

FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD

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February 8 – 11, 2011

MEETING MINUTES Pending Approval

Board Members Present

Mark Pietanza, Chair
Don Wilford, Vice Chair
William S. Sheehan
W. Brian Cathey
Paul Del Vecchio
Michelle Kane
James C. Evetts
Jerry D. Hussey
Elbert Batton
Peggy Bailey
James Flaherty
Carl E. Engelmeier
Scott Greenberg
Robert Moody Jr.
Albert Korelishn
Roy R. Lenois

Board Members Absent

Edward Weller

Others Present

G. W. Harrell, Executive Director, DBPR
David Spingler, Government Analyst, DBPR
Mandie Wynn, Government Analyst, DBPR
Daniel Biggins, Legal Advisor, AGO
Paul Waters, Chief Prosecuting Attorney, DBPR

ADDITIONAL BUSINESS ENTITIES REVIEW

Division I board members met for Additional Business Entities Review on February 9, 2011 from 2:06 – 2:49 pm. Mr. Evetts led the meeting. Of the 18 applications scheduled for review, 9 were approved, 2 were continued, 2 were approved contingent, 3 were denied and 2 were pulled from the agenda.

APPROVALS (9)

Armstrong, Scott W.
Brunelle, Richard
Forrest, Jeffrey D.
Gilbert, Shawn R.
Hale, Gary S.
Lamb, Eric R.
McAllister, Andrew N.
Torres, David E.
Wimberley, Don

CONTINUED (2)

Comesana, Lorena – continued 30 days
Siems, Steven L. – continued 30 days

CONTINGENT APPROVALS (2)

Huff, Ronald – approved contingent upon providing proof of either 25% ownership or W2 employment status
Kepley, Kenneth C. – approved contingent upon providing proof of W2 employment status

DENIALS (3)

Fritz, Michael W.
Johnson, Jeffrey V.
Uhre, Michael R.

PULLED (2)

Lamatrice, Thomas F.
Veloz, Rogelio

Division II Board members met for Additional Business Entities Review on February 10, 2011 from 4:11 – 4:39 pm. Mr. Flaherty led the meeting. Of the 8 applications scheduled for review, 2 were approved, 1 was approved contingent, 2 were continued, 2 were denied and 1 was pulled from the agenda.

APPROVALS (2)

Doyle, John V.
Jones, Lowell

CONTINGENT APPROVAL (1)

Mears, Lance C. – approved contingent upon paying a \$2,000 assessment; approved with probation for 2 years

CONTINUANCES (2)

Benigno, Michael A. – continued 30 days
Gomez, James H. – continued 30 days

DENIALS (2)

Register, Thomas S.
Vilella, Josue

PULLED (1)

Voorhees, Thomas H.

APPLICATION REVIEW

Division I Board members met for Application Review on February 9, 2011 from 3:31 – 5:18pm. Mr. Hussey led the meeting. Of the 28 applications reviewed, 4 were approved, 3 were approved with conditions, 2 were continued, 1 was approved contingent, 3 were withdrawn, 9 were denied and 6 were pulled from the agenda.

APPROVALS (4)

Avis, Francis E.
Clay, William D.
Levering, Charles D.
Tinetti, Robert C.

CONDITONAL APPROVALS (3)

Bichler, Paul M. – approved with probation for 3 years or until a credit score at or above 660 is provided
Calo, Douglas G. – approved with probation for 2 years or until a credit score at or above 660 is provided
Moore, Clinton E. – approved with probation for 3 years

CONTINUANCES (2)

Spivey, Joshua C. – continued 60 days to resolve discipline issues
Thomas, Paul G. – continued 60 days to resolve discipline issues

CONTINGENT APPROVAL (1)

Derring, Michael – approved contingent upon submitting a credit score at or above a 660; approved as a downgrade to CBC

WITHDRAWN (4)

Heddaeus, Gregory G.
Helfrich, David
Pittack, Loren L.
Speranzi, Craig J.

DENIALS (8)

Bennett, Wayne M.

Bermudez, Juan f.
Cacciamani, Juan C.
De Ribeaux, Gustavo A.
Guidici, Mark E.
Kish II, Scott L.
Ward, Kia
Worth IV, Joseph C.

PULLED (6)

Balz, David D. (CBC)
Balz, David D. (CGC)
Garrison Jr., William B.
Grzanka, Leszek
Sturm, Matthew M.
Wood, Jason A.

