

FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD

**Crowne Plaza Jacksonville Riverfront
1201 Riverplace Blvd
Jacksonville, FL 32207
904.398.8800**

June 8 – 10, 2011

**MEETING MINUTES
Approved July 15, 2011**

Board Members Present

Mark Pietanza, Chair
Don Wilford, Vice Chair
James C. Evetts
Scott Greenberg
Albert Korelishn
Roy R. Lenois
William Sheehan
Jerry D. Hussey
Edward Weller
Carl Engelmeier
Paul Del Vecchio
Michelle Kane

Board Members Absent

Peggy Bailey
James Flaherty
Elbert Batton
W. Brian Cathey
Robert Moody (Friday only)

Others Present

G. W. Harrell, Executive Director, DBPR
David Spingler, Government Analyst, DBPR
Donald Shaw, Administrative Assistant, DBPR
Daniel Biggins, Legal Advisor, AGO
Paul Waters, Chief Prosecuting Attorney, DBPR
J. Layne Smith, General Counsel, DBPR

ADDITIONAL BUSINESS ENTITIES REVIEW

Division I board members met for Additional Business Entities Review on June 8, 2011 from 2:04 – 3:20 pm. Mr. Evetts led the meeting. Of the 17 applications scheduled for review, 10 were approved, 1 was approved contingent, 4 were approved conditional, 1 was denied, and 1 was withdrawn.

APPROVED (10)

Atkinson, George
Delgado, David
Donahoe, John
Frey, Barry
Hayes, John
Peguero, Nathanael
Peranich, Stephen
Pottorff, Jennifer
Sanders, Charles
Zahn, Roger

CONTINGENT APPROVALS (1)

Raymond, Judith – Contingent on providing proof of 30% ownership in business

CONDITIONAL APPROVALS (4)

Hulbert, Matthew – 2 years probation or until a 660 credit score is obtained
Levandoski, John – 2 years probation
Summas, Joseph – 2 years probation or until a 660 credit score is obtained. Applicant is also required to show proof of W2 employee status or 25% ownership in company
Thomas, Michael – 2 years probation or until a 660 credit score is obtained. Application is also required to show proof of W2 employee status.

DENIED (1)

Posner, Matthew

WITHDRAWN (1)

Welling, Jason

Division II Board members met for Additional Business Entities Review on June 8, 2011, from 2:01 – 2:50 pm. Mr. Greenberg led the meeting. Of the 11 applications scheduled for review, 8 were approved, 1 was denied, and 2 were continued.

APPROVED (8)

Brenzo, Joseph
Derringer, Mark
Derringer, Mark
Gause, Gregory
Owens, Chris
Trevena, Ernest
Vermurlen, Robert
Vigue, Scott

DENIED (1)

Sandoval, Andres

CONTINUED (2)

Blalock, Dennis – 30 days

Browning, Kathy – 60 days

APPLICATION REVIEW

Division I Board members met for Application Review on June 8, 2011, from 3:32 pm to 4:51 pm. Mr. Hussey led the meeting. Of the 16 applications reviewed, 4 were approved, 4 were continued, 3 were approved with conditions, 2 were withdrawn, 2 were denied, and 1 was pulled.

APPROVED (4)

Cotzin, Thomas

Daniels, Timothy

Diez, Joaquin

Winchester, Louie

CONTINUED (4)

Davis, Cliff – 90 days

Oppenhuizen, Henry – 30 days

Pickett, William – 60 days

Tibma, Peter – 90 days

CONDITIONAL APPROVALS (3)

Badger, Jannie – 2 years probation or until a credit score of 660 is obtained.

Keen, Stephen – 2 years probation or until a credit score of 660 is obtained.

Stark, Marshall – 3 years probation or until a credit score of 660 is obtained.

WITHDRAWN (2)

Mullins, Randall

Perez, Carlos

DENIED (2)

Larson, Lynn

Lowery, Royce

PULLED (1)

Morgan, Troy

Division II Board members met for Application Review on June 9, 2011 from 3:03 – 4:00 pm. Mr. Engelmeier led the meeting. Of the 7 applications scheduled for review, 2 were approved, 3 were approved with conditions, 1 was withdrawn, and 1 was denied

APPROVED (2)

Bass, Connie
Pierce, Dorsey

CONDITIONAL APPROVALS (3)

Amoro, Jesus – 2 years probation or until a credit score of 660 is obtained
Delgado, Frank – 2 years probation
Gideon, Melvin – 2 years probation

WITHDRAWN (1)

Scardina, James

DENIED (1)

Kreisman, Joshua

Division I voted unanimously to ratify the list of financially responsible officer applications.

