

**Minutes of a Meeting of the
Tennessee Board of Architectural and Engineering Examiners
Davy Crocket Tower, Room 160
Nashville, Tennessee**

December 10, 2009

Board Members Present

Hal Balthrop, Professional Engineer
Bob Campbell, Professional Engineer
James Hastings, Registered Architect
Philip Lim, Professional Engineer
Bill Lockwood, Registered Landscape Architect
David Schuermann, Registered Architect
Leslie Shankman-Cohn, Registered Interior Designer
Richard Thompson, Registered Architect
Brenda Wood, Public Member

Associate Board Members Present

Dennis Henderson, Professional Engineer
Alton Hethcoat, Professional Engineer
Carlton Norris, Professional Engineer

Staff Present

Robert Herndon, Legal Counsel
John Cothron, Executive Director
Wanda Phillips, Administrative Manager
Wanda Garner, Administrative Assistant

Guests

The following were present for all or part of the meeting:

Don Baltimore, Tennessee Interior Design Coalition (TIDC)
Jim Currey, Tennessee Society of Professional Engineers/American Council of
Engineering Companies of Tennessee (TSPE/ACEC-TN)
Representative John Tidwell
Kathy M. Smith, Registration Manager, Department of Revenue

CALL TO ORDER

Robert Campbell, chair, called the meeting to order at 9:05 a.m. A quorum of Board members was present, and the meeting, having been duly convened, was ready to proceed with business.

Mr. Lockwood, seconded by Mr. Hastings, moved to approve the agenda with no changes. The motion passed unanimously.

An Emeritus Certificate was presented to William J. Stockard, who served as an engineer member of the Board from 2004 – 2008.

FORMAL HEARING

Lyle Lee Lankford, P.E.
Case # L08-AEL-RBS-2008016891

Docket #12.10-04232A
Complaint # 200801689

A formal hearing began in the matter of Lyle Lee Lankford. Mr. Lankford is charged with failure to pay the required privilege taxes while properly licensed. The “Proposed Findings of Fact and Conclusions of Law” is attached.

Administrative Law Judge Bettye Springfield presided.
Robert Herndon represented the State.
Lyle Lee Lankford was not present.
The court reporter was Elizabeth Miller.

Mr. Herndon distributed a copy of the “Proposed Findings of Fact and Conclusions of Law” to Board members. The state moved to hold Mr. Lankford in default and to proceed with the hearing.

After presenting “Notice of Service” that showed that the “Notice of Hearing and Charges” had been delivered to Mr. Lankford, Judge Springfield found Mr. Lankford in default and asked Mr. Herndon to proceed with the hearing.

John Cothron and Kathy M. Smith were sworn in as witnesses.

Mr. Herndon presented four exhibits.

The case was heard and final arguments were made. Deliberations followed Judge Springfield’s instructions.

Proposed Findings of Fact

Mr. Thompson, seconded by Mr. Balthrop, moved to accept the “Proposed Findings of Fact” as true that Mr. Lankford, while holding a certificate of registration as an engineer in the State of Tennessee, did not pay the obligatory annual professional tax. The motion passed unanimously.

Conclusions of Law

Mr. Schuermann, seconded by Ms. Shankman-Cohn, moved to accept the “Proposed Conclusions of Law” as applicable to the “Proposed Findings of Fact.” The motion passed unanimously.

Discipline

Mr. Thompson, seconded by Mr. Lockwood, moved to assess a civil penalty in the amount of \$2000.00 and for Mr. Lankford to pay all investigatory and hearing costs in this matter. Furthermore, Mr. Lankford may not be issued a license by the Board until all hearing and investigatory costs from this matter have been paid. The motion passed unanimously.

Policy Statement

Mr. Schuermann, seconded by Mr. Hastings, moved to adopt the following policy reasons for the Board’s decision:

"In the case of Lyle Lee Lankford, the Board finds that, because of the contempt for the authority of the Board to regulate the Respondent's profession and in order to protect the health, safety, and welfare of the citizens of the State of Tennessee, it recommends the penalties approved for violation of *Tennessee Code Annotated* §67-4-1703."

The motion passed unanimously.

The formal hearing of Lyle Lee Lankford was concluded at 9:50 a.m.

CONSENT AGENDA

1. *Approval of Minutes* (attached)

Mr. Schuermann, seconded by Mr. Balthrop, moved to accept the minutes of the October 23, 2009, meeting as written. The motion passed unanimously.

2. *Approval of the Staff Complaint Report* (attached)

Mr. Hastings, seconded by Mr. Lockwood, moved to accept the Complaints for Board Decision as presented. The motion passed unanimously.

