

**MINUTES OF THE REGULAR MEETING OF THE
CONSTRUCTION INDUSTRIES BOARD**

**Conference Room
2401 NW 23rd Street, Ste. 2F
Oklahoma City, OK 73107**

November 16, 2016

CALL TO ORDER AND RECORDING OF MEMBERS PRESENT AND ABSENT

The regular meeting of the Construction Industries Board was called to order by Chair Tony Boevers at approximately 1:30 p.m. on Wednesday, November 16, 2016, in the Conference Room of the Construction Industries Board.

MEMBERS PRESENT: Tony Boevers, Mike Cooke, Jake Matherly, Scott Tucker, and Kevin Westmoreland.

MEMBERS ABSENT: Paul Magdeburg

CIB STAFF PRESENT: Janis Hubbard, Administrator; Linda Ruckman, Board Secretary/Executive Assistant; Windy Nunnery, Office Manager; Jim George, Plumbing Supervisor; Richard Hager, Roofing Supervisor; Gary Kirk, Mechanical Supervisor; Ron Morris, Electrical Supervisor; and Rachel Mains, Business Programs Officer/Assistant.

OTHERS PRESENT: LaTisha Edwards, OMES; Mike Liston, PHCC; Jerry King, City of Oklahoma City; and Bill Kite, ACCO of Oklahoma.

STATEMENT OF COMPLIANCE WITH THE OPEN MEETING ACT

This regular meeting of the Construction Industries Board, scheduled to begin at 1:30 p.m. on this 16th day of November, 2016, has been convened in accordance with the Oklahoma Open Meeting Act, Oklahoma Statutes Title 25, §§ 301 through 314.

Further, this meeting was preceded by advance public notice filed electronically with the Secretary of State specifying the time and place of the meeting here convened. The Agenda was posted and displayed in public view on the office site of the Construction Industries Board and notice of this meeting was given at least twenty-four (24) hours prior hereto. Fifty people have filed a written request for notice of meetings of this public body to date.

Read aloud this 16th day of November, 2016.

ADMINISTRATOR'S REPORT

Ms. Hubbard reported that staff is continuing to work on the development of the CIB's new web page which will hopefully be complete before the next Board meeting. She reported that she has attended some apprenticeship recognition meetings and will be attending another one later this week. Ms. Hubbard reported that she was asked to make presentations at two recent Interim Studies. One, which she was unable to attend, was on the North Carolina Dentistry Board Case and anti-trust, anti-competition issues. She did make a presentation at the Interim Study related to the affect felonies have on professional licensing. Ms. Hubbard reported on the status of the RFP issued for a testing service provider.

FINANCIAL REPORT FOR MONTH ENDED OCTOBER 31, 2016

Ms. LaTisha Edwards reviewed the CIB's financial report for the month ended October 31, 2016.

MECHANICAL DIVISION REPORT

The Board was provided written reports on field contacts, citations, complaints, renewals, and applications received and new licenses processed during the month of September. Mr. Kirk reported on activities of the Mechanical Division since the last Board meeting.

PLUMBING DIVISION REPORT

The Board was provided written reports on field contacts, citations, complaints, renewals, and applications received and new licenses processed during the month of September. Mr. George reported on activities of the Plumbing Division since the last Board meeting.

ELECTRICAL DIVISION REPORT

The Board was provided written reports on field contacts, citations, complaints, renewals, and applications received and new licenses processed during the month of September. Mr. Morris reported on activities of the Electrical Division since the last Board meeting.

ROOFING DIVISION REPORT

The Board was provided a written report on written warnings, citations, complaints, renewals, and applications received and new registrations and endorsements processed during the month of September. Mr. Hager reported on activities of the Roofing Division since the last Board meeting.

CONSENT AGENDA FOR UNCONTESTED CITATIONS PAID, HEARING WAIVED -- REVIEW AND POSSIBLE VOTE TO APPROVE ALL FINES, PENALTIES AND FEES ASSESSED AND COLLECTED ON UNCONTESTED MATTERS WHERE ADMINISTRATIVE HEARING WAS WAIVED AND FINES HAVE ALREADY BEEN PAID, AS REFLECTED ON THE MANAGEMENT STATEMENT OF ACTIVITIES BY TRADE REVOLVING FUND.

