

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

Thursday March 21, 2013

Members Present:

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

Staff Present

John F. Greenhalge	Executive Director
Amanda Ault	Assistant Executive Director
Jason P. McLean	Enforcement Supervisor
Karen Schick	Program Manager
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 21, 2013 at 50 West Board Street, Suite 1820, Columbus Ohio 43215 in the Board conference room. Chairman Mawhorr called the meeting to order at 9:30 a.m.

1. APPROVAL OF MINUTES

The minutes of the February 21, 2013 Board meeting were presented for approval.

Motion by Mr. Snyder, second by Mr. Dawson, to approve the February 21, 2013 meeting minutes as presented. Motion carried.

Motion by Mr. Snyder, second by Mr. Dawson, to adopt the amended agenda. Motion carried.

2. RECOGNITION OF GUESTS AND PUBLIC COMMENTS

Present at the meeting:

Melinda Gilpin, Executive Director, Professional Land Surveyors of Ohio
Holly Ross, Executive Agent and Public Relations Manager, Ohio Society of Professional Engineers

3. BOARD REVIEW OF APPLICATIONS

A. Alban Surveying Company

Alban Surveying has submitted an application to add engineering services to their COA.

Motion by Mr. Snyder, second by Mr. Kohman, to approve the COA application for Alban Surveying. Motion carried.

The Board directed the staff to send a letter to Alban Surveying Company reminding them of the full-time requirement and laws pertaining to sealing engineering and surveying work product.

B. American Environmental Group, Ltd.

American Environmental Group has applied for a COA to provide engineering services in Ohio.

Motion by Mr. Kohman, second by Mr. Dawson, to approve the COA application for American Environmental Group. Motion carried.

C. Cardno J.F. New & Associates dba Cardno JFNew

Cardno JFNew has applied for a COA to provide engineering services in Ohio. Cardno JFNew is the subject of an open complaint alleging illegal practice without a COA.

Motion by Mr. Dawson, second by Mr. Snyder, to approve the temporary COA application for Cardno JFNew. Motion carried.

D. Bruce E. DiFrancisco

DiFrancisco is requesting reinstatement of his PE registration. DiFrancisco has reported practicing engineering in Ohio while his registration was expired.

Motion by Mr. Kohman, second by Mr. Dawson, to open an investigation, accept the settlement agreement, close the investigation and approve the reinstatement application. Motion carried.

4. APPROVAL OF CREDENTIALS REVIEW COMMITTEE REPORTS

The Credentials Review Committee (CRC) Report of March 20, 2013 was presented for approval.

Motion by Mr. Swearingen, second by Mr. Dawson, to approve the Credentials Review Committee Report of March 20, 2013. Motion carried.

5. 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 will be presented on paper and electronic media.

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

6. EXAMINATIONS

A. Computer Based Testing Update

Mr. Greenhalge reported there have been no substantial actions taken since last meeting. NCEES will provide more information at the zone meeting in April.

B. April 2013 Exam

The April exams will be held Friday April 12 and Saturday April 13, 2013. Mr. Greenhalge will observe the Cincinnati site, Jason McLean will observe the Cleveland site and Amanda Ault will observe the Columbus site.

C. Ohio PS Exam Workshop

The Ohio PS exam workshop is scheduled for Saturday May 4, 2014 from 8:00 a.m. to 4:30 p.m. at the Marriott Hotel in Dublin, Ohio.

7. REPORTS

A. Executive Director's Report

1. Personnel Update

Mr. Greenhalge reported that Jeni Sword has accepted the Certification/License Examiner 1 position. The Administrative Professional 1 position was posted March 18 through March 28, 2013. Interviews will be conducted April 22 and 23, 2013.

2. Legislative Update

Mr. Greenhalge reported that Senator Burke has agreed to sponsor the Board's CBT legislation. The draft version is at LSC. Mr. Greenhalge thanked Melinda Gilpin of PLSO for her help in finding a sponsor.

3. ELicense upgrade and VOIP conversion

Mr. Greenhalge reported that the Board staff will meet with the eLicense team the week of April 15.

