

**MINUTES OF THE REGULAR MEETING OF THE OHIO STATE BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS AND SURVEYORS**

Thursday September 15, 2011

Members Present:

Theodore B. Hubbard, P.E., P.S.	Chair
Chandra R. Shah, P.E.	Vice Chair
James D. Mawhorr, P.E., P.S.	Secretary
Frank D. Snyder, Jr., P.S.	Member
Keith Swearingen, P.E., P.S.	Member

Staff Present:

John F. Greenhalge	Executive Director
Lynn Jones	Assistant Executive Director
Jason P. McLean	Enforcement Supervisor
Karen Schick	Administrative Assistant

CALL TO ORDER

The State Board of Registration for Professional Engineers and Surveyors held its regular meeting on Thursday September 15, 2011 at 50 West Broad Street, Suite 1820, Columbus, Ohio 43215 in the Board conference room. Chairman Hubbard called the meeting to order at 9:30 a.m.

APPROVAL OF MINUTES

The minutes of the July 20, 2011 Board meeting were presented for approval.

Motion by Mr. Mawhorr, second by Mr. Snyder, to approve the July 20, 2011 meeting minutes as presented. Motion carried.

RECOGNITION OF GUESTS AND PUBLIC COMMENTS

Present at the meeting:

Holly Ross, Ohio Society of Professional Engineers
Melinda Gilpin, Professional Land Surveyors of Ohio
Levi Tkach, Graff & McGovern
Fred Vierow, County Engineers Association of Ohio

BOARD REVIEW OF APPLICATIONS

1. Thomas L. Dietrich- PE Exam Applicant

The Board reviewed Mr. Dietrich's application and directed Mr. Greenhalge to advise him that if he maintains his current employment under the direction of a professional engineer he will likely be eligible for the PE examination in April 2012.

2. Ye Wang- PE Exam Applicant

The Board directed Mr. Greenhalge to request Ms. Wang to come to the Board office to review and discuss her application.

3. Trent A. Baxter- PE Reinstatement

Mr. Baxter has applied for reinstatement of his professional engineer's registration. During the time his Ohio registration was lapsed, his Indiana registration was lapsed for 15 days.

Motion by Mr. Shah, second by Mr. Snyder, to approve Mr. Baxter's reinstatement application. Motion carried.

4. Christopher S. Calhoun- PE Reinstatement

Mr. Calhoun is requesting continuing education credit for work on his Ph.D. dissertation that has not been credited on his transcript.

The Board asked the staff to request additional documentation for Mr. Calhoun's course work.

5. Ronald A. Calhoun- PE Reinstatement

The staff requested Board review of Mr. Calhoun's reinstatement application.

Motion by Mr. Shah, second by Mr. Swearingen, to approve Mr. Calhoun's reinstatement application. Motion carried.

6. Christopher Kadera- PE Comity

Mr. Kadera is requesting Board approval of experience credit prior to graduation.

Motion by Mr. Mawhorr, second by Mr. Shah, to approve Mr. Kadera's comity application. Motion carried.

7. Arup USA, Inc.- COA Applicant

Arup USA, Inc. disclosed on their COA reinstatement application that they performed one engineering job located in Ohio while their COA was expired.

Motion by Mr. Shah, second by Mr. Mawhorr, to approve Arup USA's COA application. Motion carried.

The Board directed the staff to send them a warning letter concerning practicing with an expired license.

8. Alliance Engineering, LLC- COA Applicant

One of the professional engineers listed in responsible charge of engineering for the firm is not a full-time employee of the firm as required by R.C. 4733.16.

No action was taken.

APPROVAL OF CREDENTIALS REVIEW COMMITTEE REPORTS

The Credentials Review Committee (CRC) Reports of July 26, August 2, 9, 16 and September 14, 2011 were presented for review and approval by the Board.

Motion by Mr. Snyder, second by Mr. Shah, to approve the July 26, August 2, 9, 16, September 14, 2011 CRC reports. Motion carried.

RATIFICATION OF REGISTRATIONS ISSUED

The Board reviewed the registrations issued since the last Board meeting. The names and registration numbers of all approved applicants since the last meeting were presented on paper and electronic media.

Motion by Mr. Snyder, second by Mr. Swearingen, to approve the registrations issued since the last Board meeting. Motion carried.

