

**Tennessee Board of Architectural and Engineering Examiners
Board Meeting
Andrew Johnson Tower
Nashville, Tennessee**

December 11, 2008

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
Carlton Norris, Professional Engineer
Raymond White, Professional Engineer

Staff Present

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

Guest

Candy Toler, Tennessee Society of Professional Engineers/American Council of Engineering Companies of Tennessee (TSPE/ACEC-TN)

CALL TO ORDER

Jim Hastings, chair, called the meeting to order at 9:10 a.m. Roll call determined that a quorum was present.

The personal appearance of Mr. Carl Hudson, who had been scheduled to address the Board about its reroofing policy, was removed from the agenda because he met with the Law and Rules Committee on Wednesday, December 10, 2008.

CONSENT AGENDA

1. *Approval of Minutes* (attached)
Mr. Campbell, seconded by Ms. Wood, moved to accept the minutes of the October 17, 2008, meeting as written. The motion passed unanimously.
2. *Approval of the Staff Complaint Report* (attached)

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

PROFESSIONAL SOCIETY REPORTS

1. *Candy Toler*, TSPE/ACEC-TN, reported on upcoming events:
 - a. February 16, 2009 – ACEC Nashville Chapter Lunch Meeting
 - b. March 3, 2009 – ACEC of TN Engineering Excellence Awards Banquet
 - c. March 3, 2009 – Engineers' Day on the Hill
2. Ms. Toler noted that she is expecting a soil scientist bill and a sign design bill next legislative session.

DIRECTOR'S REPORT

1. *Mr. Cothron* submitted the following report:
 - a. Bob Campbell, David Schuermann and I attended continuing education seminars last week at which the State Fire Marshal's Office (SFMO) made a presentation entitled, "Changes at the SFMO and How to Avoid Common Pitfalls." The Chief Counsel for Fire Prevention, Patrick Merkel, provided an update on recent rule changes (attached), and warned about possible legislative action to adopt the Uniform Fire Code. The SFMO has revised the dispute resolution procedure in their recently adopted rules to include a provision for an appeal to a panel of outside parties (if the owner or designer disagrees with the decision of the Commissioner). The panel consists of three individuals, one selected by the C&I Commissioner, one selected by the owner or designer, and one selected by the Executive Director of the A&E Board. Panel members must have a background in architecture, engineering, plans review, construction or building/codes inspections, and will be compensated at a rate of \$150 per day.

Dennis Henderson, Rick Thompson and Hal Balthrop were appointed to a committee charged with developing a procedure for selecting individuals and creating a pool of volunteers from which Mr. Cothron could draw in making appointments to such a panel as described above.

- b. The State Fire Marshal's Office also provided an update on electronic plans submittal, which the SFMO plans to unveil in early 2009; only Adobe PDF documents will be accepted, at least initially.
- c. The Department of Finance and Administration is taking at least a portion of the Board's reserve funds; the exact amount that will be taken is unknown.

Mr. Cothron recommended that, in light of this development and the current economic situation, the Board's proposal to increase the grants appropriation be postponed. The Board asked Mr. Cothron to submit the proposal as planned, citing cuts in higher education funding as justification for increasing the grant amount and noting that grants are paid from revenue and not reserve funds. It was also mentioned that the Board could reduce the amount of grant funds distributed if there is a decline in revenue.

- d. The Comptroller of the Treasury has begun a performance audit of the Board of Architectural and Engineering Examiners and ten other programs in the Regulatory Boards Division. The Board is currently designated to be sunset June 30, 2010, unless extended by the Tennessee General Assembly.
- e. I have received a request from Montgomery Central High School in Cunningham, Tennessee to send a representative to their Career Day in March 2009.

Mr. Balthrop agreed to attend if his schedule permits.

- f. The Fall/Winter 2008 newsletter will be distributed for review next week; it will include a notice about the upcoming rulemaking hearing.

In response to a question by Mr. Cothron, Board members agreed that they would prefer to receive meeting materials as e-mail attachments versus placing them on a secure server.

- 2. *Financial Data* was submitted and reviewed by Mr. Lim (attached).

OLD BUSINESS

- 1. *Action Items* (attached)
 - a. At the Board's urging, Mr. Cothron will proceed with a request that the grants appropriation be increased to \$250,000. Mr. Cothron had completed the other action items assigned to him.
 - b. Mr. Herndon reported that he had completed action items assigned to him with the exception of requesting an Attorney General's (AG) opinion on acceptance of doctoral degrees. He informed the Board that the AG will only review rules for legality, and does not consider comments made at rulemaking hearings. The Law and Rules Committee will discuss whether to amend the rules or develop a policy to define one-family and two-family dwellings.
 - c. Mr. Hastings reported that he had talked with Mr. John McRae, Dean of the College of Architecture & Design at the University of Tennessee at Knoxville, about setting up a procedure for using grant money to pay the initial fee for students to begin the architectural Intern Development Program. Mr. Cothron stated that he would send the grant guidelines to Mr. McRae. Revisions to the Board seal are still underway.
 - d. Mr. Thompson reported on the Law and Rules/Policies Committee's revisions to Appendices C and D in the *Reference Manual for Building Officials and Design Professionals*.
 - e. Ms. Shankman-Cohn wants more time to review Appendices C and D of the *Reference Manual for Building Officials and Design Professionals* for inconsistencies in the wording. She completed her newsletter article.
 - f. Mr. Lockwood and Ms. Wood are working on their respective articles for the newsletter.