The Board has prepared the documentation for the conversion to VOIP. The Board will have to purchase a new switch to power the Ethernet lines at a cost of approximately \$2,000. The Board should be converted by late May 2013.

4. 2014/2015 Budget

Mr. Greenhalge testified on March 7, 2013 before the House Transportation, Public Safety and Homeland Security finance subcommittee and provided the Board with an update.

5. Financial Disclosures

Mr. Greenhalge reminded the Board that financial disclosure forms are due in May. The Board will pay the filing fees.

6. NCEES Central Zone Meeting

The NCEES Central Zone meeting will be held April 4-6, 2013 in Biloxi, MS. This is a joint meeting with the southern zone. Mr. Kohman, Mr. Greenhalge and Ms. Ault are scheduled to attend. Mr. Kohman and Mr. Greenhalge are funded delegates.

8. ENFORCEMENT

Unlicensed Individual Case No. 13-029

On November 16, 2012 the Board received a comity application for registration as a professional engineer from SUBJECT. SUBJECT reported on the application that he had never been disciplined by another jurisdiction. According to documentation obtained by the Board SUBJECT was charged by the Kentucky Board for Professional Engineers and Land Surveyors for violating the State of Kentucky's minimum standards for boundary surveys on a project in 1995. SUBJECT signed a settlement agreement to resolve that case on July 25, 2002. SUBJECT paid a \$1000.00 fine, successfully completed an extra minimum technical standards seminar and served probation for two (2) years. One of SUBJECT'S requirements for probation was that SUBJECT would submit quarterly documents for review and compliance with the minimum standards.

By failing to disclose the disciplinary action on the Ohio application SUBJECT violated R.C. 4733. SUBJECT agreed to enter into a settlement agreement wherein he agreed to accept a \$250.00 fine.

Motion by Mr. Snyder, second by Mr. Dawson, to open an investigation, accept the settlement agreement, close the investigation and approve SUBJECT's application for registration as a professional engineer. Motion carried.

Professional Surveyor Case No. 2012-017

On August 30, 2011 the Board received a complaint alleging that SUBEJCT violated R.C. 4733 by changing a survey he performed after a judge ruled that the survey was true and correct. After the court decision SUBJECT then returned to the property on June 23, 2011 and made changes to the 2008 survey.

The Board directed the staff to send a letter to the complainant advising him that at this point the complaint must be handled by the court. Once the court has ruled the complainant may re-file the complaint based on the judge's ruling.

Professional Surveyor Case No. 12-080

On March 9, 2012 the Board received a complaint alleging SUBJECT had incorrectly noted a thirty (30) foot ingress/egress easement across the complainant's property. Complainant further alleges that SUBJECT has failed to address her concerns and correct the matter and then fabricated a story that the Butler County Tax Map was reviewing the matter.

On May 17, 2012 SUBJECT submitted a written response to the allegations through his attorney. The response explains that the complainant's assertions that the egress SUBJECT noted on his survey plat "is erroneous and does not exist" to be unfounded. In fact, SUBJECT stated that a review of the history of the property establishes that the easement has existed for decades. SUBJECT also stated that the original Rockdale Subdivision plat of survey dated in 1904, a subsequent re-plat of the survey performed in 1953 and then again in 1983 when complainant purchased the property, have all established there was an easement to "provide legal access to the property along said private

undedicated gravel road with said legal access and easements.” SUBJECT explained in detail that when he received a 16 comment letter from the Butler County Planning Commission that required changes to SUBJECT’s survey, not one of the comments questioned SUBJECT’s identification of the egress easement.

The Board reviewed the complaint and determined that this is a boundary dispute and the survey must be confirmed by an independent survey and adjudicated through the court. At this time Board has no jurisdiction in this matter.

Professional Surveyor **Case No. 12-094**

On April 9, 2012 the Board received a complaint alleging that in 2001 SUBJECT performed an incorrect mortgage location survey (MLS) on complainant’s property. Based on the MLS prepared by SUBJECT the complainant constructed a deck and carport. According to the complainant, in 2012 a new neighbor moved in to the adjacent property and had an MLS and a full boundary survey performed by SUBJECT. The new MLS and boundary survey depicted complainant’s property line established by the 2001 MLS to be off considerably. The new MLS and boundary survey show that the carport and deck built by complainant now encroaches upon the new neighbor’s property.

