

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

Thursday March 15, 2012

Members Present:

James D. Mawhorr, P.E., P.S.	Chair
Frank D. Snyder, Jr., P.S.	Secretary
Keith Swearingen, P.E., P.S.	Member
Nelson E. Kohman, P.E.	Member

Staff Present:

John F. Greenhalge	Executive Director
Lynn Jones	Assistant Executive Director
Jason P. McLean	Enforcement Supervisor
Karen Schick	Administrative Assistant
James E. Evans	Assistant Attorney General

CALL TO ORDER

The State Board of Registration for Professional Engineers and Surveyors held its regular meeting on Thursday, March 15, 2012 at 50 West Broad Street, Suite 1820, Columbus, Ohio 43215 in the Board conference room. Chairman Mawhorr called the meeting to order at 9:30 a.m.

James M. Evans, Senior Assistant Attorney General, addressed the Board concerning the recent court decision involving the Funeral & Embalmers Board that addresses executive sessions.

APPROVAL OF MINUTES

The minutes of the January 19, 2012 Board meeting were presented for approval.

Motion by Mr. Kohman, second by Mr. Swearingen, to approve the January 19, 2012 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

BOARD REVIEW OF APPLICATIONS

1. SiteSource Consultants, Inc.- COA Application

Rickard A. Sicker, P.E., P.S. is requesting Board approval to be listed as the engineer in responsible charge of engineering activities and decisions for Sitesource Consultants, Inc. and his own firm RAS Civil Engineering, LLC.

The Board directed the staff to obtain additional information by the May meeting.

2. Advanced Engineering Technologies Co., Ltd. dba AETCOM- COA Application

Christopher Hunt, P.E. is requesting Board approval to be listed as the engineer in responsible charge of engineering activities and decisions for Advanced Engineering Technologies Co., Ltd. dba AETCOM and his own firm Hunt Engineering, LLC.

Motion by Mr. Kohman, second by Mr. Swearingen, to approve the application. Motion carried.

3. Leppert Associates- COA Application

Jean Ernstberger, P.E. is requesting Board approval to be listed as the engineer in responsible charge of engineering activities and decisions for Leppert Associates. Ms. Ernstberger has reported that she is a part-time hourly employee.

The Board directed the staff to obtain confirmation that Ms. Ernstberger is a full-time employee of the firm. Based on the information provided Ms. Ernstberger's employment status was unclear. The information will be presented at the May meeting.

4. Michael Kinne- Reinstatement of PE Registration

Mr. Kinne reported that he practiced engineering in Ohio during the time his registration was expired. The work was done on federal property (Wright Patterson AFB) using his Florida seal.

Motion by Mr. Swearingen, second by Mr. Kohman, to approve the reinstatement application. Motion carried.

APPROVAL OF CREDENTIALS REVIEW COMMITTEE REPORTS

The Credentials Review Committee (CRC) Reports of January 25, February 1, 8 and March 14, 2012 were presented for review and approval by the Board.

Motion by Mr. Snyder, second by Mr. Swearingen, to approve the January 25, February 1, 8 and March 14, 2012 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. Swearingen, second by Mr. Snyder, to approve the registrations issued since the last Board meeting. Motion carried.

EXAMINATIONS

1. October 2012 Examinations

Mr. Greenhalge distributed a draft schedule for the October 2012 examinations for Board review and approval.

Motion by Mr. Kohman, second by Mr. Swearingen, to approve the October 2012 exam schedule. Motion carried.

2. Ohio Professional Surveyor Exam Workshop

The next Ohio Professional Surveyor Exam workshop is scheduled for Saturday May 5, 2012 at the Marriott Hotel in Dublin, Ohio.

3. Ohio Surveying Courses Worksheet

J. Erik Robey, P.S. of Rhodes State College submitted a request for additional course credit for two classes in the surveying program. Mr. Robey is requesting one additional credit hour in boundary surveying for SUR 110 Urban Planning and one additional credit hour in boundary surveying for RST 110 Real Estate Law. The Board reviewed the request and accompanying documentation but did not feel the course content justified additional boundary surveying credit.

Motion by Mr. Kohman, second by Mr. Swearingen, to approve the surveying courses worksheet as presented by Mr. Snyder and Mr. Greenhalge. Motion carried.

EXECUTIVE DIRECTOR'S REPORT

Mr. Greenhalge reported that he attended the NCEES MBA meeting in Atlanta on February 8, 2012. The main topic was the transition to computer-based testing for the FE and FS examinations. Mr. Greenhalge reported that NCEES will likely recommend at the annual meeting that the PS examination be converted to computer-based as soon as feasible. The switch to computer-based testing will greatly affect Board operations and the staff is currently evaluating the situation.

