

State Board of Professional Engineers And Land Surveyors

Minutes of January 3, 2002

Public Session

CALL TO ORDER

The meeting of the State Board of Professional Engineers and Land Surveyors was called to order by the Board President James Kelly at 9:00 am in the Union Conference Room, Third Floor, 124 Halsey Street, Newark, New Jersey. All parties were duly notified of the time, date and place, with all pertinent material being provided.

SUNSHINE LAW ANNOUNCEMENT

President Kelly read the statement required by Chapter 231, Laws of 1975 known as the Open Public Meetings Act, and announced that notice of this meeting was prepared in the office of the Board and mailed to the Secretary of State, the Star-Ledger, the Courier Post and the Bergen Record.

ROLL CALL

BMs present:

James Kelly Pravin Patel
Albert Faraldi Edward Vernick
Richard Frantz Robert Marshall
Rishi Raj Louis Raimondi

BMs absent: Robert Bogart
Theodore Cassera

Others present: Arthur Russo, Executive Director, William Mandeville, Program Development Assistant Joseph Grabowy, Auditor/Accountant Assistant, Sadiqa Smith, Recording Secretary, Deputy Attorney General Michelle Albertson, and one member of the public.

COMMITTEE REPORTS

Legislation

BM Vernick submitted a legislation report outlining the following:

A1712/S842 - Authorizes the assessment of development impact fees by municipalities - On January 11, 2000 this bill was introduced and referred to the Assembly Housing Committee. It appears similar to A494

from the 1998/99 session which was supported by the League of Municipalities but opposed by the Builders' Association.

A2336/S789 - Capital and Educational Facility Financing Act (Impact Fees) - On May 1, 2000 this bill was introduced and referred to the Assembly Local Government Committee. It appears to be the Builders' Association response to A1712 (above).

A755 - Changes the duration of contracts for professional services under the "Local Public Contracts Law" from 12 months to 24 months - On January 11, 2000 this bill was introduced and referred to the Assembly Local Government Committee.

A1142 - Establishes the Professional, Occupational and Trades Licensing Review Commission - On January 11, 2000 this bill was introduced and referred to the Assembly Consumer Affairs and Regulated Professions Committee.

S1079- Establishes ten year limitation on a surveyor's liability with an exception for adverse possession cases - S1079 passed the Senate on October 2, 2000, with amendments. Passed the House on March 26, 2001 and was signed into law on May 4, 2001.

A2567/S1408 - Provide broader investigative and enforcement authority to professional licensing boards and other amendments to the statute - S1408 passed the Senate on June 21, 2001 and passed the Assembly on November 29, 2001.

A2768/S2282 - Interior Designers Certification Act - On September 25, 2000 this bill was introduced and referred to Assembly Consumer Affairs and Regulated Professions Committee. On May 3, 2001 this bill was reported out of the Assembly Appropriations Committee.

The Board had previously reviewed the provisions of this bill along with comments from the Board of Architects. It generally agrees with the concerns and position that the Board of Architects expressed in its writing to the Director of Consumer Affairs, and, at its October 19, 2000 meeting, voted to support this position. S2282 passed the Senate on June 28, 2001.

A2913 - Prohibits limitations on a contractor's remedy for delay caused by contracting unit under the "Local Public Contracts Law." On November 9, 2000, this bill, which was introduced and referred to the Assembly Local Government Committee, would prohibit "no damage for delay" clauses in contracts made under the Local Public Contracts Law. The bill was reported out of Assembly Local Government Committee on January 18, 2001, with amendments to include the Public School Contracts Law. On March 26, 2001 this bill passed the Assembly and was referred to the Senate Education Committee. This bill passed the Sen

ate on June 28, 2001 and was signed by the Governor on August 8, 2001.

AJR51/SJR26 - Establishes a "Local Public Works Contracting Law Study Commission" consisting of nineteen members - On October 12, 2000 AJR51 was introduced and referred to the Assembly Local Government Committee. On December 4, 2000 SJR26 was introduced and referred to the Senate Community and Urban Affairs Committee. A Senate Committee hearing was held on December 14, 2000, and passed the Senate on March 29, 2001 and referred to the Assembly Local Government Committee.

A2945/S1991- Authorizes public entities to use asphalt milling and recyclable concrete as a paving material, notwithstanding any other law, rule or regulation by NJDEP - On December 7, 2000, A2945 was reported out of the Assembly Transportation Committee. On December 15, 2000, S1991 was introduced and referred to the Senate Transportation Committee. A2945 was passed in the Assembly on June 28, 2001. On October 3, 2001, A2945 was referred to the Senate Transportation Committee.

