

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

February 19, 2009

**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 Garner, Administrative Assistant

**Guests**

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)  
Don Baltimore, Tennessee Interior Design Coalition (TIDC)  
Chris Pierce, Mid South Sign Association (MSSA)  
Mark Burns, Mid South Sign Association (MSSA)  
Bobby Joslin, Joslin and Son Signs  
Buddy Ferguson, American Institute of Architects Tennessee (AIA TN)  
Dana Miller, Registered Interior Designer, former member of the Board  
Mr. Cohn

**CALL TO ORDER**

Jim Hastings, chair, called the meeting to order at 9:05 a.m. Roll call determined that a quorum was present.

No changes were made to the agenda, thus Mr. Campbell, seconded by Ms. Wood moved to proceed with the proposed agenda. The motion passed unanimously.

Mr. Cothron presented an Emeritus certificate to Dana Miller, who served as the registered interior designer member of the Board during the years 2004 to 2008.

## **RULEMAKING HEARING**

Mr. Hastings turned the meeting over to Robert Herndon, Legal Counsel to the Board, who called the rulemaking hearing to order at 9:10 a.m.

### *Purpose of the Rulemaking Hearing*

Mr. Herndon pointed out that the purpose of this hearing is to consider the promulgation of rules and amendments to rules pursuant to *Tennessee Code Annotated*, 62-2-203(c) and conducted in the manner prescribed by the Uniform Administrative Procedures Act, *Tennessee Code Annotated*, 4-5-204. Upon conclusion of the hearing and adoption of the proposed rules, they will be forwarded to the Attorney General's office for review of their legality. If approved, they will then be filed with the Secretary of State and the Government Operations Committee of the General Assembly. The effective date of the rules will be 75 days after filing with the Secretary of State's office.

### *Notice of the Rulemaking Hearing*

Notice of the hearing was published in the January 15, 2009, issue of the *Tennessee Administrative Register*. Mr. Cothron stated that a link to the notice was posted on the Board's website. The notice was also published in the Fall/Winter 2008 edition of the Board's newsletter, *Tennessee Design Lines*, which was posted on the Board's website and distributed to all registrants, exam applicants and affected groups.

Mr. Herndon explained the procedure to be followed in the rulemaking hearing and read into the record each proposed rule. (Proposed rules are attached.)

### *Written Comment (attached)*

An e-mail from Alan Dooley, RA, stated that it is unclear "...whether serving on a public non-profit board where the focus of the board is not technical/professional issues would count toward continuing education."

### *Board Response*

Mr. Schuermann, seconded by Ms. Wood, moved to insert "technical or professional" before "public board" in paragraph (2)(i) of rule 0120-05-.06, and before "public boards" in paragraph (1)(e) of rule 0120-05-.07. The motion passed unanimously.

An amendment to Rule 0120-01-.12 states that an applicant for registration as a landscape architect must complete all practical experience requirements prior to registration. Mr. White asked why the proposed change is not consistent with the requirement that engineer applicants complete experience prior to the date of application, and it was explained that the change is being made in response to a national trend allowing architect and landscape architect applicants to sit for the exam before completing the required experience. Mr. Balthrop then questioned the requirement in rule 0120-01-.10(2) that engineer applicants complete experience prior to the date of application, which can lengthen the time required to obtain registration. This issue was referred to the Engineer Committee for discussion.

Mr. Thompson, seconded by Mr. Schuermann, moved to approve the proposed amendments to the rules as revised and noted. By roll call, each member voted to approve the motion.

Mr. Herndon adjourned the rulemaking hearing.

## **CONSENT AGENDA**

1. *Approval of Minutes* (attached)

Mr. Schuermann, seconded by Mr. Thompson, moved to accept the minutes of the December 11, 2008, meeting as written. The motion passed unanimously.

2. *Approval of the Staff Complaint Report* (attached)

Mr. Thompson, seconded by Ms. Shankman-Cohn, 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 bills of interest to the Board:

- a. TSPE/ACEC-TN opposes the “sign” bill (SB0059/HB0867) which seeks to exempt signs under a certain cost and size.
- b. TSPE/ACEC-TN opposes SB0768/HB0541 which mandates minimum yellow light exposure time for traffic signals.
- c. SB0157/HB1672—Tennessee Professional Licensure and Certification Reform Act may impact the boards.
- d. HB0771/SB0821 imposes the National Fire Protection Association Standards.

Ms. Toler announced that March 3, 2009 is Engineers’ Day on the Hill and the Engineering Excellence Awards Banquet. About twenty-eight projects will be highlighted.

2. *Don Baltimore, TIDC*, announced that they intend to reintroduce the Tennessee Interior Design Act, which has been rewritten for clarification. It seeks to allow only qualified persons to use the title “interior designer,” and to design and do specifications for large commercial spaces. There is also clarification of education and experience requirements.