Division II Board members met for Application Review on February 10, 2011 from 4:45 – 5:43 pm. Mr. Engelmeier led the meeting. Of the 16 applications scheduled for review, 2 were approved, 4 were approved with conditions, 2 were withdrawn, 4 were denied and 4 were pulled from the agenda.

APPROVALS (2)

Brittingham, William P.
Pergola, Anthony C.

CONDITIONAL APPROVALS (4)

Deekman, Dan F. – approved with probation for 3 years
Leh, Jeffrey D. – approved with probation until liens/judgments are satisfied and a credit score at or above 660 is provided
Marcelin, Joseph A. – approved as downgrade to Class B Air Conditioning contractor
Wallace, Gregory L. – approved with probation for 2 years or a credit score at or above 660 is provided

WITHDRAWN (2)

Elder, David S.
Hlefrich, David

DENIALS (4)

Bennett, Wayne M.
Gastaris, Nicholas
Legakis, Lucille
Rodriguez, Alberto

PULLED (4)

Broughton, Jason L.
Castellano, Thomas C.
Morejon, Elpidio
Young, Timothy W.

The Board reviewed and ratified the list of approved financially responsible officer applications.

PROBATION

Division I board members met for Probation on February 10, 2011 from 2:00 – 2:36 pm. Mr. Batton led the meeting.

Blankenship, Dean, CBC1257096

Result: Satisfactory

Reminded to have license number on contract

Request for early termination of probation was denied

Corson, Matt, CRC1330160

Result: Satisfactory

Reminded to include financial statement with future probation packets

Englett, Phillip, CGC055197

Result: Unsatisfactory

Reminded to add license number to contract

Gainey, Elijah, CRC1329756

Result: Satisfactory

Request for early termination of probation was denied

Gentry, Kevin, RB29003516

Result: Satisfactory

Gonzalez, Guido, CBC1255680

Request for reinstatement was denied; terms of probation will be satisfied 9/2011

Green, Kyle, CBC1257095

Result: Satisfactory

Request for early termination of probation was denied

Hansen, Paul, CRC056902

Result: Satisfactory

Maniero, Louis, CGC1506516

Result: Satisfactory

Moore, Terrence, CGC1105819

Result: Satisfactory

Reminded to add license number to contract

Oltmann, Richard, CBC014487

Result: Satisfactory

Request for early termination of probation was granted

Perez, Luis, CRC1330244
Result: Satisfactory

Ricciardelli, Robert, CRC057704
Result: Satisfactory

Staggs, Christopher, CBC060480
Result: Unsatisfactory

Vogel, Rick, CGC1517713
Result: Satisfactory
Request for early termination of probation was denied

Wilkey, Ryan, CRC1329977
Result: Satisfactory
Request for early termination of probation was denied

Yzaguirre, Tammy, CGC1505393
Result: Satisfactory

Johnston, Keith, CGC1505393
Result: Unsatisfactory

Division II board members met for Probation on February 10, 2011 from 2:47 pm to 4:03 pm. Mr. Moody led the meeting.

Antoniou, Ilias, CAC1815492
Result: Satisfactory

Atkins, Anthony, CCC1329527
Result: Continued

Borello, Lawrence, CCC042793
Result: Satisfactory
Request for early termination of probation was denied

Cornelius, Donald, CMC1250044
Result: Satisfactory

Diquez, Marsha, CPC1456644
Result: Unsatisfactory
A reminder was made to check with complainants to see if terms of repayment have been complied with. If terms have not been complied with then suspend license.

Gasperson, Robert, CCC1326271
Result: Satisfactory
Probation completed

Hostetler, Robert, CCC057082

Result: Satisfactory

Request for early termination of probation was denied, but the board stated if probationer submits a credit report and satisfactions of liens at his next appearance terminating the probation would be considered.

Jokinen, Teppo, CAC1816563

Result: Continued for 6 months

Pannell, Chad, CFC1426680

Result: Unsatisfactory

Reminded to submit all required documents

Preiss, Andy, CPC049399

Result: Satisfactory

Mr. Moody recused himself, and probation was reminded to change his workers comp to match his business name.

RULES/PUBLIC/LEGISLATIVE COMMITTEE AGENDA

The Rules/Public/Legislative Committee did not convene.

GENERAL SESSION

The meeting was called to order by Mr. Pietanza, Chair, at 9:00 am. Mr. Batton gave the invocation. Mr. Sheehan led the Pledge of Allegiance.

REVIEW OF MINUTES

A. Meeting Minutes – November 2010

The board voted unanimously to approve these minutes.

