

**MINUTES OF FOURTH MEETING
2011-2012 BOARD OF LICENSURE
FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS
Montgomery, Alabama
March 15-16, 2012**

Chair Wilbanks called the fourth meeting of the 2011-2012 Board to order at 1:00 P.M., Thursday, March 15, 2012, at the Board office in Montgomery, Alabama. The following were in attendance:

Officers and Members Present:

W. Gerald Wilbanks	Chair
C. Michael Arnold	Vice Chair
Daniel S. Turner	Secretary
Don T. Arkle	Member
Earl R. Foust	Member
Phillip E. Santora	Member
William C. Ulrich, Jr.	Member

Staff Present:

Regina A. Dinger	Executive Director
William R. Huett	Assistant Executive Director/Investigator
Benjamin Albritton	Board Attorney
Bonnie Kelly	Administrative Assistant

It was determined that a quorum was present.

The proposed meeting agenda was reviewed. The new agenda items were briefed.

12-90. IT WAS MOVED by Mr. Arnold and seconded by Mr. Foust to adopt the revised agenda. MOTION CARRIED UNANIMOUSLY.

Minutes of the third meeting of the 2011-2012 Board held January 31, 2012 were received for approval.

12-91. IT WAS MOVED by Dr. Turner and seconded by Mr. Santora that the minutes of the third meeting of the 2011-2012 Board held on January 31, 2012 be approved as written. MOTION CARRIED 6-0 with Mr. Foust recused.

Action items from previous meetings were reviewed and updated.

APPLICATIONS – Mr. Phillip E. Santora, Advisor

12-92. IT WAS MOVED by Dr. Turner and seconded by Mr. Ulrich that the Board of Licensure for Professional Engineers and Land Surveyors go into Executive Session for the purpose of discussing pending applications. Misterys Arkle, Arnold, Foust, Santora, Ulrich and Wilbanks and Dr. Turner voted in favor of the motion.

Chair Wilbanks announced the Board would reconvene into open session at approximately 2:15 P.M. The meeting was closed to the public. The meeting was opened to the public at 2:15 P.M.

Applications of those applying for Professional Engineer licensure by comity, as provided by Section 34-11-4(1)(b) of the Licensure Law, were considered.

Applications of those applying for Professional Engineer licensure by examination, as provided by Section 34-11-4(1)a. and b. of the Licensure Law having previously passed the FE Examination in Alabama or in another jurisdiction, were considered.

Applications of those applying for Engineer Intern certification, as provided by Section 34-11-4(2) of the Licensure Law, were considered.

Applications of those applying for Land Surveyor licensure by examination, as provided by Section 34-11-4(3)a., b., and c. of the Licensure Law, were considered. Applications of those applying for Professional Land Surveyor licensure by examination having previously passed the Fundamentals of Land Surveying Examination and the Principles and Practice of Land Surveying Examination in Alabama or in another jurisdiction were considered and were approved for the Alabama Land Surveying Standards, History, and Law Examination.

Applications of those applying for Land Surveyor Intern certification, as provided by Section 34-11-4(4) of the Licensure Law, were considered.

- 12-93. IT WAS MOVED by Dr. Turner and seconded by Mr. Foust that the Board accept for licensure by comity those applicants listed on **Attachment #1**. MOTION CARRIED UNANIMOUSLY.
- 12-94. IT WAS MOVED by Mr. Ulrich and seconded by Dr. Turner that the Board accept for EI/LSI certification those applicants listed on **Attachment #2**. MOTION CARRIED UNANIMOUSLY.
- 12-95. IT WAS MOVED by Mr. Arkle and seconded by Dr. Turner that the Board defers for licensure Mr. Lucas Brent Bartee. MOTION CARRIED UNANIMOUSLY.
- 12-96. IT WAS MOVED by Mr. Arkle and seconded by Mr. Ulrich that the Board denies for licensure Mr. Albert Philip Mazza. MOTION CARRIED UNANIMOUSLY.
- 12-97. IT WAS MOVED by Mr. Arkle and seconded by Mr. Ulrich that the Board denies for certification Mr. Millard Todd Powell. MOTION CARRIED 6-0 with Mr. Santora recused.
- 12-98. IT WAS MOVED by Mr. Santora and seconded by Mr. Arnold that the Board approves for examination those applicants listed as approved on **Attachment #3**. MOTION CARRIED UNANIMOUSLY.

