

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

Tuesday, March 23, 2021 beginning at 9:00 a.m.
1110 W. Washington, Conference Room #240
Phoenix, AZ 85007

1. **CALL TO ORDER** – 9:02am
2. **ROLL CALL**

IN PERSON – Neal Jones, Jack Gilmore

TELEPHONIC – Alejandro Angel, Carmen Wyckoff, Clarence McAllister (left at 1:30pm),
Stephen Noel, Andrew Everroad

4 Vacancies

STAFF – Robert Stam, Kurt Winter, Melissa Cornelius, Douglas Parlin

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:

The Board may vote to enter executive session pursuant to A.R.S. § 38-431.03(A)(2) (to discuss confidential information), A.R.S. § 38-431.03(A)(3) (to receive legal advice) on agenda items 4(B),(D).

- A. Approve, modify and/or reject, Board meeting minutes.

1. February 18, 2021 Board meeting

Dr. Angel moved and Mr. Jones seconded to approve the minutes; motion carried.
Mr. Everroad abstained.

2. February 23, 2021 Board meeting

Mr. McAllister moved and Mr. Jones seconded to approve the minutes; motion carried unanimously.

- B. Approve, modify and/or reject, Executive Session minutes.

1. February 23, 2021 Executive Session A

Dr. Angel moved and Mr. Jones seconded to approve the minutes; motion carried unanimously.

2. February 23, 2021 Executive Session B

Dr. Angel moved and Mr. Jones seconded to approve the minutes; motion carried unanimously.

3. February 23, 2021 Executive Session C

Dr. Angel moved and Mr. Jones seconded to approve the minutes; motion carried unanimously.

C. Approve, modify and/or reject, EDHC Meeting minutes.

1. March 18, 2021 EDHC Meeting

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

D. Approve, modify and/or reject, EDHC Executive Session minutes.

1. March 18, 2021 EDHC Executive Session

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

5. CONSIDERATION OF CASES REFERRED FOR FORMAL HEARING

The Board may vote to enter executive session pursuant to A.R.S. § 38-431.03(A)(2) (to discuss confidential information), A.R.S. § 38-431.03(A)(3) (to receive legal advice) on agenda items 5(A),(B).

A. Review, Consideration and Possible Action on Signed Consent Agreement in Lieu of Formal Hearing

1. P21-006, Morris, Allan

A.A.G. Deanie Reh appeared telephonically representing the State. A.A.G. Seth Hargraves appeared telephonically to provide legal advice.

Mr. Gilmore moved and Mr. McAllister seconded to accept the signed consent agreement and vacate the hearing; motion carried unanimously.

B. Review, Consideration and Possible Action on Joint Stipulation to Continue Hearing

1. P18-070; P19-031, Takach Peter

A.A.G. Scott Donald appeared telephonically representing the State. A.A.G. Seth Hargraves appeared telephonically to provide legal advice.

Dr. Angel moved and Mr. Gilmore seconded to grant the Joint Stipulation to Continue the Hearing and schedule this matter on next month's Board meeting Agenda; motion carried unanimously.

6. ENFORCEMENT MATTERS

Review, Consideration and Possible Action on the following:

The Board may vote to enter executive session pursuant to A.R.S. § 38-431.03(A)(2) (to discuss confidential information), A.R.S. § 38-431.03(A)(3) (to receive legal advice) on agenda items 6(A)-(E).

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. P21-017, Robert Rogers, P.E (Structural) #49872 and Schaefer, Inc., Firm #15924

Nothing discussed and no action taken due to lack of quorum.

2. P21-051, Harvey Bryan, R.A. #34448 (Delinquent)

Nothing discussed and no action taken due to lack of quorum.

B. Complaints Proposed for Resolution with Signed Consent Agreements:

1. P20-053, Alan C. Nichols, P.E. (Mechanical) #20344 and Al Nichols Engineering, Firm #19429

Nothing discussed and no action taken due to lack of quorum.

