

MINUTES

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

November 20, 2012

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

CONVENED: 9:00 A.M.

ADJOURNED: 12:12 P.M.

**Bureau Manager
Board Secretary**

Richard J. Oborn
Lee Avery

Board members present

Norman Bennion, Chairperson
Max Peterson
Scott Marsell
Chris Barker
Jeff Richards
Scott Bishop

Board members excused

Thomas Colvin

Swear in new Board members

Mr. Scott Bishop and Mr. Jeffrey Richards were sworn in as new Board members. The Board introduced itself. Mr. Bishop reviewed his background with the Board. Mr. Richards reviewed his background with the Board.

Guests:

Brad Mortensen, UCLS Chairperson
Dale Robinson, UCLS Legislative Com. Chairperson

TOPICS FOR DISCUSSION:

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

MINUTES:

The minutes dated September 19, 2012 were reviewed. Mr. Peterson motioned to accept the minutes with changes, seconded by Mr. Marsell. The motion carried unanimously.

Awaiting Formal Approval

Mr. Oborn, compliance report

#1. R. Craig Brown is not in compliance with his stipulation. Mr. Brown faxed a letter to Ms. Higgs this morning requesting permission to not attend the meeting today. The Division received two employer reports stating he is self employed. He submitted proof of enrollment in an SE class at the U of U starting in January 2013.

Discussion:

The Board reviewed the letter Mr. Brown submitted requesting permission to not keep his appointment with the Board. The Board noted that he has changed his focus and is moving towards structural engineering projects. In previous interviews with the Board, Mr. Brown was adamant that he was not interested in providing structural engineering projects. The Board feels he is not in compliance with his stipulation and all of his work needs to be reviewed by his supervisor. The Board noted that this is not the first time he has been out of compliance with his stipulation. The Board discussed amending his order to require that 100% of his projects be reviewed by a structural engineer supervisor and have that supervisor submit reports to the Division. The Board expressed concern that he is practicing without taking the SE course first. Mr. Peterson motioned to make Mr. Brown's stipulation to require 100% of his projects be reviewed by an SE supervisor, seconded by Marsell. The motion carried unanimously. After the motion the Board discussed meeting with Mr. Brown's supervisor, Robert Conder. The Board requested Mr. Oborn send a copy of the amendment to Mr. Conder after Mr. Brown signs it and request that Mr. Conder meet with the Board.

#2 Mr. Lance Mackie is in compliance with his stipulation. He submitted his support group attendance and is requesting early termination. He is just over 1 ½ years of his probation. All of his drug screens have been negative with one exception. He attends 2 meetings a month. His employer and therapist submitted letters stating they are in support of his early termination from probation.

Discussion:

Awaiting Formal Approval

The Board noted that Mr. Mackie's probation is for three years and started on February 14, 2011. He has completed 1 ½ years of this time. He has successfully completed his criminal probation. He has continuously been in compliance with his stipulation and his supervisor reports have been positive. Mr. Peterson motioned to remove Mr. Mackie from probation, seconded by Mr. Bishop. The motion carried unanimously.

#3. Mr. Clayton McFall is in compliance with his stipulation. His probation officer has not responded to Ms. Higgs inquiries regarding his compliance. He submitted positive employer reports.

APPOINTMENTS:

#1. R. Craig Brown, probation interview

Mr. Brown failed to keep his appointment with the Board. The Board decided he is not in compliance with his stipulation. The Board requested a non-compliance letter be mailed to Mr. Brown. The Board asked to see Mr. Brown on January 16, 2013. **Mr. Brown is not in compliance with his stipulation.**

#2. Lance Mackie, probation interview

Mr. Mackie met with the Board. Mr. Bennion conducted the interview. Mr. Mackie stated he will continue attending support groups. His employer and family have been very supportive in his recovery. The Board encouraged him to attend PIR meetings for additional support. The Board advised Mr. Mackie that the Board has reviewed his request for early termination of his probation and supporting documents. The Board will recommend his probation be terminated. Mr. Oborn advised him that the amendment will be prepared and submitted to the Division Director for final review and approval. Mr. Oborn stated this could take two to three weeks. He will receive an order stating his probation is terminated and he will receive a new license. He will need to continue calling and following the conditions of his probation until he receives his new license.

Awaiting Formal Approval

#3. Clayton McFall, probation interview

Mr. McFall met with the Board. Mr. Bennion conducted the interview. Mr. McFall stated he finished therapy and court probation. Things are going well. He receives a lot of support from his employer, family and friends. He no longer attends counseling. His probation with the Board is scheduled to end July 2013. The Board advised him if he wants to request early termination, he will need to submit a letter requesting early termination and why he feels he should be released early, letters in support from his supervisor and counselor.

The Board asked to see Mr. McFall on March 20, 2013.

Mr. McFall is in compliance with his stipulation.

DISCUSSION ITEMS:

1. Investigation report

Mr. Jeppson reviewed the investigative statistics with the Board.

Awaiting Formal Approval

2. Proposal to amend land surveyor experience requirement in R156-22-302c and education requirement in R156-22-302b

Mr. Brad Mortensen, UCLS Chairperson and Mr. Dale Robinson, UCLS Legislative Com. Chairperson met with the Board. The Board reviewed the memorandum regarding proposal to amend land surveyor experience requirement in R156-22-302c and education requirement in R156-22-302b. The Division proposes the rule be amended to create the following tracks:

Track 1:

Associate's in applied science and land surveying or geomatics and 4 years of supervised experience

Track 2:

Bachelor's, masters, or doctorate degree in a field related to land surveying or geomatics that includes course work as currently outlined in rule and 4 years of supervised experience.