EXECUTIVE DIRECTOR'S REPORT

Executive Director Greenhalge reported that the Board has received a draft of the biennial audit performed by the Auditor of State. The Auditor has advised the Board that there are no instances of noncompliance or internal control weaknesses.

Mr. Greenhalge distributed performance statistics for July, August and September. As indicated in the reports, Mr. Greenhalge feels the turn around on applications from the date received to approval is very good and will get better with the procedural change for approving comity applications.

Mr. Greenhalge also requested Board approval to begin the process of hiring an additional investigator. The complaint volume has remained steady over the past 5 years, with a slight increase this year. In order to complete investigations in a timely manner Mr. Greenhalge feels the Board must hire an additional investigator. Currently one investigator is handling the case load that was previously shared between three investigators.

The Board directed Mr. Greenhalge to pursue hiring an additional investigator.

EXECUTIVE SESSION

Motion by Mr. Mawhorr, second by Mr. Snyder, to go into Executive Session pursuant to Ohio Revised Code Section 121.22(G)(1) and (3) to consider the appointment, employment, dismissal, promotion, demotion or compensation of a public employee or official, to consider the investigation of complaints against licensees or regulated individuals, and to confer with Board counsel regarding pending or possible litigation. Mr. Greenhalge recorded a roll call vote:

Roll call vote:

***Mr. Snyder- Yes
Mr. Mawhorr- Yes
Mr. Hubbard – Yes
Mr. Shah- Yes
Mr. Swearingen- Yes***

Motion carried. The Board entered into executive session at 10:31 a.m.

Mr. Hubbard invited Mr. Greenhalge, Ms. Jones, Mr. McLean and Ms. Schick to attend the executive session. The executive session ended at 11:44 a.m.

****ACTIONS TAKEN AS A RESULT OF EXECUTIVE SESSION****

Professional Surveyor Case No. 11-103

On May 19, 2011 the Board received a complaint alleging that SUBJECT PS performed a survey of his property that failed to meet the Minimum Standards for Boundary Surveys.

The Board reviewed the complaint and directed the staff to close the complaint since it is a civil matter that must be handled by the court.

Professional Engineer Case No. 10-110

On June 30, 2010 the Board received a complaint alleging that SUBJECT PE violated the Code of Ethics for Professional Engineers. The complainant alleges that SUBJECT PE misused the firm's computer system.

The Board reviewed the complaint and directed the staff to close the complaint since it is a civil matter that must be handled by the court.

Surveying Firm Case No. 11-011

On August 26, 2010 the Board received a complaint alleging that SUBJECT FIRM performed a survey that failed to meet the Minimum Standards for Boundary Surveys. The complainant also alleges that an unlicensed individual employed by the firm may have misrepresented himself as a professional surveyor. SUBJECT FIRM stated the complaint is based on a draft survey that was provided to their client prior to the completion of the survey.

The Board reviewed the case and directed the staff to close the complaint but send a letter to SUBJECT FIRM reminding them of the requirement to meet the Minimum Standards on work product disseminated to the public.

Professional Surveyor Case No. 11-072

On February 15, 2011 received a complaint alleging that SUBJECT PS violated the Code of Ethics for Professional Surveyors and performed a survey that did not meet the Minimum Standards for Boundary Surveys. The complainant alleges that while performing the survey on an adjacent property, SUBJECT PS was drinking beer, discarded empty beer cans on his property and destroyed several acres of soy beans. During the course of the investigation it was discovered that SUBJECT PS failed to report a felony conviction for driving under the influence of alcohol.

Motion by Mr. Mawhorr, second by Mr. Snyder, to open an investigation. Motion carried.

Professional Engineer/Professional Surveyor Case No. 11-008

The Board received a complaint alleging that SUBJECT PE/PS has violated the Code of Ethics for Professional Engineers and Surveyors and was convicted of Theft in Office and Conflict of Interest. SUBJECT PE/PS subsequently resigned his position as County Engineer while facing a trial to remove him from office.

Motion by Mr. Mawhorr, second by Mr. Snyder, to open an investigation. Motion carried.

Professional Engineer

Case No. 11-113

During a routine background check it was discovered that SUBJECT PE failed to report to the Board that he voluntarily relinquished his registration as a professional engineer in Florida in order to avoid administrative action. North Carolina took reciprocal action and refused to renew SUBJECT PE's registration. Neither action was reported to the Board as required by law.