2. HI21-007, Hector Suppici, aka Elbio H. Suppici, C.H.I. #65564 and Regal Choice, Firm #23078

Nothing discussed and no action taken due to lack of quorum.

3. HI21-011, David Edens, C.H.I. #50538 and Wild West Home Inspections, LLC, Firm #22889

Mr. Jones moved and Mr. Gilmore seconded to accept the signed consent agreement; motion carried unanimously.

4. P21-020, Lawrence Wilson, R.L.S. #32238

Mr. Jones moved and Mr. Gilmore seconded to accept the signed consent agreement; motion carried unanimously.

5. P21-047, Thomas Reuter, R.A. #53268

Nothing discussed and no action taken due to lack of quorum.

6. P21-040, Chad Glenn, R.A. #49090 and 3 Ten Studio Inc., Firm #21974

Mr. Jones moved and Mr. Gilmore seconded to accept the signed consent agreement; motion carried unanimously.

C. Complaints Requiring Board Guidance:

1. P21-046, Julius Doan, Non-Registrant

Respondent appeared telephonically.

This investigation alleges that Respondent, an unlicensed engineer, affixed a seal belonging to an Arizona PE to plans he submitted to the city of Prescott Valley.

Respondent stated that he went through a third party, Upwork, to contract himself out for engineer work; that Mr. Alphonso hired him to complete the project in this matter; that investigator Correll requested documentation regarding his relationship with Upwork; and, that he had been unsuccessful in obtaining said documentation from Upwork.

Investigator Correll stated that she did not believe Mr. Alphonso forged Mr. Porter's seal; that Respondent refunded Mr. Alphonso's money; that Respondent asked questions about the consequences of a violation of this sort; and that Respondent has been unable to prove that a third party worked on the project in this matter, leading her to opine that Respondent forged Mr. Porter's seal. Respondent responded that the city rejected Respondent's submitted plans and so Mr. Alphonso requested his money back, which he quickly refunded.

Mr. Gilmore asked where someone obtained Mr. Porter's seal. Investigator Correll answered that she did not know, but she stated that it was blatantly a forgery and that she was unsuccessful in contacting anyone at Upwork. Mr. Jones asked if Staff informed Mr. Porter of this matter. Investigator Correll answered 'yes' and she stated that Mr. Porter indicated that he had nothing to do with this project.

Dr. Angel asked why Respondent was unable to log into Upwork and submit the documentation the Board requested. Respondent stated that Upwork no longer recognized his account. Investigator Correll opined that Upwork suspended Respondent's account. Dr. Angel asked if the Board could subpoena Upwork. Investigator Correll said she could try; however, Upwork could just ignore the Board's subpoena because they were incorporated in California.

Ms. Wycoff asked how Upwork conducted business. Respondent answered that it was a service connecting professionals and clients, that he was registered as a PE in Texas, that he would offer his services through the platform, complete plans and then have a local professional seal the plans for a nominal fee. Dr. Angel opined that Registrant's payment to a professional who was not head of the project was a possible violation of the Board's Practice act.

Dr. Angel moved and Mr. Jones seconded to direct staff to subpoena Upwork for communications and documentation related to Respondent; motion carried unanimously. The Board directed investigative staff to research Upwork, its practices and how it provides its services.

2. P21-032, Anthony Zaugg, R.L.S. #41076 and Allen Consulting Engineers, Inc. Firm #22000

Nothing discussed due to lack of quorum

3. P21-034, Kathryn Mills, P.E (Civil) #31118

Board staff attempted to contact Respondent telephonically, twice, without success. Assessor, Mr. Marmon P.E., appeared telephonically.

Ms. Wyckoff indicated that she knew Respondent but could be fair and impartial.

Mr. Marmon stated that, after reviewing and assessing this matter, he believed Respondent's technical skills were adequate, but her project management skills were lacking.

