

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

Tuesday, August 27, 2019, beginning at 9:00 a.m.
1110 W. Washington, Conference Room #240
Phoenix, AZ 85007

1. **CALL TO ORDER** – 9:01am
2. **ROLL CALL – Present:** Jason Foose, Jack Gilmore, Neal Jones, Andrew Everroad, Jason Madison, Eugene Montgomery
Not Present – Alejandro Angel, Carmen Wyckoff, Stephen Noel
Staff – Melissa Cornelius, Patrice Pritzl, Robert Stam, Douglas Parlin, Kurt Winter
AG – Scott Donald, Deanie Reh, Marc Harris

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, July 23, 2019 Board meeting minutes.

Ms. Cornelius informed the Board of a small spelling error on page five of the minutes.

Mr. Madison moved and Mr. Jones seconded to accept minutes with a minor spelling correction; motion carried. Mr. Everroad abstained.

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 on:
Rescinding State’s Motion to Deem Respondent’s Admission to the Allegations in the Complaint and Notice of Hearing and, in the alternative, acting upon the Proposed Consent Agreement:

1. P17-056, Dixon, Bradley T, P.E. (Civil) #36637

Deanie Reh, A.A.G., appeared before the Board representing the State. Marc Harris, A.A.G., appeared before the Board to give independent advice to the Board. Respondent appeared before the Board telephonically and no counsel representing him.

Mr. Winter informed the Board that Respondent signed the proposed Consent Agreement. Ms. Reh asked that the Board accept the signed Consent Agreement.

Respondent stated that he agreed with the Consent Agreement. Mr. Madison asked Respondent why he had not signed the Consent Agreement when the Board first offered it two years previously. Respondent answered that he did not fully understand the investigative process at that time.

Mr. Everroad moved and Mr. Madison seconded to accept the State's withdrawal of the State's Motion to Deem Respondent's Admission to the Allegations in the Complaint and Notice of Hearing and accept the signed Consent Agreement; motion carried unanimously.

B. Whether to accept, modify or reject the signed consent agreement in lieu of a hearing.

1. AL17-017, Life Safety Fire and Security Solutions, Non-registrant Alarm Business

Deanie Reh, A.A.G., appeared before the Board representing the State. Marc Harris, A.A.G., appeared before the Board to give independent advice. Respondent Firm did not appear before the Board and no counsel represented the firm.

Ms. Reh explained that Respondent Firm no longer wished to do business in Arizona and the Firm's representatives signed the Consent Agreement to conclude this matter. She asked the Board to accept the signed Consent Agreement.

Mr. Everroad moved and Mr. Jones seconded to accept the signed Consent Agreement; motion carried unanimously.

6. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. HI19-038, Arthur Collins, C.H.I. #52882

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

2. P19-074, Jason Kuklinski, R.L.A. #50617

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

3. P19-042, Glenn Kennedy, R.A. #24664

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

4. P19-059, Paul Basha, P.E. (Civil) #17711

Allegers, Matt Olson, appeared before the Board. Holly Wagner also appeared to address the Board. Respondent appeared before the Board.

Alleger argued that Respondent's studies were substandard, not sealed and misleading to the public. Mr. Olson and Ms. Wagner asked that the Board discipline Respondent.

Respondent argued that two professional engineers assessed this case and recommended that staff not convene an EAC because the Alleger's allegations lacked merit; that the Board previously issued a Letter of Concern regarding sealing studies in a previous case against Respondent; and asked the Board to dismiss the case.

Mr. Madison agreed with the case assessors that the Board should dismiss the case. Mr. Foose expressed his concern that Respondent wrote the studies after the designers designed the roundabouts. Respondent stated that the City of Scottsdale mandated the installation of roundabouts; therefore, he was not obligated to write a study. Mr. Gilmore asked if the City of Scottsdale planned to expand the road to two lanes. Respondent answered 'no.' The Allegers disagreed with Respondent. Mr. Montgomery opined that Respondent did not violate the Board's Practice Act and that the City of Scottsdale would be a more appropriate venue for this matter.

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

Board took a break at 10:40am and returned at 10:50am.

B. Complaints Proposed for Resolution by Letters of Concern:

1. P19-051, Jason Kack, R.L.S. #33315

Mr. Foose explained that Respondent had difficulty recovering the records for the survey in this matter due to the length of time since he completed the survey and the fact the company he worked for no longer existed.