A3154/S2269 - Permits issuance of home inspector licenses to professional engineers and architects - A3154 passed both the Assembly & the Senate and was signed by the Governor on July 13, 2001.

S2112 - Includes Certified Landscape Architect as a "closely allied professional" - Passed the Senate on March 26, 2001 and was reported out of the Assembly Consumer Affairs & Regulated Profession Committee on May 17, 2001.

S1714/A2863 - Appropriate \$135 million to DEP for dam, lake and stream projects - On October 12, 2000 A2863 was introduced and referred to the Assembly Environmental Committee. On December 18, 2000 S1714 was passed in the Senate and referred to the Assembly. The Board reviewed and discussed both bills and on a motion by BM Vernick, seconded by BM Patel, unanimously voted to take no position on them. Director Herr, in a March 5, 2001 memo, was so notified. Passed the Assembly on June 28, 2001. On October 3, 2001 this bill was received in the Senate for concurrence on amendments. On November 26, 2001 this bill passed both houses.

A3496/S1740 - Local Bridge Bond Act of 2001 authorizes \$250 million in bonds for County and Municipal bridge improvements - On May 21, 2001, A3496 was reported out of the Assembly Transportation Committee and referred to the Assembly Appropriation Committee. On June 7, 2001, S1740 was introduced and referred to the Senate Transportation Committee.

S2596 - Increases civil penalties for certain violations of "New Jersey Conflicts of Interest Law." Impacts State Officers and Employees - On November 8, 2001 S2596 was introduced and referred to the State Government Committee.

S2648 - Allows inactive licenses to complete required continuing education at any time prior to reactivating license - On November 8, 2001 S2648 was introduced and referred to the Commerce Committee.

Watershed Management Rules (D.E.P. rules & regulations) - Opposition has been voiced by both builders and environmental groups. Assembly has passed ACR 124 opposing rules. Identical Senate bill, SCR76 is being held by sponsor. The portion of the rules that covers discharge of wastewater to groundwater became effective on March 20, 2001 (N.J.A.C. 7:15-8.)

S2250/A3293 - Rescinds recent NJ DEP rules on subsurface sewage disposals for development of 6 lots or more, or 2,000 gpd or more (see above) - On March 22, 2001, A3293 was referred to the Assembly Environmental Committee. S2250 was referred to the Senate Environmental Committee on March 26, 2001.

A3936/S2765 - Adds site and utility work to list of categories of work for which separate plans and specifications may be prepared under "Local Public Contracts" - On November 19, 2001 A3936 was introduced and referred to Assembly Local Government Committee. On December 13, 2001 S2765 was introduced and referred to Senate Community and Urban Affairs Committee.

S2564 - Prohibits the public release of a professional licensees' home address - This bill was introduced on October 3, 2001, The Board reviewed and discussed this legislation at it's meeting of October 18, 2001 in which it voted to support the bill. The Board generally agrees with the bill's provisions and its intent to prevent the "stalking" of licensees. However, it also recognizes that while a home address must be available to contact licensees, that home address should not be public information unless the home address is also the licensees's business address.

An October 25, 2001 memo was forwarded to Director Herr, notifying him of the Board's comments.

On November 19, 2001 A3936 was introduced and referred to the Assembly Local Government Committee. On December 13, 2001 S2765 was introduced and referred to the Senate Community and Urban Affairs Committee.

S2487 - Provides for the certification of certain crane operators - This bill was introduced on September 6, 2001. The Board reviewed and discussed this bill with Anthony Miragliotta at its meeting of October 18, 2001 and voted to oppose the amendments to this bill. The Board would be willing to adopt this new Committee provided there is an accompanying budget appropriation to offset the additional administrative costs associated with this program. Conversely, if the assumption of this Committee does not include any monetary appropriations, then perhaps this committee could be transferred to a more appropriate jurisdiction such as the Department of Labor.

Additionally, while this bill recognizes the need to protect the public safety and welfare, the Board questions the need for additional state certification (via this bill) when federal regulations under the Occupation Safety and Health Administration (OSHA) are already in place. There is some uncertainty about the overlap and extent of the relationship between OSHA and the National Commission for the Certification of Crane Operators (CCO).

An October 25, 2001 memo was forwarded to Director Herr, notifying him of the Board's position on this bill.