EXECUTIVE DIRECTOR'S REPORT – G.W. HARRELL

Mr. Harrell gave the following report.

Mr. Harrell informed the board members that if they were concerned with their appointments to contact the Governor's Office, and that quite a few appointment applications have been submitted to the Governor's Office for their review.

Mr. Harrell also informed the board that the EZ Apply applications would be through their internal review by the end of the February and is scheduled for Board review at the April meeting. Workshops will be held after the board approves the applications.

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

CHAIRMAN'S REPORT – MARK PIETANZA

Mr. Pietanza gave the following report:

Mr. Pietanza reminded the board to review the application notes and they will be discussed at next month's rules meeting.

Mr. Sheehan was presented with a plaque for his service as Chair for the 2010 year.

The following absences were excused:

Edward Weller.

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

PROSECUTING ATTORNEY'S REPORT – PAUL WATERS

Mr. Waters gave the following report:

As of January 2011 the number of overall construction disciplinary cases was 762. This is a decrease from 809 which was the overall caseload as reported in November 2010, and 799 less cases than reported in January 2010.

There were 98 cases to be reviewed in Legal, 132 cases set for probable cause and 48 cases with probable cause found/administrative complaints filed. 14 cases were ready for default, 1 case had a stipulation executed, 5 cases where an informal hearings were requested, and 10 cases requesting formal hearings. There were 24 cases awaiting outside action, 10 cases referred to DOAH, 5 cases in settlement negotiations, 99 cases pending board date, 178 cases awaiting final orders and 140 cases set for board presentation. There were 0 cases under appeal and 3 cases re-opened. There were 167 cases closed for the month of January.

The Board voted unanimously to approve this report.

ATTORNEY GENERAL'S REPORT – DANIEL BIGGINS

OLABODE AJAGBE – REQUEST FOR INFORMAL HEARING

Mr. Ajagbe was not present.

Mr. Biggins presented this case stating Mr. Ajagbe's application for a change of status of his certified general contractors 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.

After discussion the board voted unanimously to uphold the denial of the application.

SAMUEL ALMONTE – REQUEST FOR INFORMAL HEARING

Mr. Almonte was present.

Mr. Biggins presented this case stating Mr. Almonte's application for a certified Class A Air Conditioning contractor's inactive license was denied at the November 2010 meeting of the board for failure to demonstrate the required experience and failure to sufficiently demonstrate financial stability and responsibility. The Notice of Intent to Deny was filed in December of 2010. Mr. Almonte timely requested board reconsideration.

After discussion the board voted unanimously to approve the application.

SUZANNE CARDONNE – REQUEST FOR INFORMAL HEARING

Ms. Cardonne was present.

Mr. Biggins presented this case stating Ms. Cardonne's application for initial licensure as a certified general contractor was denied at the November 2010 meeting of the board for failure to demonstrate the required experience and failure to sufficiently demonstrate financial stability and responsibility. The Notice of Intent to Deny was filed in January of 2011. Ms. Cardonne timely requested board reconsideration.

After discussion the board voted unanimously to uphold the denial of the application.

ROWDY CARLTON, EASTERN PIPELINE CONSTRUCTION – PETITION FOR DECLARATORY STATEMENT

Mr. Carlton was not present.

Mr. Biggins presented this case stating Mr. Carlton filed a petition for a declaratory statement on December 23, 2010. The petition was noticed in the Florida Administrative Weekly on January 21, 2011. Mr. Biggins noted the petition requests clarification on the scope of work of a gas line specialty contractor, and if a gas line specialty contractor is licensed to perform directional drilling as a means of installation. Mr. Biggins asked the board to consider whether the petition meets the criteria for a declaratory statement, and to dismiss or answer, as appropriate.

The board answered unanimously to accept the petition, and answered that pursuant to section 61G4-15.026, Florida Administrative Code, directional drilling is within the scope of practice of a gas line specialty contractor. Therefore, the board answers the question in the affirmative and issues a declaratory statement that directional drilling is within the scope of work of a gas line specialty contractor.

GREGORY DUNN – REQUEST FOR INFORMAL HEARING

Mr. Dunn was not present.

Mr. Biggins presented this case stating Mr. Dunn's application for a change of status of his certified general contractor's license was denied at the September 2010 meeting of the board for failure to demonstrate financial stability and responsibility and failure to demonstrate the required experience. The Notice of Intent to Deny was filed in November 2010. Mr. Dunn timely requested board reconsideration.

