

Tennessee Alarm Systems Contractors Board Teleconference 01-17-18

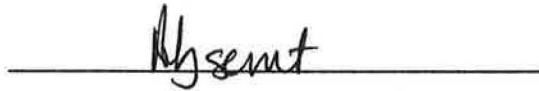
**MINUTES** of the Tennessee Alarm Systems Contractors Board Meeting teleconference, held **January 17, 2018**, in Nashville Tennessee.



Vivian Hixson, Chair



McKenzie C. Roberts, Vice Chair



Karen D. Jones, Secretary



William Scott Cockroft



John Keith Harvey

STATE OF TENNESSEE  
DEPARTMENT OF COMMERCE AND INSURANCE  
ALARM SYSTEMS CONTRACTORS BOARD

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BOARD MEETING  
HELD ON JANUARY 17, 2018  
NASHVILLE, TENNESSEE

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*Prepared by:*  
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1 (Whereupon, the following board  
2 meeting was transcribed as follows:)

3 MS. HIXSON: Good morning, everybody, and  
4 welcome to the Wednesday, January 17, 2018 Alarm Systems  
5 Contractors Board meeting. We're going to call the  
6 meeting to order. Ms. Vest, will you please call the  
7 role.

8 MS. VEST: Thank you. I will be spelling for  
9 the court reporter. Scott Cockroft.

10 MR. COCKROFT: Here.

11 MS. VEST: Keith Harvey.

12 MR. HARVEY: Here.

13 MS. VEST: Vivian Hixson.

14 MS. HIXSON: Here.

15 MS. VEST: Karen Jones. (no answer)

16 MS. VEST: Ken Roberts.

17 MR. ROBERTS: Here.

18 MS. VEST: Let the record show that Karen  
19 Jones is not in attendance, but we do have a quorum and  
20 we're doing this telephonically. Madame chair.

21 MS. HIXSON: Does Ashley need to read this  
22 into the record, the fact that we're doing this by  
23 phone?

24 MS. THOMAS: Yes, ma'am, I do. Just for the  
25 court reporter's sake, my name is Ashley Thomas. I'm

1 going to read the statement of necessity. This is an  
2 emergency scheduled meeting of the Tennessee Alarm  
3 Systems Contractors Board, which is taking place in  
4 conference room 1-B of Davy Crockett Tower in Nashville,  
5 Tennessee. Notice of this meeting was posted to the  
6 Board web site on January 11th, 2018.

7 As there is not a physical quorum present, a  
8 statement of necessity will be read into the record and  
9 filed with the Tennessee Secretary of State as required  
10 by statute. Pursuant to Tennessee Code Annotated,  
11 8-44-108(b)(2) which states if a physical quorum is not  
12 present at the location of a meeting of a governing  
13 body, then in order for a quorum of members to  
14 participate by electronic or other means of  
15 communication, the governing body must make a  
16 determination that a necessity exists. That  
17 determination must include a recitation of the facts and  
18 circumstances on which it was based.

19 Further, Tennessee Code Annotated  
20 844-108(a)(3) defines necessity as matters to be  
21 considered by the governing body at that meeting require  
22 timely action by the body, that physical presence by a  
23 quorum of the members is not practical within the period  
24 of time requiring action, and that participation by a  
25 quorum of the members by electronic or other means of

1 communication is necessary.

2 This is the emergency scheduled meeting of  
3 the Tennessee Alarm Systems Contractors Board. The  
4 purpose of this meeting with members attending by tele-  
5 conference is to discuss the agenda as posted to the  
6 Board web site. Thank you, madame chair.

7 MS. HIXSON: Thank you. Vivian Hixson  
8 speaking. We need a roll call vote to either review and  
9 adopt the agenda for today's meeting. Ms. Vest.

