

MINUTES

**UTAH PROFESSIONAL ENGINEERS AND
PROFESSIONAL LAND SURVEYORS
LICENSING BOARD
MEETING**

July 20, 2011

**Room 474, 4th floor, 9:00 A.M.
Heber M. Wells Building
160 East 300 South
Salt Lake City, Utah 84111**

CONVENED: 9:03 A.M.

ADJOURNED: 11:45 A.M.

**Bureau Manager
Board Secretary**

Richard J. Oborn
Lee Avery

Board Members Present

Von Hill, Chairperson
Scott Marsell
Max Peterson

Board Members Absent:

David Wesemann
Thomas Colvin
Norman Bennion
Jonathan Richards

DOPL staff present:

Wayne Jeppson, DOPL Investigator

Guests:

Brad Mortensen, UCLS Chairperson Elect
Kimm Harty, Utah Geological Survey
Rick Allis, Utah Geological Survey
Dale Robinson, UCLS Leg. Committee Chairperson
Michael Smith, ACEL Utah

Consideration of option to elect a new Board
Chairperson

Tabled until the next Board meeting because there
was not a quorum.

TOPICS FOR DISCUSSION:

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

MINUTES:

Tabled until the next Board meeting because there
was not a quorum.

Ms. Susan Higgs, Compliance Report

#1. R. Craig Brown is in compliance with his
stipulation. The Division received a CV from his

proposed supervisor, David Jenkins.

Discussion:

The Board reviewed Mr. Jenkins written reports and noted that Mr. Jenkins' supervisory reports are not informative.

#2. Lance Mackie is in compliance with his stipulation. Mr. Mackie has not submitted his supervisor reports due July 1, 2011. He has not missed any drug screens since the last Board meeting. The drug screens have been negative. Mr. Mackie submitted support group attendance verification.

Discussion:

The Board reviewed Mr. Mackie's stipulation and the minutes from the November Board meeting. The Board noted that there was no discussion regarding how often the supervisor reports are to be submitted. The Board discussed requiring his reports to be submitted monthly until he meets with the Board on September 21, 2011. He will need to submit 3 reports: June, July, and August.

#3. Clayton McFall is in compliance with his stipulation. The Division is having a hard time getting his reports from his probation officer. He verbally advised Ms. Higgs that Mr. McFall is in compliance with his criminal probation.

APPOINTMENT:

#1. R. Craig Brown, probation interview

Mr. Brown met with the Board. Mr. Hill conducted the interview. Mr. Brown is proposing that Mr. David Jenkins be approved as his supervisor and submitted his CV. The Board noted that Mr. Brown is not in compliance with his stipulation. The Board advised Mr. Brown that the Board would like to talk with Mr. Jenkins, via telephone regarding the Board's expectations. The Board advised Mr. Brown that he still needs to submit his July and August reports. Mr. Brown expressed concern regarding individuals employed by local jurisdictions who make recommendations to engineers regarding drawings despite the fact that they do not hold engineer licenses. Mr. Brown was advised to let the Division know when he meets individuals or agencies who

have non-licensed individuals correcting or change drawings. Mr. Oborn noted he can send his written complaint to DOPL Investigations. The Board asked to see Mr. Brown on September 21, 2011. **Mr. Brown is in compliance with his stipulation.**

#2. Lance Mackie, probation interview

Mr. Mackie met with the Board. Mr. Peterson conducted the interview. The Board noted that Mr. Mackie is not in compliance with his stipulation. The Board wants the reports for the rest of July. His reports for August and the beginning of September need to be submitted before he meets with the Board on September 21, 2011. Mr. Mackie gave the Board his current supervisor report. The Board noted that his drug screens have been negative. Mr. Mackie advised the Board that he just moved to a new address and there has been no change with his employment. Mr. Mackie stated he attends Recovery Bridge, aftercare program once a week. He has his support systems in place and things are going well. Mr. Mackie stated that he is having some stresses in life, but he is working through them. The Board asked to see Mr. Mackie on September 21, 2011. **Mr. Mackie is in compliance with his stipulation.**

#3. Andy Li, requesting the FE exam be waived in his case

Mr. Oborn advised the Board that Mr. Li is requesting the FE exam be waived in his case. Mr. Oborn directed the Board to the PE/PLS Act/Rule R56-22, 302d. Mr. Oborn noted that Mr. Li does not have an undergraduate degree from an ABET accredited program; however, #d of the above rule says” if the degree was earned in a foreign country, the land surveying curriculum shall be determined by the NCEES Credentials Evaluations to fulfill the required curricular of the NCEES Surveying Education Standard.

Mr. Li met with the Board. Mr. Li reviewed his education and experience background with the Board. Mr. Oborn noted that Mr. Li meets part 2 in the education requirement. The Board noted that Mr. Li's circumstances are very unique; however, the way the law is written it does not allow the Board to waive the exam in his case because he does not have a undergraduate degree from an ABET accredited

program. The Board advised Mr. Li that he would need to either take the exam or have his credentials evaluated by NCEES.

The Board discussed changing the rule to allow the Board to determine equivalency, but decided not to recommend changes at this time. The Board tabled this discussion until the next Board meeting.