Mr. Greenhalge reported that the Office of Budget and Management would not approve the additional investigator position unless it can be covered under the current appropriation. The OBM analyst suggested that the Board request the additional funding during the next budget. Until then Mr. Greenhalge will pursue contracting with an investigator through a personal services contract as needed. Mr. Greenhalge reported that he recommends that the Board pursue funding during the next budget to hire an investigator and a dedicated exam coordinator.

Mr. Greenhalge reported that the Board conducted a free CPD program for new licensees on February 17, 2012. The program was four hours and covered information on maintaining registration, Code of Ethics for Engineers and Surveyors and common violations investigated by the Board, an interactive discussion of case studies, and how to handle a CPD audit. Approximately 90 new licensees attended.

Mr. Greenhalge recommended that the Board create a panel to review investigations. Mr. Greenhalge will prepare draft procedures for Board review at the next meeting.

Mr. Greenhalge requested Board approval for a policy for handling allegations of improper conduct. The policy will be added to the Board's employee handbook.

Motion by Mr. Kohman, second by Mr. Swearingen, to approve the policy on reporting improper conduct. Motion carried.

EXECUTIVE SESSION

Motion by Mr. Swearingen, second by Mr. Kohman, to go into Executive Session pursuant to Ohio Revised Code Section 121.22(G)(1) to consider the investigation of complaints against licensees. Mr. Greenhalge recorded a roll call vote:

Roll call vote:

**Mr. Snyder- Yes
Mr. Mawhorr- Yes
Mr. Kohman- Yes
Mr. Swearingen- Yes**

Motion carried. The Board entered into executive session at 11:45 a.m.

Mr. Mawhorr invited Mr. Greenhalge, Ms. Jones, Mr. McLean, Ms. Schick and Mr. Evans to attend the executive session. The executive session ended at 11:55 a.m.

ACTIONS TAKEN AS A RESULT OF EXECUTIVE SESSION

Unlicensed Firm Case No. 2012-047

On October 19, 2012 the Board received a complaint alleging that the SUBJECT FIRM was advertising engineering/consulting services in Ohio's Oil & Gas Association (OO&G) directory. The owner of the firm is a licensed professional engineer in Oklahoma but not in Ohio. SUBJECT FIRM does not have a Certificate of Authorization.

The Board directed the staff to send a warning letter advising the firm's owner of Ohio's laws governing the practice of engineering.

Unlicensed Firm Case No. 2012-056

On November 16, 2011 the Board received a complaint alleging that the SUBJECT FIRM may be offering engineering services in Ohio. SUBJECT FIRM does not have a Certificate of Authorization.

The Board directed the staff to send the firm a letter advising them that locating and establishing easements is the practice of surveying and must be performed by a professional surveyor. The firm will also be advised that if they intend to offer or provide engineering or surveying services in Ohio the firm must obtain a certificate of authorization from the Board.

END OF TOPICS DELIBERATED IN EXECUTIVE SESSION

INVESTIGATIONS

Settlement Agreements

Professional Engineer Case No. 2009-063

On March 13, 2009 the Board received a complaint alleging that SUBJECT PE engaged in plan stamping when he applied his seal and signature on engineering plans for which he did not have personal professional knowledge and direct supervisory control and responsibility as required by OAC 4733-35-07.

SUBJECT PE offered to enter into a settlement agreement wherein he agreed to pay a \$2000.00 fine and receive a reprimand.

Professional Engineer Case No. 2010-043

On December 16, 2009 the Board received a complaint alleging that SUBJECT PE engaged in plan stamping when he applied his seal and signature on engineering plans for which he did not have personal professional knowledge and direct supervisory control and responsibility as required by ORC 4733 and OAC 4733.

SUBJECT PE offered to enter into a settlement agreement wherein he agreed pay a \$2000.00 fine and receive a reprimand.

Professional Surveyor Case No. 2011-072

On February 15, 2011 the Board received a complaint alleging that SUBJECT PS was convicted of a felony OMVI. The Board also received a complaint based on a judgment in Celina Municipal Court that found SUBJECT PS caused unnecessary crop damage to an adjacent property while performing a survey for his client.

SUBJECT PS offered to enter into a settlement agreement wherein he agreed to accept a one (1) year suspension, pay a \$1000.00 fine and receive a reprimand. The suspension shall be stayed provided SUBJECT PS does not commit further violations of Ohio law.