PERSONAL APPEARANCE

Representative John Tidwell spoke to the Board about the "Erosion of the Practice of Architecture and Engineering." He expressed concern about home inspectors, surveyors and other trades and professions performing services that were formerly performed by architects and engineers, and thus limiting the practice of architecture and engineering. He shared a draft of a bill with the Board that would attempt to remedy this situation (attached). Rep. Tidwell stated that he has no plans to introduce the bill this session.

PROFESSIONAL SOCIETY REPORTS

Don Baltimore, Tennessee Interior Design Coalition (TIDC), stated that TIDC is preparing for the next legislative session in which it will, again, promote a bill that will license and regulate the practice of interior design.

Jim Currey, past president of the Tennessee Society of Professional Engineers/American Council of Engineering Companies of Tennessee (TSPE/ACEC-TN), reported that three issues being tracked are:

1. Automated Traffic Enforcement: TSPE opposes legislation that would regulate the timing of traffic signals;
2. Underground Utility Damage Prevention: TSPE has submitted a statement to the Tennessee Advisory Commission on Intergovernmental Relations addressing how engineers can assess utility damage prevention.
3. Transportation Funding: ACEC-TN and TSPE both support efforts to pass transportation funding, including increasing user based fees.

Mr. Currey invited Board members to join them on Engineer's Day on the Hill, March 2, 2010.

Mr. Balthrop stated that members of the Engineer Committee would like to attend a TSPE board meeting to discuss industrial exemptions.

DIRECTOR'S REPORT

1. Mr. Cothron submitted the following report:

- I attended the National Council of Architectural Registration Boards Member Board Executives' Workshop in Arlington, VA (DC) on November 6-7.
- Leslie Shankman-Cohn and I attended the National Council for Interior Design Qualification Annual Council of Delegates meeting in San Antonio, TX on November 13-14.
- I have submitted a request for Bill Lockwood to attend the Council of Landscape Architectural Registration Boards Spring Meeting in Dallas, TX on February 26-27, 2010.
- At the invitation of American Institute of Architects Middle Tennessee, I addressed a group of Emerging Professionals on November 19. My presentation covered the Intern Development Program, Architectural Registration Exam, and registration requirements.
- With the assistance of Board members, I spoke at joint AIA-TN/TSPE/ACEC-TN seminars in Knoxville, Nashville and Memphis on December 2-4, regarding Reference Manual revisions and other topics.
- Grant contracts have been drafted and submitted for review and signature.
- The rule changes approved in February take effect today, December 10.
- The license of a Memphis architect, Jeffrey Blackledge, has been suspended indefinitely for failure to pay child support, effective October 16, 2009.
- The Attorney General's office is working on an opinion regarding what services can be performed by nonregistrants on buildings and structures that are not exempted by Tenn. Code Ann. § 62-2-102.

2. *Financial Data* (attached)

Mr. Lim reviewed a preliminary financial report on the revenue and expenses for the first quarter of Fiscal Year 2010.

OLD BUSINESS

1. *Action Items* (attached)

John Cothron and Board Members participated in sessions at AIA-TN/TSPE Seminars addressing revisions to the *Reference Manual for Building Officials and Design Professionals* and other topics.

Mr. Cothron will soon send letters to colleges and universities regarding the change of the fall deadline date for senior students applying for the Fundamentals of Engineering exam and explaining the registration requirements of the Board.

Mr. Cothron will ask Marie Murphy for an article about electronic plans submission to be placed in the Spring/Summer 2010 issue of the Board's newsletter.

Mr. Cothron and Mr. Herndon are developing rules for firms which will include definitions of "principal" and "resident."

The Law and Rules/Policies Committee determined that changes to the "Drafting Firms and Specification Writers" policy were unnecessary.

The Subcommittee of the Engineering Committee, via Mr. Balthrop, offered suggestions for revisions to the registration application. Staff will adjust the revisions for Internet use.

The Subcommittee of the Engineering Committee recommended having conversations with TSPE regarding industrial exemptions.

A link to the NCEES website is included in the approval letter to Fundamentals of Engineering (FE) exam candidates and the FE fall deadline date for seniors has been updated from September 1st to August 15th in all applicable material.

Rick Thompson and Brenda Wood are preparing articles for the Board's newsletter.

The cost of establishing a CLARB (Council of Landscape Architectural Registration Boards) Testing Center in Tennessee is an agenda item under New Business.

2. *Proposed Rule Changes*

A list of proposed rule changes was provided for information purposes only.

NEW BUSINESS

A written report on the National Council for Interior Design Qualification Annual meeting is attached.

A written report on the National Council of Architectural Registration Boards Member Board Executives Workshop is attached.