Dr. Angel agreed with Mr. Marmon, stating that Respondent's actions rise to gross negligence. Mr. Gilmore asked staff if Respondent communicated what was delaying her projects. Investigator Thacker stated that his discussions with Respondent revealed that she was a well known and sought after engineer and she was therefore very busy; that the Board had received many calls regarding Respondent's lack of follow through; that the allegor for this matter contacted him yesterday stating they wished to drop the case since Respondent was now moving the project along; Investigator Thacker indicated that this was not the first time an allegor asked the Board to drop a case against Respondent; and, that Respondent was not timely with answering staff's requests, or didn't respond at all.

Dr. Angel stated that he would make a motion to offer a consent agreement to Respondent for gross negligence or incompetence in the practice of the profession because of the expensive timelines for Respondent's clients, her inability to respond to Board requests, and for the repeated complaints that the Board had received regarding her practice.

Dr. Angel moved and Mr. Jones seconded to offer Respondent a consent agreement comprised of the following: the Board shall issue a Letter of Reprimand to Respondent, Respondent shall pay a \$150 administrative penalty and the Cost of Investigation, Respondent's license shall be placed under Stayed Suspension and Probation, and Respondent shall complete remedial education in the form of an ethics course, and, if not signed within 30 days, move to formal hearing; motion carried unanimously.

D. Compliance and Monitoring Investigations:

1. P20-036, Paul Nzomo, P.E. (Civil) #33446

Dr. Angel opined that the proposed suspension was too harsh, and asked if the Board could request that Respondent comply with the Order or the Board would lift the stay of suspension. Mr. Donald stated that the Board could only lift the stay or leave the stay in place. Investigator Correll stated that Respondent has had ample time to comply with the Order and recommended lifting the stay. Mr. Gilmore opined lifting the stay knowing that Respondent could later comply with the Order.

Dr. Angel moved and Mr. Jones seconded to lift the stay of suspension for lack of compliance with a Board Order; motion carried unanimously.

E. Review and Approval for EAC Membership:

1. Ronald E. Skoog, R.A. #47825

Mr. Everrod moved and Dr. Angel seconded to approve the appointment; motion carried unanimously.

7. LICENSING MATTERS

Discussion, Consideration and Action on the following:

The Board may vote to enter executive session pursuant to A.R.S. § 38-431.03(A)(2) (to discuss confidential information), A.R.S. § 38-431.03(A)(3) (to receive legal advice) on agenda items 7(A)-(J).

- A. Johnson, F - Universal Application for registration as a Control Systems Engineer #210055

Dr. Angel moved and Mr. Gilmore seconded to grant registration based upon the Board's determination that the applicant's state of original registration's practice level was equivalent to Arizona, motion carried unanimously.

- B. Zargar, Majid – Universal Application for registration as an Electrical Engineer #210109,

Dr. Angel moved and Mr. Gilmore seconded to grant registration based upon the Board's determination that the applicant's state of original registration's practice level was equivalent to Arizona, motion carried unanimously.

- C. Meilleur, Aaron – Universal Application for registration as a Civil Engineer #210549

Dr. Angel moved and Mr. Gilmore seconded to grant registration based upon the Board's determination that the applicant's state of original registration's practice level was equivalent to Arizona, motion carried unanimously.

- D. Ogram IV, William – Universal Application for registration as a Landscape Architect #210283

Dr. Angel moved and Mr. Gilmore seconded to grant registration based upon the Board's determination that the applicant's state of original registration's practice level was equivalent to Arizona, motion carried unanimously.

- E. Nickell, Jerika – Universal Application for registration as a Civil Engineer #210555

Dr. Angel moved and Mr. Gilmore seconded to grant registration based upon the Board's determination that the applicant's state of original registration's practice level was equivalent to Arizona, motion carried unanimously.

- F. Rodenius, Jeffrey - Universal Application for registration as an Architect #210579

Dr. Angel moved and Mr. Gilmore seconded to grant registration based upon the Board's determination that the applicant's state of original registration's practice level was equivalent to Arizona, motion carried unanimously.

- G. Holloway, James - Universal Application for registration as a Civil Engineer #210621

Dr. Angel moved and Mr. Gilmore seconded to grant registration based upon the Board's determination that the applicant's state of original registration's practice level was equivalent to Arizona, motion carried unanimously.