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

2. P19-071, Michael Frank, Non-Registrant and Frank Civil Consulting, Firm #19872

Respondent with counsel, Douglas Folk, appeared before the Board. Mr. Gilmore recused himself.

Mr. Folk argued that Respondent's use of a trade name did not violate the Board's Practice Act, that this issue arose from a Board staff error and that the Board should dismiss the case. Investigator Kramer responded that the Board did not have issue with Respondent's use of his trade name and that the recommended letter of concern

informed him to make sure to include his 'doing business as' firm name when submitting his annual firm registration. Respondent stated that he and his firm had done nothing wrong and asked that the Board dismiss the case.

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

C. Complaints Proposed to Offer Consent Agreement:

1. P19-046, Kent Akbay, Non-Registrant and Drone Works, Non-Registrant Firm.

Mr. Montgomery opined that the Civil Penalty was nominal.

Mr. Jones moved and Mr. Everroad seconded to offer a Proposed Consent Agreement to Respondent and increase the Civil Penalty to \$1000, include costs of investigation, and if not signed within 30 days move to hearing; motion carried unanimously.

2. P19-060, Andres R. Lezama Loaiza, Non-Registrant and Beaux Architecture, LLC, Non-Registrant Firm

Mr. Jones asked why staff could not reach Respondent. Investigator Thacker opined that Respondent, who was initially very communicative, assumed that he could pay a small fee to become registered. However, once it became clear that the architect registration process had many requirements and that he would face a penalty, Respondent stopped communicating with staff. Mr. Foose opined that Respondent's website was misleading.

Mr. Everroad moved and Mr. Jones seconded to offer Proposed Consent Agreement and if not signed within 30 days move to hearing; motion carried unanimously.

3. P19-054, Thomas Haws, P.E. (Civil) #30503

Respondent appeared before the Board.

Mr. Montgomery expressed his concern that Respondent recorded his substandard survey with the Pinal County recorder's office and asked if the Board could take action to rectify the issue. Mr. Foose answered 'no.' Mr. Foose asked when the property owner recorded the survey. Respondent answered, 'approximately August 2014.' Mr. Montgomery asked if staff could send a letter to the Pinal County recorder's office with regard to Registrant's survey informing them of the Board's determination that the survey was below standard.

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

The Board directed staff to draft a letter to the Pinal County recorder's office and the planning department regarding Respondent's survey.

D. Complaints Proposed for Resolution with Signed Consent Agreements:

1. P19-070, Shannon Long, Non-Registrant and Long Design Associates, LLC, Non-Registrant Firm

Allegers, Robert Hershberger and Larry Finnard, appeared before the Board.

Mr. Hershberger argued that Respondent violated the Board's Practice Act when he held himself out to be an architect and worked on a number of projects, some that were public works, and he asked that the Board discipline him accordingly.

Mr. Foose informed Mr. Hershberger that Respondent had signed a consent agreement, which he then read aloud. Mr. Hershberger opined that the consent agreement was not harsh enough, nor did it include any language regarding aiding and abetting a non-registrant. Mr. Everroad expressed his concern that the consent agreement did not focus on Respondent's projects only the fact that his firm was not registered. Investigator Will explained that there was only evidence that Respondent worked on one project since three of the plans were marked preliminary. He further explained that he obtained the plans from a print shop. Mr. Foose questioned the authority of evidence obtained from a print shop. Mr. Jones asked if Respondent's firm was registered. Investigator Will answered 'yes.'

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

The Board directed staff to open an investigation against Mr. O'Dell for aiding and abetting Respondent.

After the vote, Mr. Finnard appeared before the Board. Mr. Finnard opined that principals of firms should be more accountable and that Respondent's discipline was too light.

2. AL19-016, Ackerman Security Systems, Inc., Non-Registrant Alarm Business

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

3. AL19-017, Deborah Gray, C.P. #68864 and Prodigy Smart Home, LLC, Alarm Business #21782

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

4. P19-045, Roger Plate, R.A. #08286

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

5. P19-052, Robert Atherton, R.L.S. #16490

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

6. HI19-042, Rodney Harrison, C.H.I. #58074 and Arizona Sun Home Inspections, LLC, Firm #21920

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

7. P18-051, George Baker, R.A. #11374 and George H. Baker, Architect, Non-Registrant Firm

Respondent appeared before the Board.