Division II voted unanimously to ratify the list of financially responsible officer applications.

PROBATION

The Probation Committees did not convene this month.

GENERAL SESSION

The meeting was called to order by Mr. Pietanza, Chair, at 8:31 am. Mr. Lenois gave the invocation. Mr. Sheehan led the Pledge of Allegiance.

REVIEW OF MINUTES

A. Final Action Minutes – May 2011

The board voted unanimously to approve these minutes.

EXECUTIVE DIRECTOR'S REPORT – G.W. HARRELL

Mr. Harrell gave the following report:

Mr. Harrell brought up House Bill 849, which is currently pending implementation, which would make the Glass and Glazing Specialty license a Division II license affecting the examinations an applicant is required to take. Mr. Harrell clarified that Division I contractors can still perform this work on buildings within the scope of their license, and that Ch. 489.113 will not change to require Division I contractors to subcontract this out.

Mr. Harrell discussed another provision of that bill that would require licensed home inspectors to take a 3 hour course approved by the CILB to be able to sign the hurricane mitigation forms. The bill also extends the grandfathering provisions to allow Division I

contractors to obtain the home inspectors license using their contractors license. Mr. Harrell reminded the board that it is not law yet, but it is being discussed.

Mr. Harrell also reminded the board members that it is time to fill out their financial statements, and to make sure that their reimbursements are in quickly so that they can be paid from this years fiscal budget.

Mr. Harrell stated that the contract for exam administration has been renewed and that PTI will continue to administer the exams. Mr. Harrell also mentioned that an audit was performed on the CILB's travel, and discussion was ongoing to possibly eliminate the \$50 per diem for conference call participants for the CE Committee. Mr. Harrell stated that if any member of that committee would like to be removed from that committee, to let him know by next week. Mr. Harrell brought up the Recovery Fund conference call, and that he's not sure when the next one will be, and because it's not a regularly scheduled conference call, it might not be affected by the audit.

With nothing further to report the board voted unanimously to approve this report.

CHAIRMAN'S REPORT – MARK PIETANZA

Mr. Pietanza gave the following report:

The following absences were excused:

Mr. Flaherty
Ms. Bailey
Mr. Moody (Friday only)
Mr. Cathey
Mr. Batton

With nothing further to report the board voted unanimously to accept this report.

PROSECUTING ATTORNEY'S REPORT – PAUL WATERS

Mr. Waters gave the following report:

For the month of May 2011, the overall case load was 609, down from 644 in April of 2011, and down from 1, 545 in May 2010.

There were 114 cases currently in Legal, 45 cases set for probable cause, and 106 cases where probable had been found/administrative complaints filed. 1 settlement stipulation had been approved, 3 informal hearings had been requested, and 16 cases were awaiting outside action. 20 cases were ready for default, 8 had requested formal hearings, and 3 cases were referred to DOAH. 11 cases were in settlement negotiations, 51 cases were pending board dates, and 116 cases were set for board presentation. 115 cases were awaiting final orders. 0 cases were under appeal and 0 cases had been reopened.

For the month of May 2011, 137 cases were closed.

ATTORNEY GENERAL'S REPORT – DANIEL BIGGINS

OLABODE AJAGBE – MOTION FOR RECONSIDERATION

Mr. Ajagbe was not present.

Mr. Biggins presented this case stating Mr. Ajagbe's change of status application for his certified general contractor's license was denied at the October 2010 meeting of the board for failure to sufficiently demonstrate financial stability and responsibility. The Notice of Intent to Deny was filed in November of 2010. Mr. Ajagbe timely requested board reconsideration, and at that informal hearing in February of 2011 the board voted to uphold the denial of the application. Mr. Ajagbe had submitted a request for a continuance of that informal hearing, but the request did not reach the board office in time to be presented to the board. Upon receipt of that request, Mr. Ajagbe was informed the board made a ruling and that he would have to petition the board for reconsideration. Mr. Ajagbe filed a motion for reconsideration in April of 2011 and requested a 60 day continuance of that reconsideration to be heard at this meeting. Mr. Ajagbe then requested a 90 day continuance of the reconsideration as he was not able to be in attendance for this meeting, and to have the reconsideration heard at the September meeting.