Mr. Dutton stated that this consent agenda item is related to individuals who paid their fine and waived their right to a hearing.

MOTION BY JAKE MATHERLY WITH SECOND BY SCOTT TUCKER TO APPROVE THE CONSENT AGENDA FOR UNCONTESTED CITATIONS PAID, HEARINGS WAIVED.

MOTION PASSED

Voting Aye: Tony Boevers
Mike Cooke
Jake Matherly
Scott Tucker
Kevin Westmoreland

Absent: Paul Magdeburg

Due to action taken on this item, Agenda Items 5(H) and 5(I) were not needed.

DISCUSSION AND POSSIBLE VOTE ON THE MINUTES OF THE REGULAR MEETING OF THE CONSTRUCTION INDUSTRIES BOARD HELD OCTOBER 26, 2016.

The Board was provided a draft of the Minutes of the Regular Meeting of the CIB held in October.

MOTION BY MIKE COOKE WITH SECOND BY SCOTT TUCKER TO APPROVE THE OCTOBER 26, 2016, BOARD MEETING MINUTES AS PRESENTED.

MOTION PASSED

Voting Aye: Tony Boevers
Mike Cooke
Jake Matherly
Scott Tucker

Abstentions: Kevin Westmoreland

Absent: Paul Magdeburg

DISCUSSION AND POSSIBLE VOTE ON ADMINISTRATOR'S RECOMMENDATION OF CANDIDATE #1 TO FILL THE NEW ELECTRICAL FIELD INVESTIGATOR POSITION.

(i) Possible vote to convene into Executive Session pursuant to 25 O.S. § 307(B)(1) for discussion and possible action on Administrator's recommendation of Candidate #1 for employment, hiring, appointment, for the new Electrical Field Investigator position.

(ii) If Executive Session convened, vote to return to Open Session.

(iii) Possible vote on matters discussed related to Administrator's recommendation of Candidate #1 for employment, hiring, appointment, for the new Electrical Field Investigator position either from Executive Session or as discussed in Open Session.

Ms. Hubbard reported on the number of applications received for the new electrical field investigator position, the number of candidates identified for interview after scoring, and the number of candidates that were interviewed. Ms. Hubbard recommended Candidate #1 to fill the new position. Mr. Morris provided a summary of Candidate #1's background/experience. Ms. Hubbard noted that in addition to herself, the interview committee consisted of two members of the Electrical Examiners Committee, Sonny Stas and Clifford Stewart, and Ron Morris, Jim George, and Gary Kirk. The interview committee was in agreement that Candidate #1 should be recommended for the position.

Chair Boevers asked if any Board members wished to go into Executive Session to discuss this matter. Hearing none, he asked if any Board members wished to make a motion on the Administrator's recommendation.

MOTION BY JAKE MATHERLY WITH SECOND BY MIKE COOKE TO APPROVE THE OFFER OF THE NEW ELECTRICAL FIELD INVESTIGATOR POSITION TO CANDIDATE #1.

MOTION PASSED

Voting Aye: Tony Boevers
Mike Cooke
Jake Matherly
Scott Tucker
Kevin Westmoreland

Absent: Paul Magdeburg

DISCUSSION WITH POSSIBLE VOTE TO APPROVE ADVERTISING POSITION OPENING FOR AN ELECTRICAL FIELD INVESTIGATOR FOR THE SOUTHEAST TERRITORY.

Ms. Hubbard reported she received notification that one of the current electrical field investigators will be retiring as of January 1, 2017. She requested approval to post the position, accept resumes and go through the scoring and interview process. Chair Boevers asked if any of the candidates who applied for the new position were viable candidates for this position. Ms. Hubbard felt that since this position is for a specific territory whereas the new position was not, it would be best to post the position. She noted that anyone who applied for the new position can also apply for this position.