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

Unlicensed Firm **Case No. 13-014**

On September 21, 2012 the Board received a complaint alleging that SUBJECT was offering and providing engineering services without a Certificate of Authorization. A proposal prepared by SUBJECT FIRM was attached to the complaint. On October 14, 2012 the Board staff received a letter of explanation from SUBJECT wherein SUBJECT stated that they offer arc flash analysis, which they believe to be a function of safety and not an engineering service. The letter states that they provided a quote for a job for an existing Ohio client and have only provided safety and environmental services. The SUBJECT’s website states that they provide a variety of environmental and training services as well as assist in writing/modifying environmental plans. They also help with various permits and reports.

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

Professional Surveyor **Case No. 13-017**

On August 27, 2012 the Board received a complaint alleging that SUBJECT has performed a survey that is in violation of R.C. 4733. Complainant explained that after not being able to get information from the county about their house placement on the lot, they hired a surveyor. Complainant further stated they have 2 lots and they only asked the surveyor to survey the one lot. According to the complainant, SUBJECT surveyed both lots and did not set the monuments to differentiate the two lots. Complainant further explained that their main complaint is that the county and housing paper work says their lot is .2131 acres and the surveyor stated it is .1963 acres and they have a frontage of 133 feet when they were told by the county tax assessor it was 140 feet.

On November 8, 2012 the Board received a written response from SUBJECT explaining the allegations are completely without merit and that complainant was simply unhappy with the results of their survey and refused to accept SUBJECT’s opinion of where the property lines should be located. SUBJECT did state that complainant did attempt to have SUBJECT only survey a portion of the property; however, SUBJECT stated that he explained to complainant that they could not do that and must survey the entire property.

The Board reviewed the complaint and response from SUBJECT. It appears that the owner does not agree with the results of the survey. If the owner doesn’t agree with the results of the survey the remedy is to have another survey

performed to dispute or confirm the initial survey. This appears to be a boundary dispute and is not within the Board's jurisdiction.

The Board did identify a few minor violations of the minimum standards for boundary surveys on SUBJECT's survey plat. These violations include:

- *No reference to the deed documents, particularly those related to the establishment of the 16' alley.*
- *The wall located near the northwesterly property corner mentioned in the respondent's letter is not shown.*
- *The found 3/8" iron pin along the north line of lot 36239 is not labeled.*

The Board directed the staff to close the complaint and send a letter to the professional surveyor reminding him of the requirement to follow the Minimum Standards for Boundary Surveys.

Professional Surveyor **Case No. 13-027**

On November 8, 2012 the Board received a complaint involving a boundary survey that SUBJECT performed for an auctioneer prior to complainant purchasing the residence. After purchasing the home the complainant and other individuals walked the property and were unable to find property corner monuments as described in SUBJECT's survey. The complainant alleges that SUBJECT has failed to respond to repeated attempts by complainant to have SUBJECT correct the matter.

The Board directed the staff to close the complaint since it falls outside of the Board's jurisdiction.

Professional Surveyor **Case No. 13-013**

On September 10, 2012 the Board received a complaint alleging that SUBJECT had made an error on a mortgage location survey (MLS) SUBJECT performed in 2011. The complainant based his allegations on a boundary survey performed by another surveyor of the same property. Complainant believes SUBJECT's MLS was off more than 2200/sf.

On December 4, 2012 SUBJECT emailed the Board and attached a revised MLS of the property. SUBJECT explained that the revised MLS drawing was based on new monumentation found in the field.

SUBJECT agreed to enter into a settlement agreement wherein he agreed to accept a reprimand.

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

Professional Engineer **Case No. 13-025**

On October 24, 2012 the Board received a complaint alleging SUBJECT was representing himself as a professional engineer and offering/providing engineering services in Ohio at a time that SUBJECT was not registered as a professional engineer in Ohio. SUBJECT was registered as a professional engineer in Pennsylvania. Evidence provided to the Board included SUBJECT's business cards, proposals for work and letters disseminated in Ohio representing SUBJECT as a professional engineer.