After discussion the board voted unanimously to deny the continuance request, and voted unanimously to uphold the denial of the application and deny the reconsideration request.

DAVID A FIFNER, DUTTON LAW GROUP, P.A. – PETITION FOR DECLARATORY STATEMENT

Mr. Fifner was present.

Mr. Biggins presented this case stating David A. Fifner filed a petition for a declaratory statement on May 6, 2011. The petition was noticed in the Florida Administrative Weekly on May 27, 2011. Mr. Biggins noted that the petition requests guidance on Ch. 489.105, Florida Statutes, on whether or not the scope of work of an irrigation contractor is regulated under Ch. 489, so long as the backflow preventer is installed. Mr. Biggins asked the board to consider whether the petition meets the criteria for a declaratory statement, and to dismiss or answer, as appropriate.

After discussion the board voted that the petitioner is substantially affected and has standing. After further discussion the board answered the question in the negative, that Ch. 489, Florida Statutes, does not have a license category for irrigation contractors.

ORESTES LOPEZ-RECIO – PETITION FOR REINSTATEMENT OF PROBATION

Mr. Lopez-Recio was not present.

Mr. Biggins presented this case as a petition by Mr. Lopez-Recio for reinstatement of the stay of suspension on his certified general contractor's license and for reinstatement of

probation. The stay of suspension was lifted on Mr. Lopez-Recio's license on November 29, 2010 for failure to appear or submit a probation package for his October 2010 probation appearance.

After discussion the board voted unanimously to deny the request for reinstatement of probation.

JEFFREY MAHLSTEDT – PETITION FOR DECLARATORY STATEMENT

Mr. Mahlstedt was present.

Mr. Biggins presented this case stating Mr. Mahlstedt filed a petition for a declaratory statement May 12, 2011. The petition was noticed in the Florida Administrative Weekly on June 3, 2011. Mr. Biggins noted that the petition requests clarification on Ch. 489.105 (3)(e), and asks whether or not the installation of a tubular skylight is within the scope of work of a certified roofing contractor. Mr. Biggins asked the board to consider whether or not the petition meets the criteria for a declaratory statement, and to dismiss or answer as appropriate.

After discussion the board determined that the petitioner is a substantially affected party and that the petition had standing. After further discussion the board voted unanimously that the installation of tubular skylights does fall under the scope of work of a certified roofing contractor as long as the structural integrity of the building is not affected.

PUTNAM COUNTY PLANNING & DEVELOPMENT SERVICES – PETITION FOR DECLARATORY STATEMENT

A representative from Putnam County Planning & Development Services, Sandy Robinson, was present along with Mr. Hayes.

Mr. Biggins presented this case stating Putnam County Planning & Development Services filed a petition for a declaratory statement on May 4, 2011. The petition was noticed in the Florida Administrative Weekly on May 20, 2011. Mr. Biggins noted that the petition requests guidance on whether a building department can issue a permit to a locally licensed contractor to construct a single family accessory building, such as a detached metal carport, on a slab, if it is within the scope of the local license. Mr. Biggins asked the board to consider whether or not the petition meets the criteria for a declaratory statement, and to dismiss or answer as appropriate.

After discussion the board voted that the petitioner is a substantially affected party and that the petitioner had standing. After further discussion the board answered the question in the affirmative.

PUTNAM COUNTY PLANNING & DEVELOPMENT SERVICES – PETITION FOR A DECLARATORY STATEMENT

A representative from Putnam County Planning & Development Services, Sandy Robinson, was present along with Mr. Hayes

Mr. Biggins presented this case stating Putnam County Planning & Development Services filed a petition for a declaratory statement on May 5, 2011. The petition was noticed in the Florida Administrative Weekly on May 27, 2011. Mr. Biggins noted that the petition requested the Board's interpretation of Section 489.103 (9), Florida Statutes, on whether an unlicensed person can perform a roof repair or partial roof replacement whereby labor and materials are less than \$1000.00. Mr. Biggins asked the board to consider whether or not the petition meets the criteria for a declaratory statement, and to dismiss or answer as appropriate.