MOTION BY KEVIN WESTMORELAND WITH SECOND BY MIKE COOKE TO APPROVE ADVERTISING A POSITION OPENING FOR AN ELECTRICAL FIELD INVESTIGATOR FOR THE SOUTHEAST TERRITORY.

MOTION PASSED

Voting Aye: Tony Boevers
Mike Cooke
Jake Matherly
Scott Tucker
Kevin Westmoreland

Absent: Paul Magdeburg

PUBLIC COMMENTS

Jerry King, Inspector for the City of Oklahoma City, asked the Board to consider adopting a policy of more consistency amongst the trades. He stated that in the mechanical and plumbing trades, the CE requirement uses the "Carnegie Hour," 50 minutes of instruction with a ten minute break. In the electrical trade an hour of CE is 60 minutes of instruction. He stated that if you keep people more than 50 minutes without a break, you are going to lose some of them. Mr. King stated that he believes the CIB has the authority to deal with these issues and he would like to see the Board consider making some blanket requirements that apply to all trades.

Mr. King also spoke about the loss of licensure for failure to renew a license within 12 months in the electrical trade. He stated that he was instrumental in addressing an issue in the past and that the Board voted to change the policy. He said the policy had been that if someone grandfathered in and their license lapsed for more than 12 months, they lost it; but, if someone took a test for licensure, they were good from then on. Mr. King stated that he felt that was a second class license and the grandfathered people were untreated unfairly. He said the Board changed that, but the Electrical Committee seems to be going a different direction. He stated it is too hard to get a trade license and to go back and start over if someone forgets to mail in their application and finds it has been 13 months.

NEW BUSINESS

There was no new business discussed.

BREAK

At approximately 1:55 p.m. the meeting was recessed for a five-minute break.

RECORDING OF MEMBERS PRESENT AFTER THE SCHEDULED BREAK

MEMBERS PRESENT: Tony Boevers, Mike Cooke, Jake Matherly, Scott Tucker, and Kevin Westmoreland

MEMBERS ABSENT: Paul Magdeburg

DISCUSSION OF PROPOSED PERMANENT AMENDMENTS TO OAC 158 AS LISTED BELOW OR AS MAY BE PROPOSED ON OAC 158 DURING THE MEETING, INCLUSIVE OF TRADE COMMITTEE RECOMMENDATIONS, AND POSSIBLE VOTE ON PROPOSED DRAFT LANGUAGE OF RULES, AS PRESENTED OR AS MAY BE AMENDED DURING THE MEETING, FOR PUBLICATION AND RULE MAKING PROCESS INCLUDING PUBLIC COMMENT AND A FUTURE PUBLIC HEARING.

TITLE 158. CONSTRUCTION INDUSTRIES BOARD

CHAPTER 1. PROCEDURES OF THE OKLAHOMA CONSTRUCTION INDUSTRIES BOARD

Subchapter 3. General Operation and Procedures

158:1-3-9. Fees for plan review and project review for code conformance [AMENDED]

CHAPTER 10. FINE SCHEDULE

Subchapter 1. General Provisions

158:10-1-1.1. Definitions [AMENDED]

Subchapter 3. Administrative Fine Schedule

158:10-3-4. Payment of fines [AMENDED]

CHAPTER 30. PLUMBING INDUSTRY REGULATIONS

Subchapter 1. General Provisions

158:30-1-2. Definitions [AMENDED]

Subchapter 5. License Types, Bond Requirements, and Display of License Number and Firm Name

158:30-5-2. Insurance and bond requirements [AMENDED]

158:30-5-4. Plumbing journeymen and contractor licenses by reciprocity [AMENDED]

Subchapter 9. Examination Procedures, License and Registration Fees and Duration of Licenses

158:30-9-1. Examination and licensure procedures [AMENDED]

158:30-9-3. Duration of licenses [AMENDED]

158:30-9-4. Continuing Education [AMENDED]

CHAPTER 40. ELECTRICAL INDUSTRY REGULATIONS

Title 158. Construction Industries Board

Chapter 40. Electrical Industry Regulations

Subchapter 1. General Provisions

158:40-1-2. Definitions [AMENDED]