3. *Nathan Ridley, ASLA-TN*, reported that bills being introduced in the legislature are under review and that their legislative event is scheduled for March 25, 2009.

4. *Buddy Ferguson, member of AIA-TN Board of Directors*, reported that Connie Wallace, Executive Director of the AIA-TN, is tracking bills being introduced in the legislature, and that they are opposed to the proposed “sign” bill.

Break 10:15 a.m. – 10:25 a.m.

## **DIRECTOR'S REPORT**

1. *Mr. Cothron* submitted the following report:

The continuing education audit selection program has been revised and is now truly random.

All the grant and fee-for-service contracts have been drafted and submitted for review and signature.

A proposal to increase the grants appropriation to \$250,000 has been submitted.

A request to print the revised *Reference Manual* has been approved.

The *Consumer's Guide* has been revised and is available on the Board website.

The *Engineer Intern Certification* brochure has also been revised and is available on the website.

It is uncertain if we will be allowed to print law and rule books this year due to the high cost (around \$40,000). I am exploring the possibility of placing a more user-friendly printable version of the law on the Board website.

Due to the current budget situation, we have been asked not to meet at a state park for this year's planning session. Board members were polled regarding their preference for an alternate meeting location, and several suggested Lipscomb University. We will meet at the Tennessee Engineering Center if we are unable to meet at Lipscomb.

Mr. Lockwood has been approved to attend the Council of Landscape Architectural Registration Boards' Spring Meeting in Charleston, SC on February 27-28.

Mr. Schuermann has been approved to attend the National Council of Architectural Registration Boards' regional meeting in Savannah, GA on March 20-21.

The Assistant Commissioner has stated that my travel will be limited to 3-4 meetings this year. As a result, I will only request to attend annual meetings this year.

Mr. Balthrop will attend a career day at Montgomery Central High School in Cunningham, Tennessee on April 7, to discuss the engineering profession.

Philip Lim will speak at the Mid-South Annual Engineering and Sciences Conference at Christian Brothers University on May 5.

I will be speaking to a group of graduate students in the Electrical and Computer Engineering Department at Tennessee Tech regarding registration requirements on February 23.

I received a request from an engineer to lower the retirement age in the rules from 62 to 55 or 58. He is 58 years old, and wants to maintain his registration, but does not want to pay the renewal fee. Since no other registrants have requested this change, the Board stated that it would not pursue a rule change.

2. *Licensing and Complaint Data* (attached) was presented for informational purposes only.
3. *Financial Data* (attached) was submitted and reviewed by Mr. Lim.

## **OLD BUSINESS**

1. *Action Items* (attached)
  - a. Mr. Cothron reported that items assigned to him had been completed.
  - b. *The Dispute Resolution Panel Selection Committee* met and agreed that the professional societies should submit a list of registrants willing to participate on any Dispute Resolution Panel. The roster should be comprised of
    1. registrants holding active registration;
    2. two registrants representing each of the State's Grand Divisions; and
    3. engineers representing various disciplines of engineering.

A written request will be sent to Ms. Toler and Ms. Wallace.

- c. *The Law and Rules Committee* discussed revisions to the *Reference Manual for Building Officials and Design Professionals*. The Committee will have further discussion before presenting proposed changes to the Board.
- d. Ms. Shankman-Cohn's recommendations regarding inconsistencies in the wording of appendices C and D of the *Reference Manual for Building Officials and Design Professionals* were presented to the Law and Rules Committee meeting.
- e. *The Board's Seal* (attached). Mr. Thompson, seconded by Mr. Schuermann, moved to adopt the Board's seal as modified by Mr. Hastings. The motion passed unanimously.
- f. Newsletter articles by Ms. Wood and Mr. Lockwood are pending.

## **PERSONAL APPEARANCE**

Chris Pierce, Mark Burns, and Bobby Joslin, representing the Mid South Sign Association, presented a proposal to bring about uniform statewide design requirements for all sign structures.

**NEW BUSINESS**

1. *Call for Officer Nominations*

The Nominations Committee recommended the following slate of officers for the Board for fiscal year 2009-2010. The Committee feels that this slate meets the criteria of rotation and profession representation as outlined in the Bylaws:

Chair — Bob Campbell  
Vice Chair — Brenda Wood  
Secretary — Philip Lim

It was noted that the floor will be opened for nominations at the April meeting. Voting will be held at the June meeting, and officers will begin their term on July 1, 2009.

2. *University of Memphis Interior Design Program*

Michael Hagge, via e-mail (attached), stated that the University of Memphis is creating a major in Interior Design and asked for the Board's support. Ms. Shankman-Cohn and Mr. Schuermann will obtain more detail on the curriculum and report at the next Board meeting.

3. *Submission of Proposals Prior to Registration*

David Hughes and Marie Leone, in separate e-mails (attached), asked if an individual must be registered prior to submitting requests for proposals (RFP) and/or requests for qualifications (RFQ). Board members noted that RFPs and RFQs meet comparable criteria as stated in the Design Competitions Policy; thus, Mr. Campbell, seconded by Mr. Thompson, moved to expand the Design Competitions Policy by including "requests for proposals (RFP)/requests for qualifications (RFQ)" where appropriate. The motion passed unanimously.