- H. Cody, Norman – Extension request for PE exam #191126

Dr. Angel moved and Mr. Gilmore seconded to grant Mr. Cody's request for a six month extension; motion carried unanimously.

- I. Wang, Xuan – Application for Registration as an Electrical Engineer #210036

Dr. Angel moved and Mr. Jones seconded to grant registration; motion carried unanimously.

- J. Tanner, Gary- Application for Registration as a Home Inspector #210645

Nothing discussed and no action taken due to lack of quorum.

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. Gilmore moved and Mr. Noel seconded to cancel registration 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:

The Board may vote to enter executive session pursuant to A.R.S. § 38-431.03(A)(2) (to discuss confidential information), A.R.S. § 38-431.03(A)(3) (to receive legal advice) on agenda items 9(A)-(D). Additionally, the Board may vote to enter executive session pursuant to A.R.S. § 38-431.03(A)(4)(discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation) on agenda item 9(C).

- A. Pending Legislation: SB1062, SB1063, SB1151, SB1218, SB1304, HB2037, HB 2014, HB2128, HB2242, HB2243, HB2267, HB2433

Nothing discussed and no action taken due to lack of quorum.

- B. New Home Inspector Rule effective 3/08/2021

Nothing discussed and no action taken due to lack of quorum.

- C. CV 2019-013509 – Mills v. Arizona State Board of Technical Registration

Nothing discussed and no action taken due to lack of quorum.

- D. City of Flagstaff Questions:

- a. Clarify what work “may be necessary and incidental to the work of the registrant’s profession on a specific project.”
- b. Does the Board agree that a “qualified Arizona registrant” has the ability to prepare grading and drainage plans?
- c. Does the term “qualified Arizona registrant” imply or assume any registrant discipline regulated by the Board?
- d. Are there other State rules and regulations outside of A.R.S. Title 32 Chapter 1 and A.A.C. Title 4 Chapter 30 that the City of Flagstaff should be reviewing when considering the proposed changes?
- e. Is any member of the Board aware of any County or local jurisdiction that does not specifically require a Professional Engineer for the type of work described?

Gary Miller, development engineer for the City of Flagstaff, appeared telephonically

Dr. Angel explained that the City of Flagstaff reached out to the Board to clarify some questions. Mr. Miller asked the Board if an architect could prepare grading and drainage plans. Mr. Donald cautioned the Board from answering hypothetical questions since the Board normally interprets the Board's Practice Act when discussing an enforcement matter. Ms. Wyckoff, Mr. Gilmore and Mr. Jones all communicated their experience with grading and drainage, when they would stamp their plans and when a civil engineer was required. Mr. Miller asked the Board if they knew of any other jurisdiction that had more restrictive plans than what he proposed. Ms. Wyckoff opined that Mr. Miller's proposal was in-line with other jurisdictions in Arizona.

10. DIRECTOR'S REPORT

- A. Statistics Review
- B. Previous Meeting Follow-up
 - a. National Council and Exam Updates
 - b. Board Composition
 - c. Staff and Member Update
 - d. Recruitment of Application Evaluators
 - e. Land Surveyor Boundary Minimum Standards
- C. Director's Meetings and Correspondence
 - a. NSPE questions regarding SB1062 and SB1304
 - b. National Transportation Safety Board letter

Nothing discussed due to lack of quorum

11. BOARD CHAIR'S REPORT

Nothing to discuss

12. ASSISTANT ATTORNEY GENERAL'S REPORT

Update on Open Meeting Law Complaint filed against the Board

Nothing discussed due to lack of quorum

13. STANDING COMMITTEE REPORTS

The Board may vote to enter executive session pursuant to A.R.S. § 38-431.03(A)(1) (Personnel Matters), A.R.S. § 38-431.03(A)(2) (to discuss confidential information), A.R.S. § 38-431.03(A)(3) (to receive legal advice) on agenda item 13(A).