After discussion the board voted unanimously to continue the review of the application for 30 days to allow the applicant to appear at the hearing.

GREGORY DUNN – REQUEST FOR INFORMAL HEARING

Mr. Dunn was not present.

Mr. Biggins presented this case stating Mr. Dunn's application for a change of status of his certified mechanical contractor's license was denied at the September 2010 meeting of the board for failure to demonstrate financial stability and responsibility. The Notice of Intent to Deny was filed in November 2010. Mr. Dunn timely requested board reconsideration.

After discussion the board voted unanimously to continue the review of the application for 30 days to allow the applicant to appear at the hearing.

JESUS GONZALEZ – REQUEST FOR INFORMAL HEARING

Mr. Gonzalez was present with counsel.

Mr. Biggins presented this case stating Mr. Gonzalez' application to qualify an additional business entity with his certified general contractor's license was denied at the November 2010 meeting of the board for failure to appear as required by 61G4-15.0021, Florida Administrative Code. The Notice of Intent to Deny was filed in December of 2010. Mr. Gonzalez timely requested board reconsideration.

After discussion the board voted unanimously to approve the application.

JOHN LOHR, RED MOUNTAIN GROUP – PETITION FOR DECLARATORY STATEMENT

Mr. Lohr was not present.

Mr. Biggins presented this case stating that John Lohr filed a petition for a declaratory statement on January 6, 2011. The petition was noticed in the Florida Administrative Weekly on January 21, 2011. Mr. Biggins noted that the petition request clarification on Rule 61G4-15.034, Florida Administrative Code, and if the installation of a new antennae onto a preexisting communication tower constitutes "alteration" or effects the structural integrity of the tower. 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 unanimously that the petition had standing, and answered that pursuant to 61G4-15.034, Florida Administrative Code, a tower specialty contractor is certified to perform work involving the construction, repair, and alteration of an uninhabitable tower. The board further answered that additions or attachments that do not affect the structural integrity of a tower are not considered an alteration of the tower pursuant to the rule.

STEVEN MARKEL – PETITION FOR DECLARATORY STATEMENT

Mr. Markel was present.

Mr. Biggins presented this case stating Steven Markel filed a petition for a declaratory on January 12, 2011. The petition was noticed in the Florida Administrative Weekly on February 11, 2011. Mr. Biggins noted that the petition requests guidance on whether or not a certified mechanical contractor may install lift stations, including the work on the sanitary sewer lines. 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 unanimously that the petitioner had standing. The board further answered that a mechanical contractor may not hook up sanitary or sewer lines, but could potentially be allowed to operate as a prime contractor for such a job, provided the requirements to operate as a prime contractor were met pursuant to Chapter 489, Florida Statutes.

WAYMON MEADOWS – REQUEST FOR INFORMAL HEARING

Mr. Meadows was not present.

Mr. Biggins presented this case stating Mr. Meadows' application for a change of status of his certified building contractors license was denied at the October 2010 meeting of the board as the applicant is the subject of a pending investigation. The Notice of Intent to Deny was filed in November of 2010. Mr. Meadows timely requested board reconsideration.

After discussion the board voted unanimously to approve the application.

WILLIAM RIGGS – REQUEST FOR INFORMAL HEARING

Mr. Riggs was not present.

Mr. Biggins presented this case stating Mr. Riggs' application for initial issuance of a certified residential contractor's license was denied at the June 2010 meeting of the board for failure to demonstrate the required experience. The Notice of Intent to Deny was filed in August of 2010. Mr. Riggs timely requested board reconsideration.

After discussion the board voted unanimously to uphold the denial of the application.

ANGELO RODRIGUEZ – REQUEST FOR INFORMAL HEARING

Mr. Rodriguez was present.

Mr. Biggins presented this case stating Mr. Rodriguez' application to qualify an additional business entity with his certified general contractor's license was denied at the November 2010 meeting for failure to sufficiently demonstrate financial stability and responsibility and for failure to demonstrate the qualifying agent would properly

supervise the construction work and business activities. The Notice of Intent to Deny was filed in December of 2010. Mr. Rodriguez timely requested board reconsideration.

After discussion the board voted unanimously to uphold the denial of the application.

KEVIN TRENSKI – REQUEST FOR INFORMAL HEARING

Mr. Trenski was not present.

Mr. Biggins presented this case stating Mr. Trenski's application for initial licensure as a certified general contractor was denied at the October 2010 meeting of the board for failure to demonstrate the required experience. The Notice of Intent to Deny was filed in November 2010. Mr. Trenski timely requested board reconsideration.

