

MINUTES
ARIZONA STATE BOARD OF TECHNICAL REGISTRATION
1110 West Washington, Conference Room #240
Phoenix, AZ 85007

Tuesday June 26, 2018
9:00 a.m.
OPEN SESSION

1. **CALL TO ORDER** – 9:02am

2. **ROLL CALL Present:** Dr. Alejandro Angel, Stephen Noel, Jason Foose, Eugene Montgomery, Jason Madison, Jack Gilmore, Edward Marley
Not Present: Andrew Everroad, Neal Jones
Staff: Melissa Cornelius, Patrice Pritzl, Robert Stam, Douglas Parlin, Kurt Winter

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, May 22, 2018 Board meeting minutes.

Mr. Marley moved and Mr. Noel seconded to approve the minutes; motion carried.

- B. Approve, modify and/or reject, May 22, 2018 Board executive session meeting minutes.

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

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

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

Nothing to Consider

6. **ENFORCEMENT MATTERS**

Review, Consideration and Possible Vote on the following:

- A. Complaints Proposed for Resolution by Dismissal:

1. HI18-026, Jesse Reeves, Non-Registrant and American Property Inspections, Non-Registrant Firm

Mr. Foose moved and Mr. Marley seconded to dismiss the case; motion carried.

2. P18-003, Aaron Holden, Non-Registrant and iEngineer, Non-Registrant Firm

Dr. Angel asked why staff did not hold an EAC meeting for this matter. Investigator Kraemer answered that his notes said to conduct further investigation into Respondent firm; he did not have a note that the Board requested an EAC meeting be held. Dr. Angel expressed concern that Respondent's submitted plans to the Board indicated the unlicensed practice of professional engineering. Mr. Madison opined that the public welfare and safety was no longer an issue since Respondent firm no longer existed. Mr. Foose stated that it was clear that there was a responsible registrant for the submitted plans. Mr. Marley agreed, stating that it appeared Respondent firm hired M&P to complete engineering work and did not simply pay them to seal the plans. Dr. Angel stated that he wished this matter had gone to an EAC since it was unclear whether Respondent firm did work on multi-family homes. Investigator Kraemer informed the Board that examples of multi-family home plans were in the Board Packet. Dr. Angel acknowledge the plans, but expressed concern that Respondent firm drafted said plans after it merged with a registered firm.

Mr. Madison moved and Mr. Foose seconded to dismiss the case; motion carried. Dr. Angel voted Nay.

B. Complaints Proposed for Resolution by Letters of Concern:

1. HI18-017, Steven Fitzgerald, C.H.I. #41289

Mr. Foose moved and Mr. Marley seconded to issue a Letter of Concern; motion carried.

C. Complaints Proposed for Resolution with Signed Consent Agreement:

1. AL18-005, Jon Lunt, Non-Registrant and JL Automation, LLC, Non-Registrant Alarm Business

Mr. Montgomery asked if this matter consisted of a single incident. Investigator Loera answered that there was only a single incident known to staff. Mr. Foose asked staff why they negotiated a lower civil penalty amount. Investigator Loera answered that staff did not negotiate the amount; Respondent's attorney offered the proposed Consent Agreement. Mr. Gilmore opined that the Board not accept the proposed Consent Agreement. Mr. Marley asked why Respondent's attorney requested a lower penalty amount. Investigator Loera answered Respondent's attorney considered it reasonable since Respondent planned to apply for certification and would need to pay the required fees.

Mr. Foose moved and Mr. Marley seconded to reject Respondent attorney's offered Consent Agreement and re-offer Respondent staff's recommended consent agreement, and if not signed within 30 days move to hearing; motion carried.

2. P18-054 and P18-058, James Elson, R.A. #11005 and James Elson Architect, Firm #19729

Mr. Madison recused himself.

Respondent appeared before the Board. Dr. Angel asked if Respondent had communicated with the parties to which he owed money. Respondent answered yes.

Mr. Marley moved and Mr. Foose seconded to accept signed Consent Agreement; motion carried.

3. HI18-019, Michael Johnson, C.H.I. #65320 and AmeriSpec Home Inspections, Firm #20965

Mr. Madison moved and Mr. Marley seconded to accept signed Consent Agreement; motion carried.