Professional Engineer Case No. 2012-053

On February 28, 2011 SUBJECT PE was selected for the continuing education audit. SUBJECT PE failed to respond despite several requests from the Board to provide the required documentation. After being charged with violations of the Ohio Revised Code and Ohio Administrative Code SUBJECT PE submitted the requested documentation.

SUBJECT PE offered to enter into a settlement agreement wherein she agreed to pay a \$500.00 fine and receive a reprimand for failing to provide documentation in accordance with ORC 4733.151.

Surveying Firm Case No. 2012-059

On November 29, 2011 SUBJECT FIRM reported that they failed to renew their certificate of authorization. The firm's license expired June 30, 2009. SUBJECT FIRM stated that they offered surveying services on at least 143 projects. On January 19, 2012 the Board opened an investigation for violations of RC 4733.

SUBJECT FIRM offered to enter into a settlement agreement wherein the firm agreed to pay a \$5000.00 fine and receive a reprimand for the unlicensed practice of surveying.

Professional Surveyor Case No. 2012-060

On December 1, 2011 the Board received a complaint alleging that SUBJECT PS engaged in the unlicensed practice of engineering by designing a storm sewer system and parking lot improvements. SUBJECT PS is not registered as a professional engineer.

SUBJECT PS offered to enter into a settlement agreement wherein he agreed to pay a \$1000.00 fine and receive a reprimand.

Unlicensed Firm Case No. 2012-067

On February 1, 2012 the Board received a complaint alleging that SUBJECT FIRM was offering surveying services without a Certificate of Authorization. The Board's database showed that SUBJECT FIRM did not have a COA. SUBJECT FIRM offered to enter into a settlement agreement wherein the firm agreed to pay a \$1000.00 fine and receive a reprimand.

Motion by Mr. Snyder, second by Mr. Swearingen, to accept the settlement agreements and close the investigations for case numbers 09-063, 10-043, 11-072, 12-053 and 12-059. Motion carried.

Motion by Mr. Snyder, second by Mr. Kohman, to open investigations, accept the settlement agreements and close the investigations for case numbers 12-060 and 12-067. Motion carried.

Charge and Notice of Opportunity for Hearing

Professional Surveyor Case No. 2010-045, 2011-054 & 2011-077

The Board received three complaints alleging that SUBJECT PS is operating in violation of RC 4733. The Board's enforcement staff attempted several times to get SUBJECT PS to provide a written response to the allegations, including during a face-to-face meeting. SUBJECT PS did not respond.

SUBJECT PS has attempted to renew his registration on-line for 2012-2013. He was unable to renew on-line due to the pending complaints.

On March 5, 2012 Board staff filed charges with the Board Secretary citing violations of R.C. 4733.11 (E), 4733.20 (A)(2) and (5) and O.A.C. 4733-35-02, 4733-35-07 (B) and 4733-35-09.

Motion by Mr. Snyder, second by Mr. Kohman, to deny SUBJECT PS's professional surveyor renewal application for 2012-2013 and offer a notice of opportunity for hearing based on his failure to cooperate with the Board during the investigation of several complaints filed against him as required pursuant to O.A.C. 4733-35-09. Motion carried.

Professional Surveyor Case No. 2012-014

SUBJECT voluntarily surrendered his Oklahoma professional land surveying license. SUBJECT failed to report this action to the Ohio Board. Subject has not renewed his professional surveyor license for 2012.

SUBJECT mailed in a late renewal Certificate of Authorization application for his firm. At its meeting on January 19, 2012 the Board directed the staff to not renew the COA since it was incomplete. On March 6, 2012 the Board staff filed charges with the Board Secretary citing violations of R.C. 4733.20 (A)(2) and (5) and O.A.C. 4733-35-07 (D) and 4733-35-08.

Motion by Mr. Snyder, second by Mr. Kohman, to open an investigation and accept the charges and issue a notice of opportunity for hearing for case numbers 10-045, 11-054, 11-077 and 12-014. Motion carried.

Professional Engineer Case No. 2011-026

On October 22, 2010 the Board received a complaint alleging that SUBJECT PE is representing himself as a professional engineer and providing engineering services in Ohio at a time when his professional engineer registration was expired.

On March 5, 2012 Board staff filed charges with the Board Secretary citing violations of R.C. 4733.02, 4733.16, 4733.20 (A)(2) and (5) and 4733.22.

Motion by Mr. Snyder, second by Mr. Swearingen, to accept the charges and issue a notice of opportunity for hearing for case number 11-026. Motion carried.

Close Investigation

Planning and Design Services Case No. 2012-015

On July 22, 2011 the Board received a certificate of authorization application from SUBJECT FIRM. During the review of the application the Board's records showed that their certificate of authorization had expired on June 30, 2010. While unlicensed SUBJECT FIRM performed surveying on at least 100 surveying projects in violation of ORC 4733 and OAC 4733.