4. *Legislative Update (attached)*

Mr. Campbell, seconded by Ms. Wood, moved to oppose SB0059/HB0867 as introduced because the bill would adversely impact the health, safety, and welfare of the public. The motion passed unanimously.

Mr. Campbell, seconded by Mr. Lockwood, moved to oppose HB0541/SB0768 because the bill would adversely impact the health, safety, and welfare of the public. The motion passed unanimously.

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

1. *Case #L07-AEL-RBS-2007086791*

*Complaint #200708679*

Mr. Campbell, seconded by Mr. Schuermann, moved to dismiss and close the case for lack of evidence of misconduct. The motion passed unanimously.

Board Meeting — February 19, 2009

2. *Case #L07-AEL-RBS-2007085021* *Complaint #200708502*  
Mr. Thompson, seconded by Mr. Lockwood, moved to dismiss and close the case for lack of evidence of misconduct. The motion passed unanimously.
  
3. *Case #L07-AEL-RBS-2007087941* *Complaint #200708794*  
*Case #L08-AEL-RBS-2008001731* *Complaint #200800173*  
Mr. Thompson, seconded by Mr. Campbell, moved to authorize an informal conference conducted by the reviewing Board member. The motion passed unanimously.
  
4. *Case #L07-AEL-RBS-2007088681* *Complaint #200708868*  
Mr. Schuermann, seconded by Mr. Lim, moved to dismiss and close the case. The motion passed unanimously.
  
5. *Case # L08-AEL-RBS-2008000561* *Complaint #200800056*  
Mr. Campbell, seconded by Mr. Lim, moved to issue a Letter of Instruction regarding maintaining proper communication at all times. The motion passed unanimously.
  
6. *Case #L08-AEL-RBS-2008007651* *Complaint #200800765*  
Mr. Schuermann, seconded by Mr. Campbell, moved to dismiss and close the case for lack of disciplinary grounds. The motion passed unanimously.
  
7. *Case #L08-AEL-RBS-2008018251* *Complaint #200801825*  
Ms. Shankmann-Cohn, seconded by Mr. Campbell, moved to authorize an informal conference. The motion passed unanimously.
  
8. *Case #L08-AEL-RBS-2008026021* *Complaint #200802602*  
Mr. Thompson, seconded by Mr. Campbell, moved to give this case file to an engineer Board member to review. The motion passed unanimously.
  
9. *Case #L08-AEL-RBS-2008024201* *Complaint #200802420*  
Mr. Thompson, seconded by Mr. Campbell, moved to give this case file to an architect Board member to review. The motion passed unanimously.
  
10. *Case #L09-AEL-RBS-2009002441* *Complaint #200900244*  
Mr. Thompson, seconded by Mr. Schuermann, moved to authorize a Consent Order for a civil penalty in the amount of \$2,000.00 and to take and pass the Board's law and rules exam. The motion passed unanimously.
  
11. *Case #L09-AEL-RBS-2009001601* *Complaint #200900160*  
Mr. Schuermann, seconded by Mr. Thompson, moved to give this case file to an engineer Board member to determine if there are any violations. The motion passed unanimously.

12. Case #L09-AEL-RBS-2009002691

Complaint #200900269

Mr. Lockwood, seconded by Mr. Thompson, moved to authorize a Consent Order for a civil penalty of \$250.00, to submit all required documents, and to take and pass the Board's laws and rules exam. The motion passed unanimously.

*Consent Order*

*Case #L08-AEL-RBS-2008016921*

Because the Consent Order had been fully complied with, Mr. Lockwood, seconded by Mr. Thompson, moved to accept the Consent Order and close the case. The motion passed unanimously.

Mr. Balthrop requested that staff revise the civil penalty schedule for review at the next meeting, noting the average number of staff hours involved in processing a complaint and estimating the administrative costs.

Mr. Lim, seconded by Mr. Schuermann, moved to adjourn. The motion passed unanimously.

The meeting adjourned at 12:30 p.m.

ATTACHMENTS

Proposed Rules for Rulemaking Hearing  
Alan Dooley's e-mail of 1/5/09  
Minutes of the December 11, 2008 Meeting  
Complaints for Board Decision  
Licensing Data  
Complaint Data  
Financial Data  
Action Items  
Reference Manual Revisions  
Board Seal  
Michael D. Hagge's e-mail of 1/13/09  
David Hughes' e-mail of 1/13/09  
Marie Leone's e-mail of 1/14/09  
Pending Legislation  
    SB1080/HB1216  
    SB0059/HB0867  
    SB1916/HB1420  
David Watson's letter of 11/26/08  
MSSA's Proposal for a Statewide Engineering Plan  
Legal Case Report