4. P18-059, Roger Blair, P.E. (Civil) #48968

Mr. Madison moved and Mr. Marley seconded to accept signed Consent Agreement; motion carried.

5. P18-052, Robert Savage, R.L.S. #21786

Mr. Madison moved and Mr. Marley seconded to accept signed Consent Agreement; motion carried.

6. P18-055, Don Fredricks, Non-Registrant and Building by Don Fredricks, Non-Registrant Firm

Mr. Madison opined that the Consent Agreement be modified in lieu of the outcome of case P18-056.

Mr. Madison moved and Mr. Marley seconded to reject the signed Consent Agreement and have staff redraft a Consent Agreement to be offered to the Respondent; motion carried.

Break at 10:37 am. Back in session at 10:51am

D. Complaints Proposed to Offer Consent Agreement:

1. P18-056, William Bixler, P.E. (Structural) #46644

Respondent and council, John Condrey, appeared before the Board.

Mr. Condrey stated that it was his opinion that the Board could not initiate its own

complaints, and therefore lacked jurisdiction in the matter. He further stated that Respondent did not violate any rules or statutes.

Mr. Marley moved and Mr. Foose seconded to enter executive session to seek legal advice at 9:27am. The Board entered back into public session at 9:45am.

Dr. Angel asked if Mr. Bixler had ever paid Mr. Fredricks wages. Respondent answered that he charged Mr. Fredricks \$4,500 for services but gave him a \$1,000 deduction for doing his own drafting. Mr. Marley asked who paid Respondent. Respondent answered Mr. Fredricks. Dr. Angel opined that Mr. Fredricks was not Respondent's bona-fide employee. Mr. Condrey disagreed, stating there was no practical difference between writing a check for \$1,000 to Mr. Fredricks and giving him a \$1,000 discount on services. Mr. Madison opined that Respondent did not violate Board rules and statutes since Mr. Fredricks, who happened to be the project's drafter, was the licensed contractor who hired Respondent. Mr. Montgomery and Dr. Angel expressed concern that there was ambiguity regarding who was in charge of the project. Mr. Madison stated that if Mr. Fredricks drafted the plans and then, as the licensed contractor, demanded Respondent stamp them, it would be the fault of Respondent for taking responsibility for the plans.

Investigator Hunt expressed concern that dismissing this matter did not follow the precedent of a connected case in which the Board found the respondent in that matter in violation for aiding and abetting a non-registrant.

Mr. Madison moved and Mr. Marley seconded to dismiss the case; motion carried. Mr. Montgomery voted Nay.

2. HI18-025, John Bell, C.H.I. #51003

Respondent and Alleger, Mr. Martinez, appeared before the Board.

Respondent stated that he did not agree with all the case findings but would adhere to the Consent Agreement if signed. Dr. Angel informed Respondent that changing the Findings of Fact would be difficult. Mr. Madison agreed.

Mr. Noel moved and Mr. Montgomery seconded to offer proposed Consent Agreement and if not signed in 30 day move to hearing; motion carried.

3. AL18-003, Dave Roman, Non-Registrant and Security Systems, Inc., Non-Registrant Alarm Business, DBA Safeguard America, DBA Safe Home Security

Respondent appeared telephonically.

Respondent indicated that he mistakenly believed that Respondent firm was in compliance, that Respondent firm was seeking licensure, and Respondent's attorney had some issues with the language in the Consent Agreement.

Mr. Marley moved and Mr. Gilmore seconded to offer proposed Consent Agreement and if not signed within 30 days proceed to hearing; motion carried.

E. Reconsideration of Prior Board Action:

1. HI18-011, Robert Bauer, C.H.I. #60983

Respondent appeared before the Board.

Respondent requested that the Board reconsider the proposed Consent Agreement offered in April 2018. Dr. Angel stated that he would consider removing the remedial training from the proposed Consent Agreement.

Mr. Madison moved and Mr. Marley seconded to offer an amended consent agreement encompassing the following: Letter of Reprimand, stayed suspension and probation, pay an administrative penalty of \$500, pay the cost of investigation in the amount of \$537, peer review of three recently completed reports, and, if not signed within 30 days move to hearing; motion carried.