The Board reviewed requests for board evaluation of transcripts from applicants who wished to be considered for engineering licensure on the basis of obtaining a related science undergraduate degree plus a master in engineering or for board evaluation of their foreign engineering degree.

12-99. IT WAS MOVED by Dr. Turner and seconded by Mr. Santora that Sri Bommareddy's foreign degree plus engineering masters degree be approved as a GUEC degree as it applies to engineering licensure; that Ramon Gastelum's, Willy Matute's, Rajan Ojha's, Johnny Pichay's, and Amelito Umali's degrees be approved as GUEC degrees as they apply to engineering licensure; that James Maddox's degree be approved as a related science degree as it applies to engineering licensure; and that Lorn Whittaker's degree be disapproved as a GUEC degree as it applies to engineering licensure. MOTION CARRIED UNANIMOUSLY.

LAW ENFORCEMENT – Mr. W. Gerald Wilbanks, Advisor

Prior to discussing the law enforcement agenda items, the Board discussed the new agenda item regarding non-compliance of certificate of authorization requirements. The board staff was seeking guidance on what to do with firms that do not identify within 30 days a new principal engineer/land surveyor.

12-100. IT WAS MOVED by Dr. Turner and seconded by Mr. Santora that in event a principal engineer/land surveyor is not identified to the Board within 30 days of the effective date of the change in principals, the Board authorizes the staff to immediately place the certificate of authorization into suspended status. MOTION CARRIED UNANIMOUSLY.

The Board reviewed the status of the files pending with the Board, the Investigator, and/or the Investigative Committee. The Board reviewed the list of those completed cases that are being monitored. The Board was briefed on the 2011 - 2012 statistics.

The Board reviewed enforcement action taken against Alabama licensees by other licensing jurisdictions. The board identified those actions where they believed a complaint needed to be opened. The remaining licensees will be notified that copies of the actions will be placed in their Alabama licensing files.

12-101. IT WAS MOVED by Dr. Turner and seconded by Mr. Arkle that a complaint should be opened on the case listed as "NH 1". MOTION CARRIED UNANIMOUSLY.

12-102. IT WAS MOVED by Dr. Turner and seconded by Mr. Arkle that the cases listed as "AR1", "FL1", "NC1", "TN1", "SC1", "LA1", "LA2", and "MN1" be notified that copies of the actions will be placed in their Alabama licensing files. MOTION CARRIED UNANIMOUSLY.

12-103. IT WAS MOVED by Mr. Santora and seconded by Mr. Ulrich that complaints should be opened on the cases listed as "AL1" and "AL2". MOTION CARRIED UNANIMOUSLY.

The Board reviewed pending cases that the investigative committees have completed to accept, modify, or reject the suggested courses of action.

- 12-104. IT WAS MOVED by Mr. Arkle and seconded by Mr. Santora to find Engineered Plastics of Alabama guilty on the one count and to accept the Administrative Law Judge's recommendations. Engineered Plastics of Alabama will reimburse the Board \$1,116.25 for the cost of hearing; they shall cease and desist the use of "Engineered" in the corporate name "Engineered Plastics of Alabama"; will cease and desist from the offering of engineering services via the company's web site; and Engineered Plastics of Alabama will have 90 days from the date of the Final Order to revise their advertising, letterhead, licenses, domains, website, and registrations with their local probate office and the Secretary of State, etc., and provide documentary proof of said changes to the Board. MOTION CARRIED 6-0 with Dr. Turner recused. (Case 11-30-C)
- 12-105. IT WAS MOVED by Mr. Arkle and seconded by Mr. Arnold to close Case 11-41-C, with a letter of caution. MOTION CARRIED 6-0 with Dr. Turner recused.
- 12-106. IT WAS MOVED by Mr. Arkle and seconded by Mr. Arnold to close Case 12-01-B, with no action. MOTION CARRIED 6-0 with Dr. Turner recused.
- 12-107. IT WAS MOVED by Mr. Arnold and seconded by Mr. Foust that probable cause exists that Michael David Tomme, an un-licensed individual, and Tomme Engineering provided or offer to provide engineering services without obtaining a professional engineer's license or an engineering certificate of authorization. The accepted terms of the consent order are that Mr. Tomme will cease and desist the use of the title "Engineer" or any modification thereof until he obtains an Alabama professional engineer license, he will cease and desist from the use of the title "Engineering" or any modification thereof in his firm's name until such time as the firm obtains an engineering certificate of authorization, he shall remove the title "Engineering" or any modification or derivative thereof from the firm name listed in his resume within 30 days of the date of the final order, he will pay \$1,000 civil penalty to the State General Fund and \$161.35 to the Board for expenses incurred during the investigation within 30 days of the date of the final order, and the matter will become a public record. The Board accepted the terms of the consent order and issued the final order. MOTION CARRIED 6-0 with Mr. Ulrich recused. (Case 12-02-C)
- 12-108. IT WAS MOVED by Mr. Arnold and seconded by Mr. Wilbanks to close Case 12-05-B with a letter of caution. MOTION CARRIED 6-0 with Mr. Arkle recused.
- 12-109. IT WAS MOVED by Mr. Santora and seconded by Mr. Ulrich to close Case 11-51-B with a letter of caution. MOTION CARRIED 6-0 with Mr. Foust recused.
- 12-110. IT WAS MOVED by Mr. Ulrich and seconded by Dr. Turner that probable cause exists that Mr. Victor G. Schumer, PLS #18393, had entered into a consent order with the Florida Department of Agriculture and Consumer Services Board of Professional Surveyors and Mappers which allowed him to voluntarily relinquish his Florida license as a professional surveyor and mapper. The accepted terms of the consent order are that Mr. Schumer will surrender his Alabama professional land surveyor license immediately upon the date of the Final order, he shall not seek reissuance of his license, and that the matter will become a public record. The Board accepted the