Subchapter 5. Licensing Requirements, Display of License, and Firm Name, and Bond Requirements

158:40-5-5. Bond and insurance requirements [AMENDED]

Subchapter 9. Examination Applications, Examinations and License and Registration Fees and Renewals

158:40-9-2. Examinations and licensure [AMENDED]

158:40-9-4. Continuing education [AMENDED]

CHAPTER 50. MECHANICAL INDUSTRY REGULATIONS

Subchapter 1. General Provisions

158:50-1-2. Definitions [AMENDED]

Subchapter 9. Qualifications for Mechanical Licensure, License and Registration Fees, Duration of License, Mechanical License Application, and Apprentice Registration

158:50-9-1. Qualifications for mechanical licensure [AMENDED]

158:50-9-6. Mechanical journeyman and contractor licenses by reciprocity [AMENDED]

158:50-9-7. Continuing Education [AMENDED]

CHAPTER 60. INSPECTORS REGULATIONS

Subchapter 5. Categories and Classifications of Inspector Licenses, Qualifications for Inspector Licensure, License Requirements for Inspectors, Fees, Certification and Continuing Education for Inspectors, and Continuing Education Courses

158:60-5-3. License requirements for inspectors [AMENDED]

158:60-5-5. Continuing education [AMENDED]

CHAPTER 70. HOME INSPECTION INDUSTRY REGULATIONS

Subchapter 1. General Provisions

158:70-1-2. Definitions [AMENDED]

Subchapter 9. Examination Applications, Examinations, Course Approval Requirements, Instructor Requirements, Continuing Education, Denied Application Appeal, Submission of Records, Substantial Compliance and Reciprocity

158:70-9-2. Examinations [AMENDED]

158:70-9-3. Course approval requirements [AMENDED]

158:70-9-5. Continuing education [AMENDED]

CHAPTER 85. ROOFING CONTRACTOR REGISTRATION REGULATIONS

Subchapter 1. General Provisions

158:85-1-2. Definitions [AMENDED]

Subchapter 2. Registration and Endorsement Application and Renewal Requirements, Procedures, Fees, Duration, Military and Reciprocity

158:85-2-1. Registration, insurance, and workers compensation coverage [AMENDED]

158:85-2-4. Renewal of registration and endorsement [AMENDED]

Subchapter 9. Endorsement Qualifications, Requirements, Examination and Continuing Education

158:85-9-3. Commercial endorsement examination [AMENDED]

158:85-9-4. Continuing education [AMENDED]

The Board was provided a draft of proposed rules for Chapters 1, 10, 30, 40, 50, 60, 70, and 85 of OAC 158. Ms. Hubbard reported that the trade committees have reviewed and approved the rules pertaining to their respective trade. What is being requested is approval of the drafts so that they can be published for public comment and a public hearing at a future date.

Ms. Hubbard reviewed the proposed rules for Chapter 1. Concern was expressed about 158:1-3-9(g) with regard to the time allowed for a CIB inspector to respond to a request for an inspection, and the impact a delay could have on a contractor.

MOTION WAS MADE, AND SUBSEQUENTLY WITHDRAWN, BY JAKE MATHERLY TO TABLE ACTION ON CHAPTER 1 OF OAC 158.

There was further discussion regarding the proposed timeframe for an inspector to contact a requestor to schedule an inspection and regarding whether or not the inspections addressed in 158:1-3-9(g) are required or mandatory, and regarding the need for the rule. After hearing comments and concerns of the Board, Ms. Hubbard suggested the first three sentences in the draft for 158:1-3-9(g) be amended to read as follows: "All requested inspections require advance notification, and in no event shall such notification be given less than two (2) business days before the work is to be inspected. To request an inspection, contact the trade supervisor in the trade for which the inspection is requested. Once an inspection request has been received an inspector will contact the requestor within one (1) business day to schedule a time for the inspection."