Mr. Jones asked if the drafter Respondent worked with was still drafting. Respondent answered 'yes.'

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

E. Complaints Proposed to Forward to Hearing:

1. AL19-013, Shae Hensley, Non-Registrant

Mr. Montgomery asked if the Board needed to vote to send this matter to the AG's office for criminal prosecution. Staff answered 'yes.'

Mr. Madison moved and Mr. Jones seconded to forward this matter to hearing and to the AGs office for criminal prosecution; motion carried unanimously.

2. P19-068, Amir Kazz, Non-Registrant and Kazz Group Architecture, Non-Registrant Firm

Mr. Madison moved and Mr. Jones seconded to forward this matter to hearing; motion carried unanimously.

3. P20-002, Carlos Padilla, Non-Registrant and AAA Survey Arizona, LLC, Non-Registrant Firm

Ms. Reh recommended that the Board send this matter, along with another of Respondent's cases, to the county attorney's office for criminal prosecution. Mr. Donald stated that the Board had an injunction against Respondent, but the Board has been unable to serve Respondent the injunction since Respondent was avoiding service. Ms. Reh indicated an arrest warrant issued by a county attorney for avoiding a summons to answer to criminal charges would be harder for Respondent to avoid.

Mr. Foose moved and Mr. Jones seconded to authorize Ms. Reh to send this matter to the Maricopa and Pima county attorney's offices for criminal prosecution; 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. Jones seconded to cancel registrations and certifications that have 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. Board's interpretation of HB2569, including approval of proposed list of items to be required of applicants to demonstrate residency in AZ, the new application form, and notice of the application for the Board's website.

Ms. Pritzl explained what the Board needed to consider and take action on for this matter.

The Board reviewed materials provided by staff that clarified the sections of HB2569 that the Board needed to interpret for implementation and suggestions for implementation that comply with the new law.

Mr. Montgomery asked if an applicant could apply for licensure through reciprocity. Ms. Cornelius explained that the Board does not have a reciprocity law but that the board accepted National Council as a means to facilitate registration.

The Board considered the sections of the law that required implementation. The Board determined that an applicant under the new law would need to submit a copy of state law that demonstrated that the registration or certification used for application met the same practice level requirement as an Arizona registration or certification. The Board would not accept other forms of proof of practice level in lieu of the state statute and rule. The Board also determined that it would only accept registration or certification to demonstrate compliance with the law, and identified the forms of proof of residence in the State of Arizona allowed for application through A.R.S. § 32-4302. The Board then clarified that the burden to demonstrate qualifications for registration under A.R.S. § 32-4302 fell on the applicant and that the applicant was responsible for providing, or causing another jurisdiction to provide, the documentation that the Board reviewed and approved as noted in these minutes. The Board reviewed the law and determined that an applicant must have met some level of education/experience in order to obtain the registration used for application in order for that registration to be accepted.

The Board also determined that if an applicant under A.R.S. § 32-4302 could not provide adequate documentation to support granting of registration, that the Board would close the application per A.A.C. R4-30-209. The Arizona State Specific Examination would be required for all land surveyor applicants, and all applications submitted for registration or certification under A.R.S. § 32-4302 would be considered by the Board on a case by case basis to determine if the “same practice level” criteria had been met, as well as review of other applicable application disclosures.

The Board then reviewed the staff suggestions for a website, as well as a memo distributed by the Office of the Governor for public distribution. Mr. Donald advised the Board that there was one inconsistency between the memo and the law, in that the memo infers that a person who has had disciplinary action taken in any jurisdiction would not qualify for registration. The law actually states that that person would not qualify until the disciplinary action and Order have been resolved.

The Board made some changes to the announcement drafted by staff to be used for applicant instruction, and directed staff to put the Governor’s memo about HB2569 on the Board’s website.

B. FY2021 Budget Appropriation request, including Justifications for specific requests

The Board reviewed staff's drafted FY2021 Budget Appropriation Request, including appropriating funds for staff retirement, hiring an IT contractor, paying for the credit card charges for the new payment portal, additional funds to pay the AG's office to move the Board's backlogged hearing cases forward, and hiring a firm to digitize the Board's physical documents.