7. LICENSING MATTERS

Discussion, Consideration and Vote on the following:

- A. Application # 181265, for waiver of PE and for Registration as a Civil Engineer, Du, Hua Chang

Mr. Madison stated that he had this application brought before the Board because Applicant had not taken the NCEES examination. Mr. Madison opined that Applicant's work and education history indicated that he was qualified for licensure.

Mr. Madison moved and Mr. Marley seconded to grant licensure; motion carried. Foose voted Nay.

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. Marley moved and Mr. Noel seconded to cancel registrations and certifications that had been expired for one full renewal period; motion carried.

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. Proposed Language for Licensure by Endorsement

Ms. Cornelius asked the Board to consider the proposed language for licensure by endorsement. Board members made suggestions regarding the language. Board members asked that staff omit references to foreign countries in the endorsement and ARS 32-126.

Mr. Marley moved and Dr. Angel seconded to pursue licensure by endorsement legislation.

B. 2018 Employee Engagement Survey – Executive Summary

Ms. Cornelius reported that the survey indicated that staff enjoyed their jobs. Dr. Angel noted that some numbers regarding the consideration of staff ideas and staff education were lower than last year.

C. Letter to Governor’s office pursuant to Executive Order 2018-02

Ms. Cornelius asked the Board to consider the proposed language for the Letter to Governor’s office pursuant to Executive Order 2018-02. Board Members made suggestions regarding the language and authorized Ms. Cornelius to send the amended letter to the Governor’s office.

D. The Executive Director’s performance and compensation.

Mr. Marley moved and Mr. Foose seconded to enter executive session at 12:34 pm and returned at 1:00 pm.

Mr. Marley moved and Mr. Foose seconded to increase the Executive Director’s compensation by 5%; motion carried.

10. DIRECTOR’S REPORT

A. Budget Update - End of fiscal year budget report

Nothing discussed.

B. Previous Meeting Follow-Up - The CRM system and Microsoft, GRRC ok’d Final Rulemaking, New Staff Member

Ms. Cornelius reported that the estimate to clean up the CRM system data was roughly \$100,000, which the budget could cover, and that the Board should have approximately \$200,000 for IT projects during the 2019 fiscal year; the State moved off Microsoft Office to Google, which has challenged staff; GRRC approved the Board's proposed rules which become effective the beginning of August; and, introduced William Will as the Board's new investigator.

- C. Director's Meetings - Governor's Office meeting regarding Board Member Vacancies, Google Suite Meeting, 90/10 Meeting, and HR Meeting

Ms. Cornelius reported that Board members would need to reapply for their positions before the end of the month. Dr. Angel requested that Ms. Cornelius or Ms. Pritzl present at the WTS seminar in September.

- D. Statistics Review

Ms. Cornelius reported that the statistics this month appeared somewhat off but was not concerned.

11. BOARD CHAIR'S REPORT – Nothing to consider

12. STANDING COMMITTEE REPORTS

- A. Legislation and Rules Committee - Nothing to Report
- B. Home Inspector Rules and Standards Committee - Nothing to Report

13. BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES

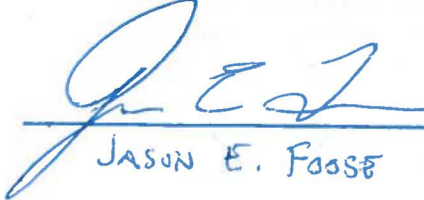
- A. ASBOG - Monterrey meeting at the end of October
- B. CLARB - Toronto meeting at the end of September
- C. NCARB - Detroit meeting at the end of June
- D. NCEES - Scottsdale meeting in August

14. **FUTURE BOARD MEETINGS** – July 24, 2018

15. **SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.**

Proposed Language for Licensure by Endorsement
Construction Management experience
Newsletter Article

16. **MEETING ADJOURNMENT** – 1:04pm



JASON E. FOSSE V. CHAIRMAN - ACTING CHAIR

Melissa Cornelius, Executive Director