MOTION BY MIKE COOKE WITH SECOND BY JAKE MATHERLY TO APPROVE THE DRAFT OF PROPOSED RULES FOR CHAPTER 1 OF OAC 158 WITH THE AMENDMENT TO 158:1-3-9(g) AS SUGGESTED.

MOTION PASSED

Voting Aye: Tony Boevers
Mike Cooke
Jake Matherly
Scott Tucker
Kevin Westmoreland

Absent: Paul Magdeburg

Ms. Hubbard reviewed the proposed rules for Chapter 10. Chair Boevers inquired as to whether the proposed definition for "Contractor" also attaches to subcontracting. Ms. Hubbard responded that if a subcontractor is holding themselves out to do the work, they are contracting.

MOTION BY MIKE COOKE WITH SECOND BY KEVIN WESTMORELAND TO APPROVE THE DRAFT OF PROPOSED RULES FOR CHAPTER 10 OF OAC 158 AS PRESENTED.

MOTION PASSED

Voting Aye: Tony Boevers
Mike Cooke
Jake Matherly
Scott Tucker
Kevin Westmoreland

Absent: Paul Magdeburg

Ms. Hubbard reviewed the proposed rules for Chapter 30. It was discussed that the proposed definition for "Credit Hour or Hour" does not change the amount of classroom instruction required as the requirement is currently stated in 158:30-9-4(b)(7).

The question was raised as to the intent of the proposed definition for "Property of Residence." Ms. Hubbard stated that the definition puts into words how it has been interpreted since the Plumbing License Law of 1955 went into effect, which is that unless an individual is residing in an existing single family dwelling owned and occupied by the individual, the individual would be required to have a license to perform plumbing. Mr. Matherly inquired as to whether there is case law that would prevent an individual from performing plumbing on a home an individual owns but does not reside in. Ms. Hubbard stated that case law has upheld the interpretation as stated in the proposed definition. Chair Boevers asked if it is correct that under the proposed definition, an individual would not be able to perform work on the initial construction of their own home without a plumbing license, but they would be able to perform plumbing work for renovations, room additions, etc., in a home they own and in which they reside without being licensed. Ms. Hubbard and Mr. George affirmed that was correct.

MOTION BY JAKE MATHERLY WITH SECOND BY MIKE COOKE TO APPROVE THE DRAFT OF PROPOSED RULES FOR CHAPTER 30 OF OAC 158 AS PRESENTED.

MOTION PASSED

Voting Aye: Tony Boevers
Mike Cooke
Jake Matherly
Scott Tucker
Kevin Westmoreland

Absent: Paul Magdeburg

Ms. Hubbard reviewed the draft of proposed rules for Chapter 40. Chair Boevers asked if the Electrical Committee has discussed the possibility of recommending a credit hour be changed to 50 minutes of instruction with a ten minute break. Ms. Hubbard responded that it was discussed by the Committee sometime in the past, but not recently. When it was discussed, the Committee chose not to recommend going to 50/10.

Mr. Morris stated that there were over 3,000 code changes from the NEC 2011 Code to the 2014 Code, and he believed the Committee thought that if only six hours of continuing education in three years was required, they needed to get the most out of those six hours. He noted that requiring 60 minutes of instruction does not prevent a continuing education provider from adding a ten minute break at the end of each 60 minute instructional period. It was also indicated that reluctance of the Electrical Committee to recommend changing the requirement could be related to the impact on reciprocal journeyman agreements with other states. Chair Boevers stated he would prefer requiring a break after a certain amount of instructional time rather than reducing the amount of instructional time required.

MOTION BY MIKE COOKE WITH SECOND BY JAKE MATHERLY TO APPROVE THE DRAFT OF PROPOSED RULES FOR CHAPTER 40 AS PRESENTED.

MOTION PASSED

Voting Aye: Tony Boevers
Mike Cooke
Jake Matherly
Scott Tucker
Kevin Westmoreland

Absent: Paul Magdeburg

Ms. Hubbard reviewed the proposed rules for Chapter 50. It was discussed that most changes, other than the change for 158:50-9-7(j)(2), are changes in other Chapters the Board has already reviewed. It was noted that this new subsection would allow continuing education credit to be earned through teaching a course in an accredited trade school or trade-specific program approved by the Committee, and that this is already allowed in the plumbing and electrical trades.

