

**ARIZONA STATE BOARD OF TECHNICAL REGISTRATION
MINUTES FOR REGULAR SESSION MEETING**

Tuesday, May 25, 2021 beginning at 9:00 a.m.
1110 W. Washington, Conference Room #240
Phoenix, AZ 85007

1. CALL TO ORDER – 9:01am

2. ROLL CALL –

PRESENT- Stephen Noel, Neal Jones, Jack Gilmore, Carmen Wyckoff, Andrew Everroad, Clarence McAllister, Helmuth Hack

ABSENT – Dr. Alejandro Angel

A.A.G. – Scott Donald, Deanie Reh, Sunita Krishna

Staff – Judith Stapley, Melissa Cornelius, Douglas Parlin, Julie Pham, Kurt Winter

3. ADOPTION OF MINUTES

Review, Consideration, and Possible Action on the following:

A. Approve, modify and/or reject, Board meeting minutes.

1. April 27, 2021 Board meeting

Mr. Gilmore moved and Mr. Jones seconded to approve the minutes; motion carried. Mr. McAllister abstained.

4. CONSIDERATION OF CASES REFERRED FOR FORMAL HEARING

The Board may vote to enter executive session pursuant to A.R.S. § 38-431.03(A)(2) (to discuss confidential information), A.R.S. § 38-431.03(A)(3) (to receive legal advice) on agenda item 4(A).

A. Formal Hearing

1. P18-070, P19-031 & P21-045, Takach, Peter, Engineer (Civil) #44085

Scott Donald, A.A.G., appeared before the Board representing the State. Sunita Krishna, A.A.G., appeared before the Board as independent advisor to the Board. Respondent appeared before the Board with counsel, Julianne Wheeler.

Mr. Donald stated that both parties stipulated Exhibits 1-7.

Mr. Donald stated in his opening statement that Respondent violated the Board's Practice Act when he practiced structural engineering after signing a consent agreement restricting his practice of structural engineering and that he recommended the Board adopt the factual allegations in the complaint as the Board's Findings of Fact, the alleged violations as Conclusions of Law and that the Board lift the stay of revocation on Respondent's license and require him to pay the Board's investigation costs and attorney fees.

Ms. Wheeler stated in her opening statement that Respondent did not deny violating the July 2020 Board Order but asked that the Board not revoke Respondent's license.

Mr. Donald called his first witness, Board investigator Erin Correll, and Ms. Wyckoff swore her in. Mr. Donald questioned Ms. Correll. The Board admitted exhibits 1-7, and later, after objection from Ms. Wheeler, exhibit 8. Ms. Wheeler cross-examined Ms. Correll. Mr. Donald did not redirect questions to Ms. Correll.

Mr. Noel asked for clarification regarding the branches of engineering and the Board's exceptions to practice outside of one's branch. Ms. Correll obliged.

Mr. Donald called his second witness, structural engineer and EAC member Melvin Slaysman, structural engineer license #11110, and Ms. Wyckoff swore him in. Mr. Donald questioned Mr. Slaysman. Mr. Wheeler cross-examined Ms. Slaysman. Mr. Donald redirected questions to Mr. Slaysman.

Board members asked questions of the witness, after which the State rested.

The Board took a break at 11:09am and returned at 11:21am.

Ms. Wheeler called her only witness, Respondent Peter Takach, and Ms. Wyckoff swore him in. Ms. Wheeler questioned Respondent. Mr. Donald cross-examined Respondent. Ms. Wheeler did not redirect questions to Respondent.

Board members asked questions, and both counsel for the Respondent and counsel for the State asked follow-up questions. Counsel for Respondent objected to a line of questioning posed by the State, but was overruled.

Respondent rested.

The Board took a break at 12:55pm and returned at 1:07pm.

Mr. Donald reiterated in his closing argument that the Board should lift Respondent's stay of revocation and require him to pay costs and fees.

Ms. Wheeler stated in her closing argument that there were alternatives the Board could consider in its Order other than revocation of Respondent's license.

Mr. Donald stated in his rebuttal that the EAC categorized Respondent's alleged violations as highly egregious in nature and that Respondent lacked the technical knowledge and skill to perform structural engineering work.

The Board engaged in discussion, after which Mr. Everroad moved and Mr. Noel seconded, based upon the preponderance of the evidence, to adopt factual allegations 4 through 10 in the Complaint as the Board's findings of fact with a rewording to allegation 8b; motion carried. Mr. Hack voted Nay.