Mr. Foose moved and Mr. Jones seconded to approve staff's submitted FY2021 Budget Appropriation request; motion carried unanimously.

C. FY2021 Strategic Plan and Strategic IT Plan submissions

See 9B.

D. Draft Newsletter

The Board reviewed staff's bi-annual Newsletter draft.

The Board directed staff to publish the Newsletter.

E. Issues regarding the Home Inspector Standards of Practice as compared to the Checklist for Report Writing

Ms. Pritzl explained that the HIRS committee was currently reviewing discrepancies between the Home Inspector Standards and Checklist and that the Board should be aware of these discrepancies when moving forward with home inspector cases.

F. Discussion regarding Licensure of 'Designer of Engineering Systems'

Ms. Cornelius explained that the submitter of this matter wanted the Board's support for possible legislation to license Engineering Systems Designers.

Mr. Montgomery opined that licensing Engineering Systems Designers would be redundant. Mr. Madison opined that creating a new license as well as an exam for the license was too costly. Board members opined the Governor's office would not support legislation to create new license types.

The Board stated for the record that they did not support Licensure of 'Designer of Engineering Systems.'

10. DIRECTOR'S REPORT

A. Budget Update: (no monthly numbers available)

Ms. Cornelius reported that the Board' financial condition was good.

B. Previous Meeting Follow-Up:

- Panic Button

Ms. Cornelius reported that staff would be receiving wearable panic buttons for increased safety.

- Computer Updates: Online renewals are available to all and working well; Data cleanse project was expected to conclude August 30.

Ms. Cornelius reported that the project was delayed.

- Introduction of new staff

Ms. Cornelius reported that a newly hired staff member has left BTR employment.

- Invitation to ROC re: national construction companies employing AZ registrants

Ms. Cornelius reported that she submitted an article to ROC for their newsletter regarding national construction companies employing AZ registrants.

- Outreach to Universities

Ms. Cornelius reported that Mr. Montgomery will participate in ABET's review of NAU's online engineering program.

- AG ISA

Ms. Cornelius reported that the Board had contracted with the AG's office for two AG's to help expedite its clearing of its hearing backlog.

C. Director's Meetings:

- Governor's Office updates re: new board members, rulemaking request pending, home inspectors and HB2569

Ms. Cornelius reported that the Governor's office was considering appointing a new an engineer board member; that the Governor's office denied two of the four staff submitted possible rule changes from moving forward in the rule making process; and, that the HIRSC discussed HB2569 at its August 2019 meeting.

D. Statistics Review

Nothing discussed.

11. BOARD CHAIR'S REPORT

Update on the Surveyor Task Force

Nothing discussed.

12. ASSISTANT ATTORNEY GENERAL'S REPORT - Nothing to Consider

13. STANDING COMMITTEE REPORTS

A. Legislation and Rules Committee - No new meeting date

B. Home Inspector Rules and Standards Committee: August 9, 2019 meeting report

See 9E

14. BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES

A. ASBOG - Possible meeting with ED and President September 23, 2019

B. CLARB - Annual Meeting in St. Louis September 26-28.

C. NCARB - Mr. Stam will participate in Certificate Review Committee in DC in October.

D. NCEES - Annual Meeting in DC August 14-18. NCEES bylaws.

Mr. Foose asked that the Board consider signing a NCEES pledge letter as a gesture of goodwill. Ms. Cornelius argued that the Board should not sign the pledge. No action taken.

E. ABET - Mr. Montgomery has been approved to participate as an observer at ABET's meeting at NAU in September.

F. Surveyor Task Force - Next Meeting August 28, 2019

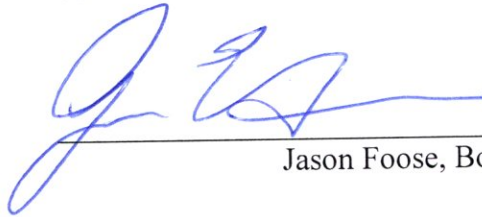
15. FUTURE BOARD MEETINGS – September 24, 2019.

16. SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.


Mr. Jones asked the Board to discuss the title 'Project Engineer' and whether its use was a violation of the Board's practice act.

17. MEETING ADJOURNMENT – 12:57pm

Approved and Signed on this Date 9-24-19:



Jason Foose, Board Chariman

 9-24-19

Melissa Cornelius, Executive Director