- g. Mr. Cothron reported that staff is revising application forms and has completed the remaining actions assigned to them.

2. *Sign Exemptions*

Mr. Cothron invited those in the sign industry to provide recommendations in reference to the question of what signs should be designed by a licensed design professional. Responses received (attached) were viewed as information only and will be used as a future reference. The Board agreed to take a “wait and see” position.

3. *Proposed Rule Changes* (attached)

Mr. Balthrop, seconded by Ms. Shankman-Cohn, moved to delete rule 0120-1-.03 from the proposed amendments to be presented at a Rulemaking Hearing and to approve the remaining proposed amendments. The motion passed unanimously.

NEW BUSINESS

1. *Report on National Council for Interior Design Qualification Meeting*

Mr. Cothron submitted a written report (attached).

2. *Report on National Council of Architectural Registration Boards Member Board Executives Workshop*

Mr. Cothron submitted a written report (attached).

3. *Distribution of Grant Funds* (attached)

Mr. Lim, seconded by Mr. Schuermann, moved to accept the proposed 2008-2009 grant distribution as presented. The motion passed unanimously.

4. *Law and Rules/Policies Committee Report*

Mr. Schuermann, seconded by Ms. Wood, moved to delete “..., or replacement,” and to insert the word “or” after the word “maintenance” in the second sentence of number 6 of the Seals Exemptions – Clarification [T.C.A., Section 62-2-102(b)] policy. The motion passed unanimously.

Mr. Campbell, seconded by Mr. Thompson, moved to amend the Board’s policy, “Use of Title if Registered in Other Jurisdictions,” by inserting the following sentence after the first sentence of the second paragraph:

The listing of jurisdictions after the title is not required on correspondence, business cards or other communication from an out-of-state office, provided that the individual is registered in that jurisdiction.

The motion passed unanimously.

The committee will further discuss revisions to the Reference Manual at the February meeting.

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

1. *Case #L08-AEL-RBS-2008024191*

Complaint #200802419

This case was referred to a Board Member to determine misconduct.

2. *Case # L06-AEL-RBS-20060441511* *Complaint #2006044151*
Mr. Schuermann, seconded by Ms. Shankman-Cohn, moved to dismiss and close the case. The motion passed unanimously.

The following are Consent Orders with which respondents have complied:

1. *Case #L08-AEL-RBS-2008003511* *Complaint #200800351*
Mr. Lockwood, seconded by Mr. Campbell, moved to dismiss the Consent Order and close the case. The motion passed unanimously.
2. *Case #L08-AEL-RBS-2008003551* *Complaint #200800355*
Mr. Campbell, seconded by Ms. Shankman-Cohn, moved to dismiss the Consent Order and close the case. The motion passed unanimously.
3. *Case #L08-AEL-RBS-2008016881* *Complaint #200801688*
Mr. Schuermann, seconded by Ms. Wood, moved to dismiss the Consent Order and close the case. The motion passed unanimously.
4. *Case #L08-AEL-RBS-2008016911* *Complaint #200801691*
Ms. Shankman-Cohn, seconded by Mr. Campbell, moved to dismiss the Consent Order and close the case. The motion passed unanimously.
5. *Case #L08-AEL-RBS-2008016771* *Complaint #200801677*
Mr. Campbell, seconded by Ms. Shankman-Cohn, moved to dismiss the Consent Order and close the case. The motion passed unanimously.
6. *Case #L08-AEL-RBS-200801690* *Complaint #200801690*
Mr. Thompson, seconded by Mr. Campbell, moved to accept the Consent Order and close the case. The motion passed unanimously.

The following are cases that resulted in an informal conference:

1. *Case #L02-AEL-RBS-2002090881* *Complaint #200209088*
Case #L06-AEL-RBS-2006014981 *Complaint #200601498*
Mr. Campbell, seconded by Mr. Thompson, moved to issue a Consent Order in which the respondent is required to give written assurance that he will not seal architectural drawings and to take and pass the Board's law and rules exam. The respondent will be warned that if he violates the Consent Order his engineer certificate of registration will be revoked. The motion passed unanimously.
2. *Case #L01-AEL-RBS-2001039551* *Complaint #200103955*
Case #L01-AEL-RBS-2001039551 *Complaint #200103955*
Mr. Campbell, seconded by Mr. Schuermann, moved to dismiss and close the case. The motion passed unanimously.
3. *Case #L08-AEL-RBS-2008000291* *Complaint #200800029*
Mr. Campbell, seconded by Ms. Wood, moved to dismiss and close the case. The motion passed unanimously.

The meeting adjourned at 11:55 a.m.

ATTACHMENTS

Minutes of the October 17, 2008 Meeting
Complaints for Board Decisions
SFMO's Pending Rules
Financial Data
Action Items
Tim Ward's e-mail of October 28, 2008
Frank Smickle's letter of November 25, 2008
Tom Flynn's letter of November 19, 2008
Bill Dundas' letter of December 1, 2008
Charles W. Stofel's letter of November 21, 2008
F. Lillard Teasley, Jr. and Katherine Nichols' letter of December 1, 2008
Kenneth Peskin's letter of December 1, 2008
David Watson's letter of November 26, 2008
Notice of Rulemaking Hearing
Report on NCIDQ Meeting
Report on NCARB Member Board Executives Workshop
Distribution of Grant Funds
Legal Case Report