Motion by Mr. Mawhorr, second by Mr. Shah, to open an investigation. Motion carried.

Professional Engineer

Case No. 11-112

SUBJECT PE is listed on a Certificate of Authorization application as the engineer in responsible charge of engineering activities for the firm. During the routine background check it was discovered that SUBJECT PE was currently serving a one year suspension of his license in West Virginia. SUBJECT PE failed to report the voluntary relinquishment to the Board as required by law.

Motion by Mr. Mawhorr, second by Mr. Swearingen, to open an investigation. Motion carried.

William B. Ingram, P.S.

Case No. 12-010

SUBJECT PS was listed on a Certificate of Authorization (COA) application as the surveyor in responsible charge of surveying activities for the firm. The firm's Certificate of Authorization expired on June 30, 2010. During the time the firm's COA was expired the firm performed 99 mortgage surveys and one boundary survey. During an interview SUBJECT PS stated that he was not a full-time employee of the firm as he had indicated on the COA application.

SUBJECT PS entered into a settlement agreement wherein he agreed to pay a \$1,000.00 fine, accept a reprimand and comply with all federal, state, and local laws and all laws and administrative rules governing the practice of engineering and surveying in the State of Ohio.

Motion by Mr. Mawhorr, second by Mr. Snyder, to open an investigation, accept the settlement agreement and close the investigation. Motion carried.

Surveying Firm

Case No. 12-015

On July 22, 2011 SUBJECT FIRM submitted a Certificate of Authorization (COA) renewal application. During a discussion with the firm's owner it was discovered that the firm performed 99 mortgage surveys and one boundary survey while their COA was expired and that the surveyor listed in responsible charge of surveying activities for the firm was not a full-time employee of the firm.

Motion by Mr. Mawhorr, second by Mr. Snyder, to open an investigation, accept the charges preferred by the investigator and issue a notice of opportunity for hearing. Motion carried.

American Land Surveys, Inc.

Case No. 12-005

American Land Surveyors, Inc. applied for reinstatement of their Certificate of Authorization to practice surveying which expired in July 2007. During the review of the application it was discovered that the firm performed 216 surveys while the COA was expired.

The Board opened an investigation on July 20, 2011. American Land Surveys entered into a settlement agreement wherein they agreed to pay a \$10,000.00 fine and accept a reprimand.

Motion by Mr. Mawhorr, second by Mr. Shah, to accept the settlement agreement and close the investigation. Motion carried.

Vance Surveying Case No. 12-006

Vance Surveying, Ltd. applied for a Certificate of Authorization to practice surveying. During the review of the application it was discovered that the firm has been in business and registered with the Ohio Secretary of State since 2000. The firm's owner Belynda Vance sent the Board a letter stating that the firm has only actively practiced since July 1, 2011. The firm included a list of four projects that they have completed since July 1, 2011.

The Board opened an investigation on July 20, 2011. Vance Surveying entered into a settlement agreement wherein they agreed to pay a \$250.00 fine and accept a reprimand.

Motion by Mr. Mawhorr, second by Mr. Snyder, to accept the settlement agreement and close the investigation. Motion carried.

Unlicensed Firm Case No. 08-005

The Board received a complaint alleging that SUBJECT FIRM may be offering engineering services. The firm submitted plumbing, mechanical, electrical engineering plans for a hotel that were sealed by an architect. The plans were pulled and the project was not completed.

Motion by Mr. Mawhorr, second by Mr. Shah, to close the investigation and send a warning letter to the firm. Motion carried.

Unlicensed Firm Case No. 09-077

The Board received a complaint alleging that SUBJECT FIRM may have been offering engineering services in violation of R.C. 4733.16. The firm submitted a site plan sealed by an architect to a local building department.

Motion by Mr. Mawhorr, second by Mr. Snyder, to close the investigation and send a warning letter. Motion carried.

Ahlers, Moe & Associates Case No. 010-062

The Board received a complaint alleging that SUBJECT FIRM was offering and providing surveying services at a time when their Certificate of Authorization was expired. The Board conducted an investigation and learned that the firm is no longer in business.

Motion by Mr. Mawhorr, second by Mr. Snyder, to close the investigation. Motion carried.

The firm will be flagged in the Board's licensing database.

