

**ARIZONA STATE BOARD OF TECHNICAL REGISTRATION  
MINUTES FOR REGULAR SESSION MEETING**

Tuesday, March 26, 2019, beginning at 9:00 a.m.  
1110 W. Washington, Conference Room #240  
Phoenix, AZ 85007

**1. CALL TO ORDER – 9:00am**

**2. ROLL CALL –**

**Present:** Jason Foose, Jack Gilmore, Jason Madison, Carmen Wyckoff, Stephen Noel, Andrew Everroad, Eugene Montgomery

**Not Present:** Dr. Alejandro Angel, Neal Jones

**Staff:** Melissa Cornelius, Patrice Pritzl, Douglas Parlin, Robert Stam, Kurt Winter

**AAG:** Scott Donald

**3. CALL TO THE PUBLIC**

No one appeared before the Board.

**4. ADOPTION OF MINUTES**

Review, Consideration, and Possible Action on the following:

A. Approve, modify and/or reject, February 26, 2019 Board meeting minutes.

Mr. Noel moved and Mr. Gilmore seconded to approve minutes; motion carried unanimously.

**5. CONSIDERATION OF CASES REFERRED FOR FORMAL HEARING**

*Formal Hearings or Related Proceedings will begin at 9:30 a.m.*

A. Formal Administrative Hearing and/or Review, or Discuss and Take Possible Action to Deem Respondent Admission to the Complaint and Notice of Hearing:

P19-019 & P16-015, Michael Bostic, Geologist

Mr. Foose opened the matter. Scott Donald, AAG, appeared before the Board on behalf of the State. Marc Harris AAG appeared before the Board to provide legal advice. Respondent did not appear before the Board and was not represented by council.

Mr. Donald stated that the Board sent the Complaint and Notice of Hearing to Respondent's address of record and Respondent failed to submit an answer. Mr. Donald asked that the Board deem the allegations in the Complaint and Notice of Hearing as admitted.

Mr. Everroad moved and Ms. Wyckoff seconded to grant the State's Motion to Deem the allegations in the Complaint and Notice of Hearing as admitted; motion carried unanimously.

Mr. Everroad moved and Mr. Gilmore seconded to adopt the Factual Allegations and the Alleged Violations from the Complaint and Notice of Hearings as Findings of Fact and Conclusions of Law; motion carried unanimously.

Mr. Donald argued that Respondent failed to comply with his previous Board Order and staff were unable to communicate with Respondent based upon the contact information on record and therefore the Board could not regulate Respondent. Mr. Donald asked that the Board revoke Respondent's registration.

Mr. Everroad moved and Mr. Noel seconded to revoke Respondent's license and reward fees and costs as requested by the State; motion carried unanimously after the Board took a roll call vote.

## 6. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

### A. Complaints Proposed for Resolution by Dismissal or Closure:

#### 1. P19-024, Paul Basha, P.E. (Civil) #17711

Alleger, Quent Augspurge, appeared before the Board.

Mr. Augspurge argued that Respondent did not follow the city of Scottsdale's standards; that he failed to seal the reports submitted to the Alleger; and that the Board should not dismiss the case.

Mr. Gilmore stated that APS installed equipment after the city approved a subdivision plat, usually in a manner to best provide their services. Alleger stated that APS received a permit to install equipment in the right of way. Mr. Gilmore opined that the Board could not take disciplinary action against Respondent with the information before them. Mr. Augspurge argued that Respondent ignored the City of Scottsdale's standards in his evaluation. Mr. Foose asked how this had harmed the public. Mr. Augspurge answered that it had not harmed the public, yet. Mr. Montgomery opined that the City of Scottsdale had been proactive in dealing with Mr. Augspurge's issues. Mr. Madison expressed his concern that Respondent did not seal the letters submitted to the Alleger, which he opined contained professional opinions. Mr. Montgomery and Ms. Wyckoff disagreed, opining that the letters in question did not give rise to a professional opinion. Mr. Noel expressed his concern that the City of Scottsdale may be ignoring its own standards, but opined that Respondent was not at fault.

Mr. Gilmore moved and Mr. Everroad seconded to Issue a Letter of Concern; motion carried. Mr. Noel, Ms. Wycoff and Mr. Montgomery voted Nay.

2. P19-017, Ryan Ellsworth, Non-Registrant

Respondent appeared telephonically.

Mr. Madison moved and Mr. Gilmore seconded to dismiss the case; motion carried unanimously.

3. P19-022, Carl Sitterley, R.L.S. #28742

Respondent appeared before the Board.

Mr. Foose opined that the Board should issue a Letter of Concern to resolve this case to remind the Respondent to note critical infrastructure on the boundaries of a plat. Respondent stated he reasoned that a Boundary Survey was unwarranted as two already existed.

Mr. Noel moved and Mr. Gilmore seconded to Issue a Letter of Concern; motion carried unanimously.

