Award**

Ms. Nosbisch recognized National Engineers Week (February 21-27), National Surveyors Week (March 21-26), National Architecture Week (April 7-16), Landscape Architect Month (April) and World Interiors Day (May 28), and thanked the Board members for their dedication to their professions and the Board.

**Recognition of
Professions**

Ms. Nosbisch introduced Brad Martin, PE with American Engineering, Virginia Beach. Mr. Martin was invited to address the Board regarding DEQ’s Virginia Stormwater Management Program (VSMP) regulations and the Virginia Runoff Reduction Method (VRRM) spreadsheet, previously addressed at the February 10, PE and LS Section meeting. Mr. Martin stated that the spreadsheet DEQ has given localities for calculations, has errors. Mr. Martin further stated that he adds a disclaimer to the cover sheet, as he takes issue with the fact that the one tool provided is inaccurate. Ms. Nosbisch stated that when discussed at the PE/LS Section meeting, Mr.

Other Business

DeBoer suggested a establishing a policy statement.

Ms. Nosbisch informed the Board that the DEQ representatives that attended prior meetings to discuss VSMP regulation issues, were no longer with the agency. She has been in communication with a DEQ representative regarding their possible replacements, as she hopes to invite DEQ representative to the May 12, PE/LS Section meeting for further discussion. Additionally, Ms. Nosbisch inquired about the certifying statement drafted and agreed to by the Board, regarding the DEQ requirement for a Professional Engineer's to sign and seal SWM record drawings. DEQ representatives had previously agreed to allow the certifying statement, and indicated they would disseminate the information to localities. The representative she spoke with asked her to resend the statement for review and action.

The Board agreed by consensus to have staff draft a policy statement and letter to DEQ. The letter and statement will be reviewed at the May 12, PE/LS Section meeting, and will then be presented for approval at the June 9, full Board meeting.

Ms. Nosbisch introduced Steve Marzolf and Phil Pippert, representatives from the Virginia Information Technologies Agency (VITA). Mr. Marzolf and Mr. Pippert were invited to discuss the VGIN Orthophoto Contract Request for Proposal (RFP), and the fact that the RFP is not qualifications based, and does not contain a requirement for a license surveyor. Mr. Marzolf explained that the impetus for the orthophoto is based on imagery for 911 responders. He stated that there is a disclaimer on the imagery that it is not to be used for design work. Mr. Allen and Mr. Dunlap both stated that they have knowledge that the imagery is being used for real property, even flood plain design. Mr. Allen commented that localities deem VGIN information as accurate, regardless of the disclaimer. Mr. Marzolf stated that the VITA information is publicly available, and they cannot control how the imagery may be used. The program is funded by the 911 fund, and is a service to the taxpayer. Mr. Allen commented that he did not feel there would be a significant increase to the cost by having a licensed surveyor perform the work, and doubts that the localities realize that the work is not done under a licensed professional.

Ms. Nosbisch stated that the minutes of the meeting will reflect the Board's position that the VGIN Orthophoto RFP should require a licensed land surveyor. The localities could be directed to the minutes, the guidance document addressing the use of orthographic maps, and the Board's regulations, enabling them to better scrutinize the RFP requirements. Discussion was held on how RFP's are developed and contracts written. Mr. Johnson suggested including representation from the APELSCIDLA Board with RFP development, to provide input.

Ms. Nosbisch requested a list of the localities that utilize the imagery, so

that the Board may provide them with information regarding the value of a licensed professional performing the survey work. She further asked that VITA include the Board regarding any future developments pertaining to orthophoto contracts, or any other contracts that may require the use of a licensed professional. Ms. Nosbisch thanked Mr. Marzolf and Mr. Pippert for attending.

Ms. Nosbisch informed the Board that former Board members Lorri Finn, Jim Boyd and Stanley Harris, were contacted to join the APELSCIDLA Advisory Committee, to preside at IFFs.

Ms. Nosbisch read correspondence from a recently licensed Virginia PE, expressing his gratitude to the Board. He stated that he received his Virginia license on his father's birthday, which was also the anniversary of the Pearl Harbor attack, making for a special day for him.

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

**Conflict of Interest
Forms**

The meeting was adjourned at 1:35 p.m.

Adjourn

Robert A. Boynton, Chair

Jay W. DeBoer, Secretary