S2737/A526 - Requires refund of permit fee for State agency failure to issue permit pursuant to review schedule - On November 26, 2001 S2737 was introduced and referred to the Senate State Government Committee. The Board reviewed and discussed this bill and voted not to support this bill. If the law is enacted as written it may result in the Board denying more applications due to the non-timely receipt of third party information needed to independently verify said applications. As a result applicants may need to reapply several times resulting in increased expense.

A memo dated January 3, 2002 was forwarded to Director Herr notifying him of the Board's opposition to this bill.

APPEARANCE

Anthony Miragliotta and Jake Gertsman

Deputy Director Miragliotta and Regulatory Analyst Jake Gertsman met with the Board to discuss the proposed regulation regarding the licensure of engineers as home inspectors. The Board discussed this regulation and made one minor change involving the wording of the proposed regulation.

On a motion by VP Patel, seconded by BM Raimondi, the Board unanimously voted to publish the regulation in the New Jersey Register for public comment.

MOVE TO EXECUTIVE SESSION

On a motion by BM Vernick, seconded by BM Frantz, the Board unanimously voted to enter into Executive Session for the purpose of seeking legal advice from counsel.

RETURN TO PUBLIC SESSION

On a motion contained within the Executive Session minutes, the Board unanimously voted to return to Public Session for the purpose of continuing the Public Session agenda.

APPEARANCE

Henry Fulton, PE - #14266

Henry Fulton appeared before the Board to discuss the reinstatement of his license. Mr. Fulton informed the Board that he had initiated the process to reinstate his license in New York. The Board requested that Mr. Fulton submit a copy of his New York application to the Board for its review. The Board will revisit this matter once Mr. Fulton's reinstatement application is complete in New York.

COMMITTEE REPORTS (Continued)

Administration

No report.

Examinations

No report.

Education

No report.

Regulations

No report.

Finance

Although there were some questions, the Board approved the recent quarterly billing report from the Division of Law.

Special Committee Reports

Newsletter

BM Raimondi reported that he has completed a draft of the 4th edition of the Board's newsletter and is working on the 5th edition. BM Vernick is working with BM Raimondi as an editor-in-training on the 5th edition.

Applications: Revisions PE/LS and Design Experience

No report. VP Patel suggested that this sub-committee be removed from future agendas until it is ready to discuss this matter.

Joint Committee

No report.

Website

The Website includes the following updated items: the dates for years 2002 and 2003 examinations; an automated change of address form; the three examination locations, NJIT, Rowan University and the West Trenton Firehouse, and a link to Engineering Examination Services (EES). Under a contractual arrangement, EES handles examination scheduling, examination scheduling, and grade reporting for the Board.

The Board requested that the Division staff check to ascertain if there are sufficient safeguards in place

when an address is changed. Further, the staff shall continue to monitor the Board's request to modify the search vehicle to obtain information by license number, rather than only by name.

2003 Northeast Zone Meeting

BM Raimondi reported that arrangements have been started for the 2003 Northeast Zone Meeting. He informed the Board that this meeting will be a joint effort between the northeast zone and the central zone and will be held in Orlando, Florida on April 3-5, 2003. While the Board will still act as the host state of the northeast zone, NCEES will handle the bulk of the preparation work involved. However, the Board will still need to facilitate the events surrounding this meeting.

BM Raimondi indicated that there will be a meeting in Burlington, Vermont on May 9-11, 2002 to discuss the 2003 northeast zone meeting.

Signing of Computer Generated Plans

No report since this is a recently formed sub-committee. BM Cassera recommended that this sub-committee be removed from future agendas until April 2002.

REPORT OF THE EXECUTIVE DIRECTOR

Incoming Correspondence

J.L. Gattis, Ph.D
(October 19, 2001)
Re: Review of plans.

Mr. Gattis informed the Board that he was requested to review a set of plans for a school site and to make suggestions as to how vehicular and pedestrian traffic flow could be improved. He requests advice on whether he can perform this job. The Board discussed this correspondence and concluded that he will have to become licensed as a professional engineer with the State of New Jersey in order to perform this project. Further, the Board noted that he can apply by comity since he is already licensed in Arkansas.

Charles Blumeling, PE, PLS , City of Newark
(November 30, 2001)
Re: Requesting clarification of N.J.A.C. 13:40-7.3 (c).