4. P18-035, Anthony Voyles, P.E. (Civil) #35932

Mr. Madison moved and Mr. Gilmore seconded to dismiss the case; motion carried unanimously.

B. Complaints Proposed for Resolution by Letters of Concern:

1. HI19-024, Nicholas Boekenoogen, C.H.I. #42489

Respondent appeared before the Board.

Respondent asked that the Board not issue the EAC recommended Letter of Concern to him, but instead dismiss the case on the basis that Respondent followed the minimum standards when performing the home inspection in this matter.

Mr. Montgomery asked if the EAC was aware of Respondent's arguments. Staff answered 'yes.' Mr. Foose asked if the EAC members agreed on the recommendation given to the Board. Investigator Thacker answered that the rule in question was a gray zone but the committee did agree that a Letter of Concern was warranted. Respondent reiterated his argument. Ms. Wyckoff commented that perhaps the committee recommended the Letter of Concern to get Respondent's attention and she expressed her belief that the Board should reconsider the letter. Mr. Madison agreed. Mr. Montgomery suggested that the HIRSC look at the rule in question for clarification.

Mr. Madison moved and Ms. Wyckoff seconded to dismiss the case; motion carried

unanimously.

2. HI19-001, Greg Clark, C.H.I. #65984

Mr. Madison moved and Mr. Gilmore seconded to issue a Letter of Concern; motion carried unanimously.

C. Complaints Proposed to Offer Consent Agreement:

1. P18-064, Helmuth Hack, R.L.S. #32226

Mr. Madison moved and Mr. Gilmore seconded to offer proposed Consent Agreement; motion carried unanimously.

2. P19-013, Gerald Clark, R.A. #32055 and Clark Architects, Inc., Firm #18420

Mr. Foose recused himself. Mr. Gilmore acted as Chairman.

Alleger, Jed Nobel, and Respondent appeared telephonically.

Mr. Gilmore asked Respondent if he had paid Mr. Nobel. Respondent answered 'no,' stating that he was robbed shortly after Mr. Nobel performed the work and he was therefore unable to pay him; and that the city rejected Mr. Nobel's work so Respondent felt he shouldn't pay Mr. Nobel. Mr. Gilmore asked if another engineer had completed the work. Respondent answered 'no.' Mr. Nobel stated that the issues with the plans were minor and could be fixed with a couple hours of work and that he had completed his contractual obligations to Respondent. Mr. Gilmore asked Mr. Nobel if he was still under contract with Respondent. Mr. Nobel answered 'yes,' stating that he was waiting for payment.

Mr. Montgomery pointed out that Respondent received monies from his client and, per the Board's rules and statutes, Respondent should have paid any collaborating professionals, such as Mr. Nobel, within seven days, which Respondent did not do. Ms. Wyckoff asked if Respondent received the full amount contracted with his client. Mr. Madison answered 'yes.' Respondent indicated that the work contracted with Mr. Nobel occurred after the original contract with the client and that the client had not paid Respondent for the work Mr. Nobel completed. Ms. Wyckoff indicated that Respondent did not list Mr. Nobel's firm on the contract with the client. Mr. Madison asked if Respondent had a contract with his client for Mr. Nobel's work. Respondent answered 'no.' Mr. Madison opined that since Respondent's client did not pay Respondent for Mr. Nobel's work, there was not a violation. Mr. Nobel asked if Respondent violated Board rules and statutes for entering into a contract without a contract with the client. Mr. Madison answered 'no.' Mr. Gilmore asked what the EAC's opinion was. Investigator Thacker stated no EAC took place; the Board only received assessments. Mr. Gilmore asked Respondent if he had reregistered his firm. Respondent answered 'no,' but was in the process to do so.

Mr. Madison moved and Ms. Wyckoff seconded to offer a Consent Agreement encompassing an Administrative Penalty of \$500, cost of investigation because Mr. Clark performed professional services when his firm was not registered, and if not signed within the 30 days go to hearing; motion carried unanimously.

The Board took a break at 10:40am and reentered open session at 10:52am.

D. Complaints Proposed for Resolution with Signed Consent Agreements:

1. P19-020, Robert Stephenson, R.L.S. #34562

Mr. Madison moved and Mr. Everroad seconded to accept Signed Consent Agreement; motion carried unanimously.

2. HI19-022, Christopher Sipe, C.H.I. #62786

Dan Britt, Alleger, appeared telephonically.

Mr. Madison moved and Mr. Gilmore seconded to accept Signed Consent Agreement; motion carried unanimously.