terms of the consent order and issued the final order. MOTION CARRIED 6-0 with Mr. Foust recused. (Case 12-06-B)

12-111. IT WAS MOVED by Mr. Arnold and seconded by Mr. Ulrich that probable cause exists that Mr. Timothy Gray Frazier, II, PE #28807, had entered into a consent order with the Florida State Board of Professional Engineers that required him to pay a \$5,000 civil penalty, to pay \$6,437 administrative cost, and suspension of his Florida PE license for three years. The accepted terms of the consent order are that Mr. Frazier's Alabama professional engineer license shall be suspended immediately upon issue of the Final Order and will stay suspended until October 19, 2014, he will cease and desist offering or providing engineering services in Alabama while his license is in suspended status, and that the matter will become a public record. The Board accepted the terms of the consent order and issued the final order. MOTION CARRIED 6-0 with Mr. Santora recused. (Case 12-07-B)

12-112. IT WAS MOVED by Mr. Ulrich and seconded by Dr. Turner that probable cause exists that MLC CAD Systems, a non certificated firm, maintained an internet web page indicating branch office located in Alabama and used the term "Engineering" and "Engineers" implying the firm is offering or providing engineering in Alabama without obtaining a certificate of authorization for engineering. The accepted terms of the consent order are that the firm shall refrain from the use of the title "Application Engineer" for its employees for matters in Alabama unless and until such time as the employees are Alabama licensed professional engineers, the firm will continue to indicate that no professional engineering services are provided in Alabama until such time as the firm obtains an Alabama engineering certificate of authorization, and that the matter will become a public record. The Board accepted the terms of the consent order and issued the final order. MOTION CARRIED 6-0 with Mr. Foust recused. (Case 11-06-C)

CERTIFICATES OF AUTHORIZATION – Mr. Don T. Arkle, Advisor

12-113. IT WAS MOVED by Mr. Arnold and seconded by Mr. Ulrich that the Board ratify the approval of Engineering Certificates of Authorization CA-4371-E through CA-4398-E issued since the January 31, 2012 Board Meeting and Surveying Certificates of Authorization CA-979-S through CA-984-S issued since the January 31, 2012 Board Meeting and that the list of those issued be included in the minutes on **Attachment #4**. MOTION CARRIED UNANIMOUSLY.

The Board reviewed the certificate of authorization applications that had anomalies. During the review process it was also noted that Sigma Associates LLC needed to designate a new principal engineer since Mr. Carroll was a full time employee of Irby Engineering & Construction Inc.

12-114. IT WAS MOVED by Mr. Arnold and seconded by Mr. Santora to approve the certificate of authorization applications for Irby Engineering & Construction Inc.; Garcia Consulting Engineers, PC; Obrien Precast Engineering and Design and to disapprove certificate of authorization applications for Autery Land Surveying; Oakland Metal Buildings; and Boles Engineering Inc. MOTION CARRIED UNANIMOUSLY.