#4. Clayton McFall, probation interview

Mr. McFall met with the Board. Mr. Hill conducted the interview. The Board noted that Mr. McFall has submitted all required reports and they are all positive. His reports are due quarterly. Mr. McFall stated that he has his support system in place. He meets with his therapist 3 times a week. Mr. McFall advised the Board that his criminal probation is for 3 years; however, he may be released early. Mr. McFall advised the Board that life is okay. He cannot be around some friends with children but he is working it out. The Board decided to move his reports to be submitted just before he meets with the Board. His next report is due November 1, 2011. The Board asked to see Mr. McFall on November 16, 2011. **Mr. McFall is in compliance with his stipulation.**

DISCUSSION ITEMS:

1. Geologist uses of GPS technologies for research purposes

Mr. Oborn shared with the Board that at the last Utah Professional Geologist Board meeting, there was concern expressed that geologists felt they could use GPS technology as long as it related to their practice of geology. Mr. Oborn reviewed the scope of practice for a licensed geologist found in Utah Code 58-76-102 (3):

"Practice of geology before the public" means the performance of geology including but not limited to consultation, investigation, evaluation, planning, geologic mapping, interpretation of geologic data, preparation of geologic reports, geologic cross-sections and geologic maps, inspection of geological work, and the responsible supervision thereof, the performance of which is relevant to public welfare or the safeguarding of life, health, property, and the

environment, except as otherwise specifically provided this chapter.

Mr. Brad Mortensen, UCLS Chairperson Elect, Ms. Kimm Harty, Utah Geological Survey, Mr. Rick Allis, Utah Geological Survey, Mr. Dale Robinson, UCLS Leg. Committee Chairperson and Mr. Michael Smith, ACEL Utah met with the Board.

The Board reviewed the UGS Powers and Duties, State Code 79-3-202 handout.

The Board noted that GPS technology has developed over time and through a wide course of training a lot of individuals are using this technique. Mr. Allis noted that professional geologists use GPS technology to determine and investigate areas of geologic and topographic hazards that could affect the safety or cause economic loss to the citizens of Utah. This is a needed tool to assist the geologist in the performance of their work responsibilities.

Mr. Allis proposed that the following waiver text be included at the end of in geological reports:

While some types of geologic work performed by the Utah Geologic Survey (UGS) use survey grade Global Navigation Satellite System instruments, the UGS does not employ licensed professional land surveyors, nor does it perform land surveying. The geologic work performed by the UGS using GNSS instruments is intended only for use in scientific analysis. This work should not be used for determining or locating property boundaries, for land plats, for alignment or grading of roads, or any of the other purposes that are the responsibility of a professional land surveyor, as defined by the Utah Code, Title 58, Chapter 22, section 102. Users of the UGS geologic work involving data collected with GNSS instruments should consider above stated limitations and the errors inherent in GNSS-derived locations before making any land-use decisions.

Mr. Hill identified the need to determine whether the practice of land surveying goes beyond determining and locating property boundaries. The Board noted that this is a topic for discussion and took no further

action at this time.

2. Suspension of Lynn Bernhard license

The Board reviewed the decision from the hearing for Mr. Lynn Bernhard. Mr. Bernhard's professional engineer license was suspended until he submits documentation showing that he passed the Professional Engineer Examination which includes a structural emphasis.

3. Investigation report, Wayne Jeppson

Mr. Jeppson reviewed statistics and investigated cases regarding professional engineers and professional land surveyors with the Board.

4. Changes to land surveyor education requirements established in R156-22-302b (2)

Mr. Oborn reviewed the changes to the land surveyor education requirements.

5. Changes to land surveyor experience requirements established in R156-22-302c (4)

Mr. Oborn reviewed the land surveyor experience requirements.

6. Continuing education requirement

Tabled to next board meeting.

7. Upcoming NCEES Annual Meeting, August 24-27

Norm Bennion and Von Hill were approved to attend. They will provide information regarding the meeting at the September 21, 2011 Board meeting.

8. Proposed change to definition of "recognized jurisdiction" in R156-22-102(9), tabled at the May meeting

Mr. Oborn reviewed the proposed change to "recognized jurisdiction" in R156-22-102(9). Mr. Oborn noted that this discussion was tabled at the May meeting and there is not a quorum at today's meeting. This discussion will be tabled until the September 21, 2011 Board meeting.

9. Lien rights on state properties

Mr. Oborn reviewed a letter received from Mr. Gordon A. Nielson regarding a professional's debts with consultants. Mr. Nielson expressed concern regarding property owners contracting with a PE/PLS and then not paying for there services when the services are provided on a state job. Mr. Nielson noted that some states have changes their statutes/rules to require the payment be made within 7 days. Mr. Oborn noted that in Utah a professional may obtain a lien against the private property and if the property is public, then the agency may go after the bond to ensure they receive full payment.

Next Board Meeting: September 21, 2011

2011 Board meetings have been scheduled:

November 16

ADJOURNED:

The adjourned at: 11:45 P.M.

Note: This report is not intended to be a verbatim transcript, but is intended to record the significant features of what was discussed in the meeting. Discussed items are not necessarily arranged in chronological order.

September 29, 2011

Date Approved:

(ss) Von Hill

Chairperson, Utah Professional Engineers and
Professional Land Surveyors Board

September 29, 2011

Date Approved:

(ss) Richard J. Oborn

Bureau Manager, Division of Occupational and
Professional Licensing