Mr. Everroad moved and Mr. Noel seconded to find the findings of fact constitute a violation of the statutes (and/or rules) set forth in paragraphs 11 through 16 of the Complaint; motion carried. Mr. Hack voted Nay.

The Board discussed terms for a potential Order. Mr. Noel moved and Ms. Wyckoff seconded to issue the following Order: lift the stay of revocation and revoke Respondent's civil engineering license #44085; motion carried. Mr. Hack voted Nay.

The Board took a break at 2:33pm returned at 2:40pm.

5. ENFORCEMENT MATTERS

Review, Consideration and Possible Action on the following:

The Board may vote to enter executive session pursuant to A.R.S. § 38-431.03(A)(2) (to discuss confidential information), A.R.S. § 38-431.03(A)(3) (to receive legal advice) on agenda items 5(A)-(E).

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. P21-059, Ardy Ardebili and Zo Studios, Non-Registrant Architect and Architect Firm

Mr. Jones moved and Mr. Hack seconded to dismiss the case; motion carried unanimously.

B. Complaints Proposed for Resolution by Letters of Concern:

1. HI21-016, Ron Dye, C.H.I. #43638

Mr. Gilmore moved and Mr. Jones seconded to issue a Letter of Concern to Respondent; motion carried unanimously.

2. P21-032, Anthony Zaugg, R.L.S. #41076 and Allen Consulting Engineers, Firm #22000

Mr. Gilmore moved and Mr. Jones seconded to issue a Letter of Concern to Respondent; motion carried unanimously.

C. Complaints Proposed for Resolution with Signed Consent Agreements:

1. P21-046, Julius Doan, Non-Registrant Engineer

Mr. Hack opined that the matter be dismissed stating that Respondent learned his lesson and disciplinary action was not required.

Mr. Gilmore moved and Mr. McAllister seconded to accept signed consent agreement; motion carried. Mr. Hack voted Nay.

2. AL21-005, Timothy Walker, A.A. #56185, and Timothy Walker Co. Network Services, Firm #18322 (*Expired*)

Mr. Gilmore moved and Mr. McAllister seconded to accept signed consent agreement; motion carried unanimously. D. Complaints Proposed to Offer Consent Agreement:

1. P21-004, Susan Link, R.A. #43079 and Link Architecture, Firm #22993

Investigator Thacker informed the Board that Respondent signed the Consent Agreement and he recommended the Board accept it.

Mr. Jones moved and Mr. McAllister seconded to accept the signed consent agreement; motion carried. Mr. Hack voted Nay.

E. Reconsideration of Prior Board Action to Review, Discuss and take possible Action on Registrant's Request for Modification of Order of Discipline:

1. AL19-008, AL1-010 & AL19-019, Stevens, Travis (Non-Registrant) and Triton Alarm (Non-Registrant Firm)

Respondent appeared telephonically. A.A.G. Deanie Reh appeared telephonically.

Ms. Reh stated that Respondent requested that the Board remove or reduce his civil penalty because of credit-time served during his incarceration; she opined that the Board did not have the authority to credit time served but the Board did have the authority to reduce the civil penalty or extend the period in which Respondent had to pay the fine.

Respondent requested that the Board either dismiss the case, reduce the penalty or extend the deadline to pay the penalty fee.

Mr. Noel moved and Mr. McAllister seconded to extend the period in which Respondent had to pay his civil penalty six months; motion carried unanimously.

6. LICENSING MATTERS

Discussion, Consideration and Action on the following:

The Board may vote to enter executive session pursuant to A.R.S. § 38-431.03(A)(2) (to discuss confidential information), A.R.S. § 38-431.03(A)(3) (to receive legal advice) on agenda items 6(A)-(C).

A. Universal Application for registration

1. Humble, Keith - Universal application for registration as an Architect #210884

Ms. Wyckoff moved and Mr. Jones seconded to grant registration based upon the Board's determination that the applicant's state of original registration's practice level was equivalent to Arizona, motion carried unanimously.

B. Application for Registration

1. Bellisario, John - Application for Registration as an Architect #211014

Mr. Bellisario appeared telephonically.

Mr. Bellisario explained his felony charge, which took place over 20 years ago and his educational, personal and professional successes since that time.

Mr. Noel and Mr. Jones opined granting registration.

Mr. Jones moved and Mr. McAllister seconded to grant registration; motion carried unanimously.