10 MS. VEST: Scott Cockroft.

11 MR. COCKROFT: Yes.

12 MS. VEST: Keith Harvey.

13 MR. HARVEY: Yes.

14 MS. VEST: Vivian Hixson.

15 MS. HIXSON: Yes.

16 MS. VEST: Ken Roberts?

17 MR. ROBERTS: Yes.

18 MS. VEST: Motion carries.

19 MS. HIXSON: Will someone make a motion so  
20 this will be official.

21 MR. ROBERTS: So moved.

22 MS. HIXSON: Ken Roberts made the motion. Do  
23 we have a second? .

24 MR. HARVEY: Second.

25 MS. HIXSON: Keith Harvey seconded. Now, Ms.

1 Vest, let's call the role and make it official.

2 MS. VEST: I'm sorry. Thank you. Scott  
3 Cockroft?

4 MR. COCKROFT: Yes.

5 MS. VEST: Keith Harvey.

6 MR. HARVEY: Yes.

7 MS. VEST: Vivian Hixson.

8 MS. HIXSON: Yes.

9 MS. VEST: Ken Roberts.

10 MR. ROBERTS: Yes.

11 MS. HIXSON: The motion carries. The agenda  
12 for today's meeting has been adopted.

13 Next on the agenda is the education report.  
14 Ms. Vest, I'll defer to you on the first review and then  
15 have a motion to approve.

16 MS. VEST: Thank you, madame chair. I  
17 believe all of the board members should have already  
18 received all of the information, and I did understand  
19 that whenever this information was sent out, it did not  
20 get assigned to anyone. So I called Mr. Roberts last  
21 night, yesterday evening before I left. So Ken, did you  
22 have an opportunity to look at these courses?

23 MR. ROBERTS: Yes, I very carefully reviewed  
24 all five of the courses that were submitted.

25 MS. VEST: I have a question, Ken.

1 MR. ROBERTS: Yes.

2 MS. VEST: On the first one, ESA, trouble  
3 shooting, service and maintenance online, the one for 16  
4 hours.

5 MR. ROBERTS: Yes.

6 MS. VEST: They didn't ask for that. Is it  
7 for employee training or continuing education and what  
8 classification?

9 MR. ROBERTS: Well, I noticed that. And I  
10 assume that it was for continuing education since there  
11 was not anything else marked.

12 MS. HIXSON: I reviewed these also, and I had  
13 the same question about it because there is nothing  
14 marked in either category as there is in others.

15 MS. VEST: So what categories, Ken, do you  
16 feel that this would be appropriate for continuing  
17 education.

18 MR. ROBERTS: Well, continuing education, we  
19 don't really categorize.

20 MS. VEST: That's why they left it blank then  
21 and forgot to put continuing education on it.

22 MR. ROBERTS: I assumed that was the case.

23 MS. VEST: The next one was with ESA closing  
24 techniques to effectively close the deal. And they  
25 asked for continuing education for one hour.

1 MR. ROBERTS: That's correct, one hour  
2 continuing education.

3 MS. VEST: And then we have the Alarm  
4 Monitoring Services, Incorporated build revenue with  
5 tools you already have. They requested two hours of  
6 continuing education.

7 MR. ROBERTS: Yes, that's correct, two hours  
8 of continuing education.

9 MS. VEST: The next one was Alarm Monitoring  
10 Services, Incorporated. False alarm reduction for  
11 installers and owners. And they had asked for two hours  
12 of continuing education.

13 MR. ROBERTS: Yes, that's correct. They  
14 requested two hours of continuing education.

15 MS. VEST: Then we have the last one, Jade  
16 Learning, LLC. Home security and technological  
17 advances. Four hours of continuing education. And they  
18 asked for employee training.

19 MR. ROBERTS: Oh, I didn't notice that as  
20 employee training. But I don't so that as a problem.  
21 If it's employee training, then it should be  
22 categorized.

23 MS. VEST: All right. Then will they hit all  
24 four classifications?

25 MR. ROBERTS: I would think that would be



1 reasonable. So if you would like, I will make a -- or  
2 offer a motion that we approve these five courses that I  
3 think has just been read into the record for the hours  
4 that they requested.

5 MS. HIXSON: Fine. Okay, we have a motion by  
6 Mr. Roberts to approve these courses as presented and  
7 read into the record. Do we have a second?