SUBJECT agreed to enter into a settlement agreement wherein he agreed to accept a one thousand dollar (\$1000.00) fine for his violation of R.C. 4733.02.

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

Professional Surveyor **Case No. 12-085**

On March 29, 2012 the Board received a complaint alleging that SUBJECT had failed to meet the minimum standards for mortgage location surveys (MLS) by failing to perform proper research and investigation and thereby not locating and documenting a brick wall encroachment. SUBJECT has been the subject of previous complaints and was disciplined by this Board in 2001 for failing to meet the minimum standards for a MLS. SUBJECT at that time received a formal written reprimand.

On August 6, 2012 the Board received a written affidavit from SUBJECT. In the affidavit SUBJECT stated the MLS in 2010 was performed with considerable snow on the ground and only two pins were able to be located on complainant's property. SUBJECT explained that she was contacted by the title company on February 12, 2012 and a new survey indicated the encroachment of a brick wall onto complainant's property. On February 10, 2012 SUBJECT stated she performed another MLS for complainant's property and new pins were located that were not present at the time of the original MLS. According to SUBJECT the new MLS was provided to an Ohio title company for correction.

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

Professional Engineer **Case No. 08-049**

On January 14, 2008 the Board received a complaint alleging that SUBJECT made errors and omissions which caused engineering failures on an HVAC project. The complainant stated that the engineering failures have placed a financial burden on his thirty-six year old small business.

The Board's consultant reviewed the complaint and additional information obtained during the investigation and recommended that the complaint be closed due to no apparent violation.

Motion by Mr. Snyder, second by Mr. Dawson, to close the complaint. Motion carried.

Professional Surveyor **Case No. 11-067**

On September 10, 2012 the Board received a complaint alleging that SUBJECT did not have personal professional knowledge and direct supervisory control of a survey performed by SUBJECT. The complainant also alleged that SUBJECT failed to perform proper research and investigation in preparing his survey, expressed an opinion in court that was not backed by adequate knowledge and failed to meet the minimum standards for boundary surveys.

The Board's consultant reviewed the complaint and additional information obtained during the investigation and recommended that the complaint be closed due to no apparent violation.

Motion by Mr. Snyder, second by Mr. Dawson, to close the complaint. Motion carried.

9. CORRESPONDENCE

- A. Letter from Darek Letkiewicz requesting that the Board waive the requirement to complete 7 semester credit hour deficiency in mathematics and basic science identified in the NCEES degree evaluation.

Motion by Mr. Snyder, second by Mr. Kohman, to approve Mr. Letkiewicz's application for registration as meeting the requirements of R.C. 4733.11. Motion carried.

- B. Letter from Steven L. Gardner, P.S. concerning the taxing of severed mineral rights.

Mr. Greenhalge will contact other states to see if they have experienced this issue and how it was addressed. Mr. Greenhalge will report the results at the May meeting.

- C. Letter from Lydia Thacker, P.S. concerning electronic seals.

Mr. Greenhalge will contact Ms. Thacker and direct her to several other agencies that are requiring electronic seals as part of their permit process.

10. NEW BUSINESS

No new business was discussed.

11. UNFINISHED BUSINESS

No unfinished business was discussed.

12. PUBLIC RELATIONS

Mr. Greenhalge is scheduled to speak at OSPE's CPD seminar on March 22 in Blue Ash, Ohio. The certificate ceremony was held on Saturday March 16, 2013 in the Statehouse atrium. Seventy-one certificate recipients attended the ceremony (37 PE, 27 EI, 3 PS and 4 SI). Certificate ceremonies are held twice each year in the spring and fall. The Board has budgeted \$2,300 in FY 14 and \$2,300 in FY 15 for the certificate ceremonies for the upcoming biennium. The budgeted amount covers rental costs for the statehouse atrium.

13. UPCOMING BOARD MEETINGS

The next meeting is scheduled for Thursday May 16, 2013.

14. ADJOURNMENT

The Board adjourned at 12:30 p.m.

These minutes were written on March 21, 2013 and approved by the Board on May 27, 2013.

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

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

John F. Greenhalge
Executive Director