On September 15, 2011 the Board charged SUBJECT FIRM with violations of ORC 4733 and OAC 4733 and issued a Notice of Opportunity for Hearing. A hearing was not requested. On January 19, 2012 the Board issued a Final Order finding that SUBJECT FIRM's certificate of authorization application was incomplete since the professional surveyor listed in responsible charge of surveying activities and decisions for the firm had withdrawn from the firm. SUBJECT FIRM did not appeal the Board's order.

Architectural Firm Case No. 2011-007

On July 15, 2010 the Board received a complaint alleging that an Ohio-based architectural firm was offering and providing engineering services at a time when it did not possess a certificate of authorization.

Board staff drafted a formal warning letter explaining the requirements of Ohio Revised Code 4733 and the incidental practice of engineering while providing architectural services.

Professional Engineer Case No. 2009-051

On January 14, 2009 the Board received a complaint alleging SUBJECT PE had been found to be in violation of water pollution control laws. SUBJECT P.E. was enjoined from further operating and licensing the treatment plant in question and was assessed civil penalties of \$870,000 against SUBJECT P.E.'s business and \$100,000 against SUBJECT P.E. personally.

Motion by Mr. Snyder, second by Mr. Swearingen, to close the investigation for case numbers 12-015, 11-007 and 09-051. Motion carried.

Final Order

Robert F. Keller, P.E.

Case No. 2012-052

On February 28, 2011 SUBJECT PE was notified by mail that he was selected for the continuing education audit. On March 21, 2011 SUBJECT PE contacted the Board and stated that he did not complete his continuing education hours for 2010 and had falsified his renewal application.

On January 19, 2012 Board staff charged SUBJECT PE with violations of ORC 4733 and OAC 4733 and issued a Notice of Opportunity for Hearing. On February 16, 2012 the Board received a letter from SUBJECT PE wherein he requested that his license be placed on inactive status.

Motion by Mr. Snyder, second by Mr. Kohman, to issue a final order revoking Mr. Keller's registration as a professional engineer for failing to complete the continuing education requirement and falsifying his renewal application. Motion carried.

CORRESPONDENCE

1. Letter from Victor Shnuer, P.E. requesting Board approval to submit a comity license application including a copy of his college transcripts. Mr. Shnuer is no longer able to obtain official transcript from the university he attended in Belarus.

The Board directed the staff to inform Mr. Shnuer that the Board will accept the official copies of his transcripts accepted by the other states in which he is licensed.

2. Letter from Christopher J. Matice, P.E. of Stress Engineering Services, Inc.

The Board reviewed the letter and directed Mr. Greenhalge to draft a response.

3. E-mail from Steven Ferryman concerning FEMA Elevation Certificates

The Board reviewed the letter and directed Mr. Greenhalge to draft a letter to Mr. Ferryman advising him that FEMA Elevation Certificates involve the practice of surveying and may only be prepared by a professional surveyor.

4. Letter from Attorney Ron Alexander concerning Jeffrey Uroseva.

The Board reviewed the letter and directed Mr. Greenhalge to draft a letter advising that when Mr. Uroseva submits his application he must be able to verify that he has completed four years of engineering experience acceptable to the Board under the direction of a professional engineer.

NEW BUSINESS

1. Mr. Greenhalge distributed staff recommended changes to ORC 4733 and OAC 4733 primarily dealing with the conversion to computer based testing in January 2014. Mr. Greenhalge will meet with the engineering and surveying associations to address the recommended changes.

OLD BUSINESS

1. Mr. Greenhalge distributed a response from Jerry Carter, Executive Director for NCEES concerning Dr. Kirkmeyer's concerns expressed in several e-mails about the non-ABET engineering majors at Miami University. Dr. Kirkmeyer informed Mr. Greenhalge that he will discuss the matter further with other faculty.

PUBLIC RELATIONS

Mr. Greenhalge is scheduled to speak at Ohio Northern University's surveying conference on April 19, 2012.

MAY BOARD MEETING

The May meeting was scheduled for Thursday May 17, 2012.

Motion by Mr. Snyder, second by Mr. Kohman, to reschedule the May meeting to Thursday May 24, 2012 due to a conflict with the NCEES Central Zone Interim meeting. Motion carried.

ADJOURNMENT

The Board adjourned at 1:40 p.m.

These minutes were written on March 16, 2012 and approved by the Board on May 24, 2012.

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

Franklin D. Snyder, Jr., P.S.
Board Secretary

John F. Greenhalge
Executive Director