8 MR. HARVEY: Second.

9 MS. HIXSON: We have a second by Mr. Harvey.  
10 Ms. Vest, please call the role.

11 MS. VEST: Scott Cockroft.

12 MR. COCKROFT: Yes.

13 MS. VEST: Keith Harvey.

14 MR. HARVEY: Yes.

15 MS. VEST: Vivian Hixson.

16 MS. HIXSON: Yes.

17 MS. VEST: Ken Roberts.

18 MR. ROBERTS: Yes.

19 MS. VEST: The motion carries. Before we go  
20 any further, madame chair, I'm sorry to the court  
21 reporter. My name is Cody Vest. I am the executive  
22 director.

23 MS. HIXSON: The next item on the agenda is a  
24 consideration of petition for declaratory order. Ms.  
25 Thomas, can you please explain to the board members what

1 this means.

2 MS. THOMAS: Yes, ma'am. On December 21st,  
3 the Beacon Center of Tennessee submitted to Commissioner  
4 McPeak as well as the attorney general's office the  
5 petition that I provided to you all prior to today's  
6 meeting so you could have a chance to review. In that  
7 petition they are asking for a formal administrative  
8 hearing for declaratory order regarding their client's  
9 system and whether or not it is defined as an alarm  
10 system.

11 The reason that it's on today's agenda for  
12 discussion by the board, pursuant to the Uniform  
13 Administrative Procedures Act, the board, as the decider  
14 in this industry, they have to make a decision as to  
15 whether or not they're going to grant that hearing.  
16 Today the only thing you need to decide is whether or  
17 not you're going to give them a hearing. From there, if  
18 you decide to give them a hearing, of course we will try  
19 to schedule that formal administrative hearing. We'll  
20 try to set it for February 22nd. That way we can have  
21 it at the next scheduled meeting. If you deny it, the  
22 Beacon Center and their client, they do have additional  
23 remedies they can pursue through Chancery Court and try  
24 to get a declaratory judgment from a judge in Chancery  
25 Court. But we have to bring this to you first pursuant

1 to the UAPA.

2 So I wanted to get this before you all for  
3 discussion so that we can let the Beacon Center know and  
4 they can proceed one way or the other.

5 MS. HIXSON: Okay, thank you, Ms. Thomas.

6 MR. ROBERTS: This is Ken Roberts. Ms.  
7 Thomas, do you have a recommendation with regards to the  
8 question of a hearing?

9 MS. THOMAS: So I will say that if you deny  
10 this petition, and the Beacon Center goes to Chancery  
11 Court, there are a couple of things that can happen in  
12 Chancery Court. That judge can send the matter back to  
13 you all and order you to grant them that administrative  
14 hearing and issue that declaratory judgment, or that  
15 judge in Chancery Court can make the decision as the  
16 finder of fact. He could have the hearing up there. He  
17 or she could have a hearing up there and decide whether  
18 or not this particular system that's listed in the  
19 petition is, in fact, an alarm system requiring  
20 licensure.

21 So if that's something that the board feels  
22 they need to be the ones to make that decision on, I  
23 think the safer option would be for you to grant the  
24 hearing.

25 MS. HIXSON: If this does go to Chancery

1 Court -- this is Vivian Hixson speaking -- if this does  
2 go to Chancery Court, will you or some staff attorney  
3 that are well versed with the T.C.A. and the portions  
4 that are required for an alarm systems contractor, will  
5 you be presenting this case, or will it be somebody  
6 else?

7 MS. THOMAS: Yes, ma'am. If this case, if  
8 the board denies it and it goes to Chancery Court and  
9 the decision is made to have the hearing there, in  
10 addition to the disciplinary counsel for your board, and  
11 the attorney general's office, they will combine their  
12 efforts and represent your side at that hearing. But if  
13 you have the hearing before you all in February, the  
14 Beacon Center and their client will be able to present  
15 the case to you and at that point you can ask any  
16 additional questions.

