

MINUTES

Arizona State Board of Technical Registration
LEGISLATION AND RULES COMMITTEE
1110 W. Washington Street, Suite 240
Phoenix, Arizona 85007
Tuesday, November 17, 2020 –9:00 A.M.

1. **CALL TO ORDER** – 9:06am

2. **ROLL CALL**

Present: Edward Marley

Telephonic: LeRoy Brady, Jason Foose, Robert Stanley, Peter Leeds

AAG: None

Staff: Kurt Winter, Melissa Cornelius, Douglas Parlin

3. **CALL TO THE PUBLIC**

No one appeared before the Committee.

4. **ADOPTION OF MINUTES**

Review, Consideration and Possible Action of the following:

A. Approve, modify and/or reject March 12, 2019 L&R Committee minutes.

Mr. Brady moved and Mr. Leeds seconded to accept the minutes; motion carried unanimously.

5. **REVIEW, DISCUSSION AND POSSIBLE ACTION ON THE FOLLOWING:**

A. Question from the Public: Are controlling monuments considered sectional monuments and/or created monuments?

The member of the public who submitted the question, Mr. King, was not present. Mr. Fondren appeared telephonically.

Mr. Foose stated that the land surveyor minimum standards answered Mr. King's question. Mr. Leeds agreed, stating that the standards did not define sectional monuments, only controlling monuments, and that Mr. King's question was unclear. Mr. Fondren agreed.

No action taken.

- B. Question from the Public: Are private easements “appurtenance” that must be shown on final plats and dedications?

The member of the public who submitted the question, Mr. Kesti, appeared telephonically. Mr. Vesecky appeared telephonically.

Mr. Kesti explained that, in the past, the City of Phoenix denied plat submittals that showed factual information the City did not require, such as private easements; but he stated that this was no longer the case.

Mr. Foose opined that the City should retract its policy denying plat submittals that show factual information the City did not require. Mr. Kesti asked if the City should accept everything on a submitted ALT survey. Mr. Foose answered “yes,” but with caveats such as city officials indicating on the plat what was and was not reviewed. Mr. Brady stated that this may be an issue in other jurisdictions and asked the committee if the Board should draft a substantive policy statement regarding this matter. Mr. Foose answered ‘no.’ Mr. Marley asked if the Board should send a letter to Arizona jurisdictions regarding this matter. Mr. Foose answered ‘no.’ Mr. Vesecky opined that the Board should send a letter to the Arizona municipalities. Mr. Leeds and Mr. Marley agreed.

Mr. Stanley moved and Mr. Brady seconded to recommend to the Board that staff draft a letter clarifying a municipality’s review policy of sealed plats in light of the Board’s Practice Act and then send that letter to all plat reviewing municipalities, include it in the next Board newsletter and publish it on the Board’s website; motion carried unanimously.

- C. Question from the Public: Does the expenditure of funds from a general appropriation for the purpose of Building Renewal create a public works project regardless of scope?

The member of the public who submitted the question, Mr. Holmes, was not present.

Mr. Marley opined that, from his reading of the Board’s Practice Act, any project that utilizes the expenditure of funds from a general appropriation for the purpose of Building Renewal was a public works project, regardless of scope. Ms. Cornelius stated that she had called and emailed the Schools’ Facility Board and the AG’s office regarding this matter previously, but had not received an answer from either. Mr. Brady opined that plans to revise buildings were different from building maintenance. Mr. Marley agreed.

The committee directed staff to ask the AG’s office for an opinion on this matter.

- D. Question from the Public: Do Plan and Profile Drawings for private sewage lines require field observations prior to sealing?

Mr. Vesecky and Mr. Marron appeared telephonically.

Mr. Vesecky explained that he would never sign a construction certificate of completion without first observing the construction himself or from one of his bona fide employees; however, from his reading of A.R.S. 32-152(b), this was not mandatory. He further stated

that this issue was detrimental to public health and safety. Mr. Marron explained issues the township of Cave Creek had in the past due to this issue.

Mr. Marley commented that, from his reading of ARS 32-152, it was a business decision if a registrant wanted to rely upon the work of others before sealing a construction certificate of completion. Mr. Vesecky asked who was responsible for the sealed construction plan if the registrant relied upon the data and work of others. Mr. Marley answered that the registrant was responsible. Mr. Marley opined revising the statute since it appeared to be detrimental to public health and safety. There was agreement from all appearing. Ms. Cornelius opined that it might be faster for local jurisdictions to create their own stricter guidelines than the Board pursuing changes through the State Legislature. Mr. Marron stated that a small jurisdiction such as Cave Creek might not be able change their guidelines easily.

Mr. Stanley moved and Mr. Foose seconded to recommend to the Board that the Board revise A.R.S. 32-152 as per discussed and forward said changes to the legislature; motion carried unanimously.

- E. Question from the Public: How can a firm have a principal that is not an employee of the firm? -or- Does the principal of a firm as defined under ARS 32-141(A) need to be an owner of that firm in order to directly supervise bona fide employees as defined under R4-30-101(3)? -or-Can a contracted employee/registrant be a principal of a firm?

Mr. Marley opined that a principal of a firm does not need to be an owner of that firm in order to directly supervise bona fide employees. Mr. Stanley opined that a contracted employee/registrant should not be a principal of a firm. Mr. Marley agreed. Mr. Marley stated that the statutes regarding firms appeared archaic in our now digital world where a bona fide employee and registrant may be on opposite sides of the world. Mr. Parlin stated that there was a definition of 'principal' in the Board's definitions. Mr. Leeds stated that the definition for a 'principal' in the rules was not confusing.

No action taken.

- F. General discussion about Drones and whether the Board should consider drafting a substantive policy statement regarding their use in professional practice and/or in unlicensed practice

Mr. LaBell and Mr. Fondren appeared telephonically.

Mr. Marley asked how home inspectors utilized drones. Mr. LaBell explained and Mr. Fondren explained how land surveyors utilized drones. Mr. Marley opined that the Board regulated registrants, not tools. Mr. Leeds opined that the committee should not recommend to the Board to issue a substantive policy statement regarding drones.

No action taken.

- G. Creating a new statute allowing the Board to retain jurisdiction over licenses that have expired

Ms. Cornelius updated the Committee that the Governor's office denied the Board's request to create a statute allowing the Board to retain jurisdiction over licenses that have expired.

No action taken.

- H. Possible election of L&R Chairman

The committee reaffirmed Mr. Marley as chairman.

6. FUTURE AGENDA ITEMS

Nothing discussed

7. FUTURE MEETINGS

No date decided

8. ADJOURNMENT

11:22am