C. Extension Request

1. Ballard, James - Extension request for Land Surveyor State Specific Exam #192374

Ms. Wyckoff moved and Mr. Hack seconded to grant an extension of six months for Mr. Ballard to take the AZ Specific Exam; motion carried unanimously.

7. LICENSING CONSENT AGENDA

A. Review, Consideration, and Action on Staff Recommendations for the following:

1. Cancellation of registrations and certifications that have been expired for one full renewal period;

Mr. Gilmore moved and Mr. Everroad seconded to cancel registrations and certifications that have been expired for one full renewal period; motion carried unanimously.

2. Review of the List of registrations and certifications granted by the Executive Director pursuant to A.R.S. § 32-122.05, 32-122.06, and A.R.S. § 32-123.

List available for public review upon request.

8. POLICY MATTERS

Review, Consideration, and Possible Action on the following:

The Board may vote to enter executive session pursuant to A.R.S. § 38-431.03(A)(2) (to discuss confidential information), A.R.S. § 38-431.03(A)(3) (to receive legal advice) on agenda item 8(A). Additionally, the Board may vote to enter executive session pursuant to A.R.S. § 38-431.03(A)(4) (discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation) on agenda item 8(A).

A. 1 CA-CV 20-0510 & CV 2019-013509 – Mills v. Arizona State Board of Technical Registration

Mr. Everroad moved and Mr. McAllister seconded to enter executive session at 9:03am to discuss confidential information, to receive legal advice and discuss or consult with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation; motion carried unanimously.

The Board returned to open session at 9:40am.

Nothing further discussed.

9. DIRECTOR'S REPORT

A. Statistics Review

Nothing Discussed

B. Previous Meeting Follow-up

a. National Council and Exam Updates

- i. NCARB – Annual Meeting June 24-26, 2021
- ii. NCEES – Western Zone Meeting May 13, 2021. Annual Meeting August 19-20, 2021
- iii. CLARB – Annual meeting in Phoenix in September, 2021
- iv. ASBOG – computer based testing, AGI Study

Nothing Discussed.

b. Board Composition

Ms. Stapley reported that as of July 1, 2021, all Board Member terms would have expired, with exception of Mr. Gilmore.

c. 90/10 Director's Meeting

Ms. Cornelius reported that agency directors discussed agencies leaving the thirteen Board shared Salesforce platform and that Google was not compatible with Salesforce.

d. Staff and Member Update

Ms. Stapley reported that the Governor's office approved her choice candidate as the Board's new Deputy Director.

e. Land Surveyor Boundary Minimum Standards

Nothing Discussed.

10. BOARD CHAIR'S REPORT

Nothing to discuss

11. ASSISTANT ATTORNEY GENERAL'S REPORT

Update on Open Meeting Law Complaint filed against the Board

Mr. Donald reported that the County Attorney's Office was still processing the complaint.

12. STANDING COMMITTEE REPORTS

A. Home Inspector Rules and Standards Committee – May 4, 2021 Meeting

Nothing discussed

B. Legislation and Rules Committee – No new meeting date

Nothing discussed

13. BOARD MEMBER REPORTS/DISCUSSION ON OUTSIDE NATIONAL COUNCIL ACTIVITIES, NEWS AND MEETINGS

A. ASBOG – Nothing discussed

B. CLARB – Nothing discussed

C. NCARB – Nothing discussed

D. NCEES – Mr. Hack reported that he participated in games and discussions at the May 15 Zone meeting.

14. CALL TO THE PUBLIC

Members of the public may address the Board during this Call to the Public for no more than **3 minutes**. Pursuant to A.R.S. § 38-431.01(H), the Board members are not allowed to discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action. However, members may ask staff to review a matter or may ask that a matter be placed on a future agenda.

The Board called Curtis Kloc and Trevor of Pillar to Post for the Call to the Public, but was unable to reach either and left both a message.

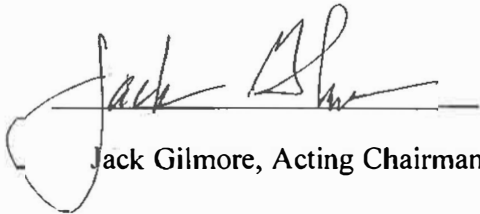
Tina Litteral appeared telephonically and informed the Board that she was retiring from AIA.

15. SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.

16. FUTURE BOARD MEETINGS – June 22, 2021

17. MEETING ADJOURNMENT – 3:21pm

Signed this day, June 22, 2021.


Jack Gilmore, Acting Chairman


Judith Stapley, Executive Director