Mr. Arkle departed. Six board members remained.

FINANCE – Dr. Daniel S. Turner, Advisor

The financial reports for November, December, January, and February were discussed.

LAND SURVEYING – Mr. C. Michael Arnold, Advisor

The Board approved the results of the February 2012 exam.

12-115. IT WAS MOVED by Dr. Turner and seconded by Mr. Santora to accept the Board's recommended cutoff score for the ALLS Examination, to approve the results of the ALLS Exam given February 17, 2012, to license those individuals who passed the ALLS Exam having previously passed the FLS and PLS Exams and further that the list of those issued licensure as a result of passing these examinations be included in the minutes on **Attachment #1**. MOTION CARRIED 6-0.

The Board was updated on the plans to have the State Specific Land Surveying Exam Workshop May 11-12 in Montgomery. The purchase order is being processed to have Mr. Jack Warner be the instructor/facilitator. Currently 14 land surveyors have volunteered to attend the workshop. The goal is to have the exam blue print and a large number of test questions written by the conclusion of the workshop.

ENGINEERING – Mr. William C. Ulrich, Jr., Advisor

The board reviewed the events recap report from the October 2011 exams.

The Board was briefed by Mr. Wilbanks and Dr. Turner on the activities of the NCEES EPE committee.

CHAIR'S REPORT

The Board approved the 2010-2011 Annual Report.

12-116. IT WAS MOVED by Mr. Ulrich and seconded by Mr. Foust that the 2010-2011 Annual Report be accepted. MOTION CARRIED 6-0.

The Board meeting adjourned at 5:45 P.M. The Board meeting reconvened at 8:00 A.M. on Friday, March 16 with all board members being present.

LAW ENFORCEMENT

12-117. IT WAS MOVED by Dr. Turner and seconded by Mr. Foust that the Board of Licensure for Professional Engineers and Land Surveyors go into Executive Session for the purpose of deliberating on Case 11-43-B. Misters Arkle, Arnold, Foust, Santora, Ulrich and Wilbanks and Dr. Turner voted in favor of the motion.

Chair Wilbanks announced the Board would reconvene into open session at approximately 8:15 A.M. The meeting was closed to the public. Mr. Foust did not participate in the deliberations. The meeting was opened to the public at 8:25 A.M.

12-118. IT WAS MOVED by Dr. Turner and seconded by Mr. Arkle to find Mr. Thomas McKay Britt, PLS #29397 guilty of the charges and agrees with the Administrative Law Judge's conclusions and recommendations with modifications. Mr. Britt's professional land surveyor license will be lifted from suspended status and be placed on lapsed status, his renewal shall be subject to continuing professional competency audit twice in the next seven years, he shall pay to the Board a \$750.00 fine within 30 days of the final order, and shall pay to the Board \$828.75 for the cost of the hearing within 30 days of the final order. MOTION CARRIED 6-0 with Mr. Foust recused. (Case 11-43-B)

LEGISLATIVE – Mr. W. Gerald Wilbanks, Advisor

The Board was brief on legislation being monitored in the 2012 Legislative General Session. It was determined that the Board would continue to seek passage of legislation to update the Board's Licensure Law.

EXECUTIVE DIRECTOR'S REPORT

The Board was updated on the plans for hosting the 2012 NCEES Southern Zone Meeting.

The Board was briefed on the topics discussed at the February NCEES Member Board Administrators meeting. It was noted that many of the items involved in the transition to computer based testing are on the zone meeting agenda.

The Board reviewed proposed changes to the Administrative Code.

12-119. IT WAS MOVED by Mr. Arnold and seconded by Mr. Foust to submit the proposed changes to the Administrative Code to the legislative reference office. MOTION CARRIED UNANIMOUSLY.

CORRESPONDENCE

The Board reviewed requests from various licensees who were requesting either a waiver of the reinstatement fee or a refund of their reinstatement fee that was being assessed since they had not renewed their individual licenses prior to the renewal deadline. Prior to discussing the requests, there was discussion regarding the large reinstatement fee.

12-120. IT WAS MOVED by Mr. Wilbanks and seconded by Mr. Arkle to change the first year reinstatement fee from \$250 to \$150 plus renewal fee. MOTION WAS DEFEATED 2-5 with Mr. Wilbanks and Mr. Arkle voting in the affirmative.