END OF TOPICS DELIBERATED IN EXECUTIVE SESSION

EXAMINATIONS

The fall NCEES examinations are scheduled for Friday October 28 and Saturday October 29, 2011. The Board received 1,007 applications and approved 952. The Board will send observers to the Cleveland, Columbus and Cincinnati exam sites.

OHIO PROFESSIONAL SURVEYOR EXAM WORKSHOP

The Ohio Professional Surveyor Exam workshop is scheduled for Saturday November 12, 2011 at the Marriott Hotel in Dublin, Ohio.

Mr. Greenhalge presented a draft policy for selecting exam development participants and a draft of the participant agreement.

Motion by Mr. Snyder, second by Mr. Mawhorr, to approve the Ohio Professional Surveyor Examination Development policy as presented by Mr. Greenhalge. Motion carried.

NCEES ANNUAL MEETING

The NCEES Annual Business Meeting was held August 24 – 27, 2011 in Providence, Rhode Island. Mr. Hubbard, Mr. Snyder and Mr. Greenhalge attended and provided a report to the Board.

CORRESPONDENCE

1. E-mail from David Shank, P.E. requesting the Board to consider granting CPD credit for working as a volunteer on an NCEES exam development/scoring committees.

The Board reviewed and discussed the proposal and noted it would likely take a law change to grant credit as Mr. Shank requested. The amount of credit requested is also far greater than credit granted for similar activities.

NEW BUSINESS

1. The Board reviewed the Ohio Architects Board's proposed change to their rules, specifically Administrative Code Section 4703-3-09 dealing with written contracts. Executive Director Kobe sent the Board an e-mail requesting comments or questions. The Board reviewed the proposed change and does not have any comments to forward to Ms. Kobe.
2. The University of Akron notified the Board that its Surveying and GIS program has received ASAC/ABET accreditation to September 30, 2013. This accreditation action extends retroactively from October 1, 2010. Graduates of this program are qualified by law to take the FS and PS examinations and are eligible for PS registration. At its meeting on August 4, 2008 the Board moved to approve the University of Akron's Surveying program as a Board-approved Surveying program while the transition from TAC to ASAC accreditation occurred.

OLD BUSINESS

1. Mr. Greenhalge reported that he met with the County Engineer's Association of Ohio on September 2, 2011 to discuss PS supervision of county tax map offices. Mr. Greenhalge will work with CEAO and PLSO to prepare a white paper for guidance on this issue to be shared with the County Auditor's Association, the County Prosecutor's Association and other interested parties.
2. Mr. Greenhalge reported on his meeting with the Architects Board at their meeting on July 22, 2011 to discuss incidental practice and contingency contracts. The Board reviewed the proposed resolution dealing with incidental practice drafted by Ms. Kobe. Although the resolution does not completely define incidental practice, the Board liked the resolution and will consider adopting it once the Architect's Board completes its review at their meeting on September 30, 2011. Mr. Greenhalge also reported that he will continue to work with Don Mader on the contingency contract issue.
3. Mr. Greenhalge presented a new procedure for reviewing and approving comity applications for Board review and approval. A draft was distributed at the last meeting.

Motion by Mr. Shah, second by Mr. Mawhorr, to approve the MLE Comity Application Policy. Motion carried.

PUBLIC RELATIONS

Mr. Greenhalge attended the OSPE Leadership Conference on September 9, 2011 to talk about CPD compliance and provide an update on the CPD program. Mr. Greenhalge is scheduled to speak at the PLSO Fall Conference on October 14, 2011 and the OSPE Fall CPD Conference on November 10, 2011.

The fall certificate ceremony was held in the Statehouse atrium on August 20, 2011. Mr. Hubbard and Mr. Snyder attended the ceremony and Mr. Hubbard spoke to the new registrants.

UPCOMING BOARD MEETINGS

The October meeting was scheduled for Thursday October 20, 2011.

Motion by Mr. Shah, second by Mr. Snyder, to cancel the October 20, 2011 meeting. Motion carried.

The November meeting is scheduled for Thursday November 17, 2011.

ADJOURNMENT

The Board adjourned at 12:27 p.m.

These minutes were written on September 16, 2011 and approved by the Board on November 17, 2011.

Theodore B. Hubbard, P.E., P.S.
Board Chair

James D. Mawhorr, P.E., P.S.
Board Secretary

John F. Greenhalge
Executive Director