Track 3:

Bachelor's degree in land surveying or geomatics and 4 years of supervised experience.

Track 4:

Master's degree in land surveying or geomatics and 3 years of supervised experience.

Track 5:

Doctorate degree in land surveying or geomatics and 2 years of supervised experience.

Mr. Oborn stated that this is a compromise between UCLS and the Division. The proposed rule lists acceptable education and includes fields related to land surveying will need to show they have the experience, passed the national exam, and completed the courses listed in R156-22-302b(2)(c).

Mr. Mortensen stated UCLS would like to see additional requirements; however, UCLS is willing support the Division's proposal. UCLS will gather needed documentation to support the need for additional changes at another time. Mr. Bishop motioned to approve the proposal to amend the land surveyor experience requirement in R156-22-302c and education requirement in R156-22-302b with suggested changes, seconded by Mr. Barker. The motion carried unanimously.

Mr. Oborn stated the rule change would go into effect Spring 2013.

Awaiting Formal Approval

3. Proposed amendments to definition of unprofessional conduct in R156-22-502

Brad Mortensen, UCLS Chairperson met with the Board. The Board reviewed the letter to Mr. Kimball requesting information from SEAU regarding possible changes to the definition of unprofessional conduct for professional engineers, professional structural engineers or professional land surveyors licensed in Utah. The Board recommended that a couple of Board members form a committee that will consult with and bring a recommendation back to the Board for consideration. Mr. Chris Barker, Mr. Norm Bennion and Mr. Scott Marsell volunteered participate in the Committee. Mr. Oborn stated he will contact the associations for input and he will forward to input to the Committee.

4. Consideration of how to address cases of applicant for professional engineer license without second person to verify supervised experience as required in R156-22-302b(1)(j)

The Board reviewed consideration of how to address cases of an applicant for PE/SE/PLS license without second person to verify supervised experience as required in R156-22-302b(1)(j). Mr. Oborn noted that current rule requires 2 recommendations from a licensed supervisor, noting that this is the only profession that requires more than one recommendation from a supervisor. Mr. Oborn noted that in addition to the application, the applicant must submit a current verification of their license, in good standing, from another state Board, and a current letter verifying the applicant's work experience. Utah law allows for the verification to be done by a supervisor even if the supervisor was not licensed. Under R156-22-302c (1)(g), this is possible only if the experience was completed in a setting that did not require a license and if the supervisor is qualified with experience and education in engineering. Mr. Oborn noted that not all states require licensure and applicants are finding it difficult to obtain more than 1 letter of recommendation. The Board discussed changing the wording and to amend the application. Mr. Oborn will prepare language and will forward it to the Board for review and for further discussion at the next Board meeting.

Awaiting Final Approval

5. Further definition of continuing education requirement in R156-22-304

Mr. Bennion reviewed the continuing education requirement in R156-22-304 with the Board. Noting that every renewal cycle the Division is doing random audits of current licensees. The Board discussed increasing the CE hour requirement and the option of further defining the continuing education requirement to specifying hours of ethics and hours of technical training and defining what technical training is. Mr. Bishop motioned that the Board pursue amending the CE requirement. Seconded by Mr. Peterson. The motion carried unanimously. Mr. Bishop will check with other states to see what they require. The Board inquired if Mr. Jeppson, DOPL investigator, reviews CE documentation when he receives a complaint and talks with the licensee. Mr. Oborn will check with Mr. Jeppson.

6. Board survey of online disciplinary documents

Mr. Oborn reviewed the Board survey of online disciplinary documents. Mr. Marsell motioned for option #2 the disciplinary documents posted on DOPL's website should be searchable through DOPL's website and through general internet searches. The motion was seconded by Mr. Peterson and carried unanimously.

7. Consideration of requests for use of education and enforcement fund

The Board reviewed the reimbursement request received from Utah Council of Land Surveyors (UCLS) for the conference held on September 7, 2012. The convention was held at Utah Valley University. The Board noted that the initial estimate was for \$1,820.00. The reimbursement request is for \$2,023.97. Mr. Scott Bishop advised the Board that because he was involved in this project and completed the form, he will recuse himself from voting on the item. Mr. Peterson motioned to approve the request, seconded by Mr. Marsell. The motion carried unanimously.

Awaiting Formal Approval

- Discussion items for the next Board meeting
1. There will be a rule hearing regarding the changes reviewed at the September Board meeting.
 2. Continued discussion about the CE requirement. Mr. Bennion and Mr. Bishop will conduct the research.
 3. Continued discussion about unprofessional conduct.
 4. Investigation report

Next Board Meeting:

January 16, 2013

2013 Board meetings have been tentatively scheduled:
January 16, March 20, May 15, July 17, September 18,
November 20

ADJOURNED:

The adjourned at 12:12 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.

Date Approved

(ss) _____
Chairperson, Utah Professional Engineers and
Professional Land Surveyors Board

Date Approved

(ss) _____
Bureau Manager, Division of Occupational and
Professional Licensing

Awaiting Formal Approval