MOTION BY JAKE MATHERLY WITH SECOND BY SCOTT TUCKER TO APPROVE THE PROPOSED RULES FOR CHAPTER 50 AS PRESENTED.

MOTION PASSED

Voting Aye: Tony Boevers
Mike Cooke
Jake Matherly
Scott Tucker
Kevin Westmoreland

Absent: Paul Magdeburg

MOTION BY KEVIN WESTMORELAND WITH SECOND BY JAKE MATHERLY TO APPROVE THE PROPOSED RULES FOR CHAPTER 60 AS PRESENTED.

MOTION PASSED

Voting Aye: Tony Boevers
Mike Cooke
Jake Matherly
Scott Tucker
Kevin Westmoreland

Absent: Paul Magdeburg

MOTION BY JAKE MATHERLY WITH SECOND BY KEVIN WESTMORELAND TO APPROVE THE DRAFT OF PROPOSED RULES FOR CHAPTER 70 AS PRESENTED.

MOTION PASSED

Voting Aye: Tony Boevers
Mike Cooke
Jake Matherly
Scott Tucker
Kevin Westmoreland

Absent: Paul Magdeburg

There was discussion regarding the definition of "Cheating" in Chapter 85 and as to whether misrepresenting oneself as another would be a criminal act. Mr. Dutton stated the CIB has the ability to report such an action to the District Attorney's office.

MOTION BY MIKE COOKE WITH SECOND BY SCOTT TUCKER TO APPROVE THE DRAFT OF PROPOSED RULES FOR CHAPTER 85 OF OAC 158.

MOTION PASSED

Voting Aye: Tony Boevers
Mike Cooke
Jake Matherly
Scott Tucker
Kevin Westmoreland

Absent: Paul Magdeburg

POSSIBLE VOTE TO REMOVE ITEM FROM CONSENT AGENDA FOR INDIVIDUAL ADMINISTRATIVE PROCEEDINGS FOR CONSIDERATION AS A SEPARATE ACTION ITEM.

There were no items removed for consideration as a separate action item; therefore, Agenda Item 13 was not needed.

CONSENT AGENDA FOR INDIVIDUAL ADMINISTRATIVE PROCEEDINGS - POSSIBLE VOTE TO APPROVE OR DENY AND REMAND THE PROPOSED ORDERS RECOMMENDED BY THE ADMINISTRATIVE LAW JUDGE IN THE FOLLOWING MATTERS FOR WHICH NO TIMELY APPEAL WAS FILED:

Plumbing Hearing Board:

Mr. Dutton noted that Paul Magdeburg served as Chair of the Plumbing Hearing Board when this docket was heard.

Matters heard by the Plumbing Hearing Board on Docket No. CIB-16-P-004 as follows:

<u>Case No.</u>	<u>Respondent</u>	<u>Violation</u>
Citation No. 12404	Brandon Knight	Contracting without a license

MOTION BY JAKE MATHERLY WITH SECOND BY SCOTT TUCKER TO APPROVE THE CONSENT AGENDA AS SUBMITTED.

MOTION PASSED

Voting Aye: Tony Boevers
Mike Cooke
Jake Matherly
Scott Tucker
Kevin Westmoreland

Absent: Paul Magdeburg

ADJOURNMENT

MOTION BY JAKE MATHERLY WITH SECOND BY KEVIN WESTMORELAND
TO ADJOURN THE MEETING.

MOTION PASSED

Voting Aye: Tony Boevers
Mike Cooke
Jake Matherly
Kevin Westmoreland

Voting Nay: Scott Tucker

Absent: Paul Magdeburg

The meeting was adjourned at approximately 3:10 p.m.

Minutes approved in Regular Session on the 14th day of December, 2016.

/s/ Tony Boevers
Tony Boevers, Chair

/s/ Linda Ruckman
Linda Ruckman, Board Secretary