17 What they're wanting in the declaratory  
18 order, they want it formalized whether or not this is  
19 an alarm system that requires licensure. I'm sure  
20 you've read the petition. You know that this particular  
21 individual has been before the board before. They came  
22 before us last year. And there are some informal  
23 discussions on it. So now this petition has been filed  
24 asking for a formal hearing to issue a formal order. So  
25 it's the board's decision as to whether or not his

1 system is, in fact, an alarm system.

2 MS. HIXSON: If we have this formal hearing  
3 and the board still feels that it is an alarm system,  
4 will it still go to Chancery Court after that? What is  
5 their remedy if we still say no?

6 MS. THOMAS: The declaratory order, I'm sure  
7 that there are appeal rights to it. But they just want  
8 a decision one way or the other so they know where to go  
9 from there. I think at that point it would be up to  
10 that company to decide whether or not they want to  
11 pursue licensure. They could probably petition, file an  
12 appeal on your decision, but the declaratory order is  
13 usually to make sure -- just to have clarity as to  
14 whether or not that system is an alarm system.

15 MS. HIXSON: Thank you. What is the opinion  
16 of the other board members on this matter?

17 MR. ROBERTS: Madame chairman, I would offer  
18 a motion that we grant the requested hiring.

19 MS. HIXSON: We have a motion by Mr. Roberts.  
20 Do we have a second?

21 MR. HARVEY: Second.

22 MS. HIXSON: And a second by Mr. Harvey to  
23 offer them a formal administrative hearing to be held on  
24 February the 22nd, 2018. All in favor say aye. Roll  
25 call.

1 MS. VEST: Scott Cockroft.

2 MR. COCKROFT: Aye.

3 MS. VEST: Keith Harvey.

4 MR. HARVEY: Yes.

5 MS. VEST: Vivian Hixson.

6 MS. HIXSON: Yes.

7 MS. VEST: Ken Roberts.

8 MR. ROBERTS: Yes.

9 MS. VEST: Motion carries, madam chair.

10 MS. HIXSON: So you all will take care of  
11 scheduling them for the hearing? Will there be an  
12 administrative judge, or is this a different type of  
13 formal hearing?

14 MS. THOMAS: It is handled the same way a  
15 formal hearing is, so it will be before you all. We  
16 will make sure that the ALJ is scheduled, the  
17 administrative judge is scheduled. We'll have a court  
18 reporter. I'm not sure exactly how much business the  
19 board will have in February. It's our hope to have it  
20 at the end of that meeting. If not, we'll try to  
21 schedule it the next day, I am assuming. But at that  
22 point, again, the Beacon Center will present their case  
23 to the board.

24 If the department has a response to what  
25 their argument is, it will be made at that time. And

1 then of course the board can ask any questions, and then  
2 we'll have to issue an order answering the Beacon  
3 Center's question about the alarm system.

4 MS. HIXSON: Thank you for that explanation.  
5 Do you all have any more questions for Ms. Thomas on  
6 this matter? Okay. Ms. Vest, is there any more  
7 business that the board needs to consider while it's in  
8 session?

9 MS. VEST: No, ma'am, that's all we have on  
10 the agenda.

11 MS. HIXSON: Okay, Ms. Thomas?

12 MS. THOMAS: I'm good, Ms. Hixson. Thank  
13 you.

14 MS. HIXSON: Does anybody else have any more  
15 business before we are adjourned? Okay. This meeting  
16 is now adjourned. Thank you.

17 (Whereupon, the meeting was concluded.)  
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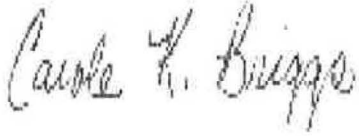
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I, CAROLE K. BRIGGS, do hereby certify that the foregoing, Pages 1 to and including 14, is a true and correct transcription of my stenographic notes of the board meeting held at Davy Crocket Tower, Conference Room 1-B, 500 James Robertson Parkway, Nashville, Tennessee, on the 17th day of January 2018.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

IN WITNESS WHEREOF, I have hereunto affixed my hand this 4th day of February 2018.



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