E. Complaints Requiring Board Guidance:

1. P19-001, Davin Benner, P.E. #37846

Mr. Foose asked why this matter required Board guidance. Investigator Loera explained that the Board received a letter indicating that Respondent had a substance abuse issue, which prompted staff to subpoena Respondent for records regarding his probation screening for drugs. Mr. Montgomery asked if Respondent indicated on his last renewal his substance abuse history. Investigator Loera answered 'no,' but he did disclose his conviction for disorderly conduct. Mr. Donald cautioned the Board from discussing Respondent's possible chemical dependency issues without any medical expert opinions determining that was the case. Mr. Montgomery asked if Respondent had any conviction for substance abuse. Investigator Loera answered 'no.'

Mr. Madison moved and Mr. Everroad seconded to dismiss the case; motion carried unanimously.

## 7. LICENSING MATTERS

Discussion, Consideration and Vote on the following:

*Nothing to consider*

## 8. LICENSING CONSENT AGENDA

### A. Review, Consideration, and Action on Staff Recommendations for the following:

1. Cancellation of registrations and certifications that have been expired for one full renewal period;

Mr. Madison moved and Mr. Gilmore seconded to cancel registrations and certificates that had been expired for one full renewal period; motion carried unanimously.

2. Review of the List of registrations and certifications granted by the Executive Director pursuant to A.R.S. § 32-122.05, 32-122.06, and A.R.S. § 32-123.

*List available for public review upon request.*

## 9. POLICY MATTERS

### Review, Consideration, and Possible Action on the following:

- A. Update on Pending Legislation - HB2037, HB2463, HB2182, SB1232, HB2146, HB2569, HB2231, SB1448, SB1482

Ms. Pritzl reported on the status of pending legislation.

- B. Visit with NCEES Executive Director, David Cox, and Western Zone President

David Cox and Brian Robinson appeared before the Board and gave a presentation to the Board regarding NCEES.

- C. Newest Edition of AZBTR Newsletter

The Board reviewed a draft of the next edition of the Newsletter.

No action taken.

## 10. DIRECTOR'S REPORT

- A. Budget Update

Nothing discussed

B. Previous Meeting Follow-Up

a. ARS 41-1033 GRRC Petition

Ms. Cornelius reported that GRRC would issue a decision on the matter in a week.

b. Meetings with Deloitte: about Salesforce and e-licensing

Ms. Cornelius reported that staff visited Deloitte's office in Gilbert to discuss the Salesforce E-licensing system

c. Computer Updates: outstanding invoices/bids/legal claims

Ms. Cornelius reported that vendors would visit the Board to review its current system before placing bids for a data clean up.

d. Possible New Board Members

Nothing new to report.

e. Customer Satisfaction Survey

Ms. Cornelius reported that staff created a Customer Satisfaction Survey that could be found in the Board's lobby and within staff email signatures.

C. National Council News

See agenda item 14

D. Statistics Review

Nothing discussed.

**11. BOARD CHAIR'S REPORT - Board Member Recognition**

**12. ASSISTANT ATTORNEY GENERAL'S REPORT - Training on Bias, Prejudice and Ex Parte**

Mr. Donald educated the Board of the principles of Bias, Prejudice and Ex Parte, specifically mentioning that Board Members should not respond to communication from individuals regarding a pending investigation and to contact staff immediately if they receive said communications.

### 13. STANDING COMMITTEE REPORTS

#### A. Legislation and Rules Committee:

- Surveyor Task Force to Review and Possibly Revise the Boundary Minimum Standards
- Possibly Revising the Firm Registration Statute
- Reviewing and Possibly Revising the Definitions of "Responsible Charge," "Principal" and "Bona fide Employee"
- Possibly Creating a New Statute Giving the Board the Authority to Issue "Interim Orders" during Investigations
- Creating a Statute Requiring Respondents to Maintain Their Licenses in "Active" status pending Formal Hearing.

The Board reviewed the L&R Draft Minutes. Ms. Wyckoff indicated that she would participate at the next L&R meeting and asked that staff place a discussion of fee increases on the next agenda.

#### B. Home Inspector Rules and Standards Committee - Next Meeting 4/9/2019

Nothing Discussed

### 14. BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES

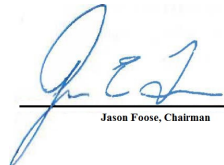
- A. ASBOG - Staff proctored the ASBOG FG and PG at the Board's office on March 15, 2019
- B. CLARB - Nothing new
- C. NCARB - Ms. Pritzl attended WCARB regional meeting in Nashville, TN in early March.
- D. NCEES - Western/Southern Zone meeting in Boise, ID in mid May
- E. ABET - Update regarding possible Board review of ABET accredited online degree programs

### 15. FUTURE BOARD MEETINGS – April 23, 2019

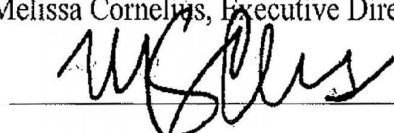
### 16. SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.

Fee Increases

### 17. MEETING ADJOURNMENT - 12:48pm

  
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Jason Foose, Chairman

Melissa Cornelius, Executive Director

  
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