A breakdown of costs for CLARB administration of the Landscape Architectural Registration Exam (LARE) Graphic Sections is attached. The Board asked that staff continue to administer the graphic sections in Nashville.

LEGAL CASE REPORT (presented by Robert Herndon) (attached)

1. *Case #L09-AEL-RBS-2009006351* *Complaint #200900635*
Mr. Balthrop, seconded by Ms. Shankman-Cohn, moved to uphold the previous decision and re-send the consent order in order to re-start the thirty day offer deadline. The motion passed unanimously.

2. *Case #L09-AEL-RBS-2009016591* *Complaint #200901659*
Mr. Lockwood, seconded by Mr. Hastings, moved to assess a civil penalty of \$500.00 for unlicensed practice and to authorize an informal conference to determine competency. Mr. Lockwood rescinded his motion, and Mr. Thompson, seconded by Mr. Lockwood, moved, to assess a civil penalty of \$1000 for unlicensed practice and to authorize an informal conference to determine competency. The motion passed unanimously.
3. *Case #L09-AEL-RBS-2009020911* *Complaint #200902091*
Mr. Hastings, seconded by Mr. Lim, moved to authorize an informal conference with the unlicensed individual who, allegedly, prepared plans and with the two registered architects who were involved in the project. The motion passed unanimously.
4. *Case #L09-AEL-RBS-2009015951* *Complaint #200901595*
The case was deferred.
5. *Case #L09-AEL-RBS-2009016861* *Complaint #200901686*
Mr. Thompson, seconded by Ms. Shankman-Cohn, moved to authorize an informal conference. The motion passed unanimously.
6. *Case #L09-AEL-RBS-2009017371* *Complaint #200901737*
Mr. Thompson, seconded by Mr. Schuermann, moved to close the case. The motion passed unanimously.
7. *Case #L09-AEL-RBS-2009021141* *Complaint #200902114*
Case #L09-AEL-RBS-2009021142 *Complaint #200902114*
Mr. Thompson, seconded by Mr. Lockwood, moved that a Board member review the allegations for indications of misconduct. The motion passed unanimously.
8. *Case #L09-AEL-RBS-2009022281* *Complaint #200902228*
Mr. Lim, seconded by Mr. Balthrop, moved that a Board member review the allegations for indications of misconduct. The motion passed unanimously.
9. *Case #L09-AEL-RBS-2009022991* *Complaint #200902299*
Mr. Hastings, seconded by Ms. Wood, moved to approve a Consent Order for a civil penalty of \$500.00 per occurrence for a total of \$2000.00 and a Letter of Reprimand. The motion passed with Mr. Thompson voting against the motion. (See #9 after #10 below.)
10. *Case #L09-AEL-RBS-2009023341* *Complaint #200902334*
Mr. Thompson, seconded by Mr. Balthrop, moved to approve a Consent Order for a civil penalty of \$500.00 per occurrence for a total of \$1,500.00. The motion passed unanimously.
9. (See #9 above.)
Mr. Lim, seconded by Mr. Balthrop, moved to rescind the previous action to Case #L09-AEL-RBS-2009022991 and to approve a Consent Order for a civil penalty of \$500.00 per occurrence for a total of \$2,000.00. Roll call vote: Motion passed --Five in favor, three opposed, one abstaining.

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11. *Case #L09-AEL-RBS-2009024131* *Complaint #200902413*
Case #L09-AEL-RBS-2009024132 *Complaint #200902413*
Mr. Thompson, seconded by Ms. Shankman-Cohn, moved to issue a Letter of Reprimand. The motion passed unanimously.

Results of Informal Conferences

1. *Case #L09-AEL-RBS-2009001601* *Complaint #200900160*
Mr. Thompson, seconded by Mr. Lockwood, moved to approve a Consent Order for a civil penalty of \$1,000 for practicing outside the area of competence. The motion passed unanimously.
2. *Case #L09-AEL-RBS-2009020951* *Complaint #200902095*
Ms. Shankman-Cohn, seconded by Mr. Schuermann, moved to permit the respondent 180 days to bring the professional development hours current and issue a Letter of Reprimand. The motion passed unanimously.

There being no further business to come before the meeting, the meeting was adjourned at 12:45 p.m.

ATTACHMENTS

Proposed Findings of Fact and Conclusions of Law
Complaints for Board Decision
Draft Bill submitted by Rep. John Tidwell
Financial Data
Action Items
Report on the National Council for Interior Design Qualification Annual Meeting
Report on the National Council of Architectural Registration Boards Member Board Executives Workshop
CLARB Administration of the LARE Graphic Sections
Legal Case Report