A. Executive Director Hiring Committee

Nothing discussed due to lack of quorum

14. BOARD MEMBER REPORTS/DISCUSSION ON OUTSIDE NATIONAL COUNCIL ACTIVITIES, NEWS AND MEETINGS

- A. ASBOG
- B. CLARB
- C. NCARB
- D. NCEES
- E. ABET
- F. Land Surveyor Task Force

Nothing discussed due to lack of quorum

15. EXECUTIVE DIRECTOR POSITION

Discussion will begin at 9:30 a.m.

Review, Consideration, and Possible Action on the following:

The Board may vote to enter executive session to review pursuant to A.R.S. § 38-431.03(A)(1) (Personnel Matters), A.R.S. § 38-431.03(A)(2) (to discuss confidential information), A.R.S. § 38-431.03(A)(3) (to receive legal advice) in regards to 15(A)-(D), (F).

A. EDHC's recommended Procedure for Conduct of the Final Interviews

Dr. Angel moved and Mr. McAllister seconded to use the Procedure for Conduct of the Final Interviews as determined by the EDHC; motion carried unanimously.

B. EDHC's recommended Final Interview Questions

Dr. Angel moved and Mr. McAllister seconded to use the Final Interview Questions as determined by the EDHC; motion carried unanimously.

C. Interviews of Executive Director candidates

1. Gary Nelson

Mr. Everroad moved and Mr. McAllister seconded to enter executive session to interview Gary Nelson, to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2) and to receive legal advice pursuant to A.R.S. § 38-431.03(A)(3) at 9:30 am; the Board invited the non-voting EDHC members and ADOA member to attend; motion carried unanimously.

The Board reentered the meeting at 10:29am.

2. Judith Stapley

Mr. Everroad moved and Mr. Noel seconded to enter executive session to interview Judith Stapley, to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2) and to receive legal advice pursuant to A.R.S. § 38-431.03(A)(3) at 10:30am; the Board invited the non-voting EDHC members and ADOA member to attend; motion carried. Mr. McAllister was absent from the vote.

The Board reentered the meeting at 11:22am.

3. Thomas Salow

Ms. Wyckoff moved and Mr. Everroad seconded to enter executive session to interview Thomas Salow, to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2) and to receive legal advice pursuant to A.R.S. § 38-431.03(A)(3) at 11:27 am; the Board invited the non-voting EDHC members and ADOA member to attend; motion carried. Mr. Gilmore was absent from the vote.

The Board reentered the meeting at 12:13pm.

D. Discussion of terms of employment for Executive Director Position and Selection of final candidates.

Mr. Jones moved and Mr. Gilmore seconded to enter executive session to discuss confidential information pursuant to A.R.S. § 38-431.03(A)(2) and to receive legal advice pursuant to A.R.S. § 38-431.03(A)(3) at 12:14am; motion carried unanimously.

The Board reentered the meeting at 12:51pm.

E. Offering of Executive Director Position to Candidate and Identification of Secondary Candidate.

Ms. Wyckoff moved and Mr. Everroad seconded to offer the Executive Director position to Judith Stapley and if not accepted, offer the position to Gary Nelson; motion carried unanimously.

F. Vote to Ratify the Interim Executive Director Agreement with Melissa Cornelius.

Mr. McAllister moved and Mr. Gilmore seconded to enter executive session to review personnel matters pursuant to A.R.S. § 38-431.03(A)(1) at 1:13pm; motion carried. Mr. Noel was absent from the vote.

The Board reentered the meeting at 1:30pm.

Mr. McAllister left the meeting at 1:30pm.

Dr. Angel moved and Mr. Jones seconded to ratify the Interim Executive Director Agreement with Melissa Cornelius; motion carried unanimously.

16. SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.

Nothing discussed due to lack of quorum

17. FUTURE BOARD MEETINGS – April 27, 2021

18. MEETING ADJOURNMENT – The Board lost its quorum at 2:28pm



Melissa Cornelius, Executive Director



Carmen Wyckoff, Board Chair