After discussion the board voted that the petitioner is a substantially affected party and that the petitioner had standing. After further discussion the board answered the question in the negative, stating that an unlicensed person cannot perform the work specified in the petition.

ANGELA CRANE, VOGT POWER INTERNATIONAL – PETITION FOR A DECLARATORY STATEMENT

A representative from Vogt Power International was present.

Mr. Biggins presented this case stating Vogt Power International filed a petition for a declaratory statement on April 26, 2011. The petition was noticed in the Florida Administrative Weekly on May 20, 2011. Mr. Biggins noted that the petition requested the boards opinion on Section 489.105, Florida Statutes, on whether an electrical power generation company can contract with a licensed construction company to install, repair, upgrade, etc heat recovery steam generators (HRSG), boilers, pressure vessels, and related ancillary power generation equipment, and if so, what sort of license would be needed by the construction company to perform this work.

After discussion the board voted that the petitioner is a substantially affected party and that the petitioner had standing. After further discussion the board answered that the work can be performed by a certified mechanical contractor, and that a certified general contractor can contract for the work so long as the work is then subcontracted to a certified mechanical contractor.

With nothing further to discuss the board voted unanimously to approve this report.

COMMITTEE REPORTS

EXAMS/CE/PUBLIC AWARENESS COMMITTEE – ROY LENOIS

Mr. Lenois gave the following report:

All Star Professional Training, Inc.

1st Course: HVAC 2011 Continuing Education Renewal – **denied**

Florida Association of Plumbing Gas Mechanical Inspectors

1st Course: Energy Use Fundamentals – **approved**, as general only

2nd Course: Florida's Energy Code for Commercial Buildings – **approved**, as general only

3rd Course: Going Green with Natural Gas – **no decision was made**

4th Course: Residential Energy Code Applications – **approved**

Florida Association Plumbing Heating Cooling Contractors

1st Course: Corrosion & Corrosion Prevention of Copper Piping Systems – **approved**

2nd Course: Rainwater Harvesting for Whole Home Use – **approved**

Florida Educational Facilities Planners Association

1st Course: An Advanced Discussion of the Risks and Rewards of GMP's – **approved**

2nd Course: Bridging the Gap: The Premium LEED Bldg – A High Performance -
approved

3rd Course: Case Study: Academic Health Center 3 College of Nursing and Health
Sciences – **approved**

4th Course: Conducting a Facilities Condition Assessment as Part of Your Capital
Planning – **approved**

5th Course: Effective Presentation Skills – **approved**

6th Course: How to Stretch Construction Operating Dollars for a New Science Facility -
approved

7th Course: The Importance of Photo Documentation – **approved**

Florida Home Builders Association

1st Course: Mitigation Techniques, Inspections, and DFS/OIR Form B1-1802 –
approved

2nd Course: Significant Code Changes 2010 Florida Building Code – Module “1” -
approved

3rd Course: Significant Code Changes 2010 Florida Building Code – Module “2” -
approved

4th Course: Significant Code Changes 2010 Florida Building Code – Module “3” -
approved

Florida Irrigation Society, Inc.

1st Course: Introduction to Landscape Irrigation Maintenance in Florida – **approved**, no
laws and rules (1 hour business practice, 3 hours general)

2nd Course: Landscape Irrigation Rules and Regulations – **approved**

3rd Course: Technology and Practice for Water Conservation in Landscape Irrigation -
approved

FRSA Educational and Research Foundation

1st Course: Building Solar Resources – **approved**

Hansgrohe, Inc.

1st Course: Assc: Planning and Installation – **approved**

HG & Associates, Inc.