After discussion the board voted unanimously to continue the review of the application for 30 days to allow Mr. Trenski to provide further proof of experience.

DAVID HELFRICH – REQUEST TO REOPEN DENIAL OF APPLICATION AND WITHDRAWAL OF APPLICATION

Mr. Helfrich was present.

Mr. Biggins presented this case stating Mr. Helfrich's application for a change of status of his certified building contractors license was denied two days prior to this meeting on February 9th, 2011, for failure to demonstrate financial stability and responsibility. Mr. Helfrich petitioned the board to allow him to withdraw the application instead.

After discussion the board voted unanimously to reopen the hearing of the application and to allow Mr. Helfrich to withdraw his application.

CLINTON DELWISCH – REQUEST FOR INFORMAL HEARING

Mr. Delwisch was present with counsel Drew Winters.

Mr. Biggins presented this case stating Mr. Delwisch's application for a change of status of his certified building contractor's license was denied at the November 2010 meeting for failing to sufficiently demonstrate financial stability and responsibility. The Notice of Intent to Deny was filed in January in 2011. Mr. Delwisch timely requested board reconsideration.

After discussion the board voted unanimously to approve the application.

COMMITTEE REPORTS

EXAMS/CE/PUBLIC AWARENESS COMMITTEE – ROY LENOIS

Mr. Lenois gave the following report:

ADAAG Consulting Services LLC

1st course: The New ADA 2010 Standards for Accessible Design - denied

American Construction School Inc

1st course: Home Inspection - denied

Breaking Ground Education Services

1st course: OSHA 30 Hour Safety Training - denied

Construction Services Enterprises Inc

1st course: Keys to Construction Management – approved

2nd course: Keys to Managing a Construction Business – approved

3rd course: Keys to Managing a Construction Project - approved

Cox Fire Protection Inc

1st course: Fire Protection Fundamentals from Estimating to Life Safety - approved

Energy Conservation Services of N Fla

1st course: Solar Thermal Systems, Lessons Learned - denied

Florida Refrigeration & Air Conditioning Contractors

1st course: Diesel Emissions Reduction for Off Road Construction Equipment – approved

2nd course: Exposure and Health Impacts from Diesel Emissions – approved

3rd course: Stress Management and Workers' Compensation – approved

4th course: Surety Bonding 1010 – The Basics for Newcomers – approved

5th course: Understanding Break Even - approved

FRSA Educational and Research Foundation

1st course: Communicating Safety – approved

2nd course: Do Consumers know you're Open for Business? – approved

3rd course: FRSA Lead Renovator Certification Course – approved

4th course: Lawsuit Protection, Tax Reduction and Estate Planning – approved

5th course: The Features and Benefits of Synthetic Underlayments - approved

Gray Systems Inc

1st course: Contracts in the Construction Industry – denied

2nd course: Compliance with Employment Laws – denied

3rd course: Construction Liens – denied

4th course: Laws and Rules of the Construction Industry – denied

5th course: Wind Mitigation – denied

6th course: Workers' Compensation – denied

7th course: Workplace Safety - denied

National Roofing Contractors Association

1st course: CERTA Train-the-trainer Reauthorization – approved for 6 hours of credit only

US Solar Institute

1st course: Solar Contracting, Markets, Laws and Codes – approved as 11 hours of credit only; 1 hour ADA, 1 hour workplace safety, 1 hour workers' compensation, 1 hour business practices, 7 hours general credit.

Mr. Lenois brought up the issue of board members being able to attend CE courses to evaluate what is being taught, but not have to pay the fee charged by the provider. Mr. Harrell reminded Mr. Evetts that there is no statutory authority that allows board members to attend these courses to evaluate, and that there is a complaint process that must be followed to prove any violation against a CE course provider/instructor.

The Board voted unanimously to accept the recommendations of this committee.

RULES/PUBLIC/LEGISLATIVE COMMITTEE – MARK PIETANZA

Mr. Pietanza gave the following report:

The Rules Committee did not convene this month.

OLD BUSINESS

Removal of Board materials from lap tops.

NEW BUSINESS

Mr. Lenois stated that new language needed to be added to an existing rule, and asked if a rule can be amended under the Governor's Executive Order which suspended rule making. Mr. Harrell answered that no changes can be made to existing rules either as that constitutes rule development.

With no further business the meeting was adjourned at 10:11am.