1st Course: Wind Mitigation – **approved**

Internachi

1st Course: How to Perform Wind Mitigation Inspections – **approved**

Miami Dade College

1st Course: Wind Mitigation, 4-Point, and Roof Certification – **denied**

Rectorseal Corporation

1st Course: Air Conditioning Line Set Cleaning – **denied**

2nd Course: Condensate Overflow Problem – **denied**

Smith, Currie & Hancock LLP

1st Course: Construction Risk Avoidance and Mitigation – **approved**

Informal Hearing for application that was denied at the March 2011 meeting

2nd Course: Federal Government Construction Contracts: Key Differences, Opportunities, Rights, & Obligations – **approved**

Informal Hearing for application that was denied at the March 2011 meeting

South Florida Chapter Associated General Contractors of America

1st Course: Construction Contracts Update – **approved**, business practices only, no laws and rules

Mr. Lenois stated discussion also took place regarding the Medical Gas Certification statutes and its requirement that any employee of a plumbing contractor who provides work on the installation, improvement, repair, or maintenance of a medical gas system take an 8 hour course to teach familiarity with the National Fire Prevention Association Standard 99C. Mr. Lenois stated that the NFPA's publishes an update every 3 years, and inquired if the CILB could issue expiration dates for courses that teach the NFPA's standards to coincide with the release of the NFPA's standards. A motion was made and seconded, and the board voted to approve, a requirement that these courses be periodically reviewed to make sure they coincide with the NFPA's new standards.

With nothing further to report the board voted unanimously to approve this report.

RULES/PUBLIC/LEGISLATIVE COMMITTEE – MARK PIETANZA

Mr. Pietanza gave the following report:

The Rules/Public/Legislative Committee did not convene this month.

AD HOC COMMITTEE – DON WILFORD/MARK PIETANZA

Mr. Wilford gave the following report:

Mr. Wilford stated the Ad Hoc Committee focused discussion primarily on two issues, the first being a continuation of discussion regarding pre licensure education as a substitute for experience requirements. A handout was provided to the board members which listed options of pre licensure education that an applicant could supply in lieu of experience. A representative from Associated Building Contractors voiced their concerns about the education requirements. A representative from the Underground Utility Contractors of Florida, Inc., R. Bruce Kershner, spoke with their concerns as well. This issue would be discussed more at next month's meeting.

The second issue discussed concerned the process of the Central Intake Unit and included the list of criminal convictions answered in the background questions that CIU does not send to the board for review. Discussion took place about adding some crimes to the list, and also removing some crimes from the list. The decision to compare the lists across the other boards housed within the Department to compare the differences and similarities.

With nothing further to report the board voted unanimously to approve this report.

RECOVERY FUND/FINANCE COMMITTEE – MICHELLE KANE

Ms. Kane gave the following report:

The Recovery Fund/Finance Committee convened via conference call on May 24, 2011, at 1:00 pm and awarded the following claims:

2007006564 - \$43,494.99
2006049711 – \$13,230.66
2007027631 - \$16,518.95
2006053752 - \$11,294.37
2007047298 - \$11,430
02-C0124 - \$10,791.05
03-C0229 – Denied
2007050663 - \$46,025
2005064584 - \$18,912
2006070112 - \$11,988.18
2007052500 - \$1,010
2007046115 - \$50,000
2007000737 – Denied
2006049229 - \$17,160
2007068968 - \$7,000
2007058021 - \$21,931
2007005158 - \$1,180
2007028941 - \$10,730
2008011502 - \$16,758.50

A total of \$310,454.70 was awarded during this meeting.

The Recovery Fund/Finance Committee convened again via conference call on May 31, 2011, at 1:00 pm and awarded the following claims:

2007066206 - \$13,560
2008006327 - \$7,000
2008004700 - \$6,742.02
2007033100 - \$16,000
2008014009 - \$2,813.80
2008004497 - \$28,850
2007064119 - \$10,920.10
2008006281 - \$8,462.50

2007046057 - \$40,000
2005055660 - 13,376.53
2006069019 - \$13,571.50
2007055364 - \$18,330
2007049963 - \$50,000
2007020524 - \$34,813.18
2007052494 - \$17,500
2007026902 - \$2,900
2007038069 - \$7,890

A total of \$292,729.63 was awarded this meeting.

The total amount awarded for both meetings was \$603,184.33

With nothing further to report the board voted unanimously to approve this report.

OLD BUSINESS

Removal of Board materials from lap tops.

NEW BUSINESS

No New Business was discussed.

With no further business the meeting was adjourned at 9:51 am.