Mr. Blumeling stated that he received site plans for an extensive underground detention facility, which was designed and signed by an Architect. He wants to know if a professional engineer needs to sign this plan.

The Board discussed this matter and, pursuant to N.J.A.C. 13:40-7.3 (c), concluded that drainage facilities for site plans of 10 acres or more must be signed and sealed by a professional engineer.. Additionally, plot plans refer to residential housing and do not fall under the site plan rules. Finally, the Board's governing statutes and regulations do not address seepage pits.

Ryan McWilliams, Andrew Marshal, Jr., and Associates, LLC
(December 19, 2001)
Re: Survey Monuments

In his correspondence Mr. McWilliams asked the Board whether a Berntsen flarable pipe monument is a substitute for a 30" concrete monument. The Board discussed this matter and concluded that, while in certain circumstances it may be acceptable, it generally cannot serve as a substitute for a 30" concrete monument but. In addition, Mr. McWilliams requested a list of companies who make concrete monuments. However, the

Board does not maintain such lists.

Thomas Bodolsky, PE, Pequest Engineering Company

(December 4, 2001)

Re: Requesting clarification of N.J.A.C. 13:40-7.3 (h)

Mr. Bodolsky asked for an interpretation of the preparation of preliminary floor plans and elevation views of buildings as part of an overall site plan. The Board discussed this subject and concluded that the question was too general in nature and that an accurate response could not be provided. Additionally, the Board suggested that Mr. Bodolsky refer to N.J.S.A. 45:4B-7 regarding the Building Design Services Act and the regulations for additional guidance.

Richard F. Smith, Jr.

(October 22, 2001)

Re: Comments on S2564

In his correspondence Mr. Smith expressed his comments to Senator Raymond J. Zane in reference to S2564 which seeks to prohibit the public release of professional licensees' home addresses.

The Board noted this correspondence for the record.

NCEES

Re: NCEES Joins C2ED Partnership

The Center for Collaboration and Education in Design, LLC, (C2ED), a source of multimedia, Internet - based, continuing education courses for design professionals , has signed an agreement with the National Council of Examiners for Engineering and Surveying (NCEES) giving NCEES an ownership position in the venture.

The Board noted this correspondence for the record.

Betsy Browne, NCEES

(December 10, 2001)

Re: Legal action by Council

NCEES Counsel Robert Burgoyne notified the Board of recent actions taken in the United States District Court, South Carolina Division concerning the unauthorized use of NCEES copyrighted examinations.

The Board noted this correspondence for the record.

Frank T. Reilly, Transaction 2002

(November 23, 2001)

Re: 26th Annual NJ State Transportation Conference

The 26th Annual NJ State Transportation Conference will be held April 15-17, 2002 at Tropicana Resort & Casino, Atlantic City, NJ.

The Board noted this correspondence for the record.

Betsy Browne, NCEES

(December 13, 2001)

Re: Mechanical Pencils

The NCEES Board of directors authorized the purchase of a sufficient number of mechanical pencils for all candidates taking the April 2002 and for future NCEES examinations. Based on recommendations from an exam-security study, the NCEES Board voted to provide the mechanical pencils to prevent examinees from using small wand-like scanning devices during examinations.

The Board noted this correspondence for the record. Further, the Board requested that after the exam, the Division staff obtain feedback on the use of mechanical pencils.

**John Q. Adams, III, PE, NCEES
(October 25, 2001)**

Re: Notice of future changes to NCEES Examinations

The PE examination in Electrical Engineering is scheduled to change to the breadth/depth format in April 2002. Effective with the format change the name of the examination will change to Electrical and Computer Engineering. Beginning with the April 2002 examination, the FE examination will offer a new discipline specific PM module in Environmental Engineering.

The Board noted this correspondence for the record.

**Matthew Cook, PCS
(December 12, 2001)**

Re: Requesting approval of mailing list of candidates to qualifying users.

Professional Credential Services (PCS) requests approval from the Board to release mailing lists containing candidates information to qualifying users.

The Board reviewed and discussed this matter and on a motion by BM Faraldi, seconded by BM Marshall, unanimously voted not to authorize the release of mailing lists of candidates to qualifying users.

Incoming Correspondence:

**Raymond T. Bolanowski, Esq.
(December 5, 2001)**

City of Elizabeth, Department of Law, Elizabeth, New Jersey

In his correspondence Mr. Bolanowski is responding to the Board's request for additional information on a matter regarding an ethics opinion concerning the propriety of an engineer accepting a public works contract when that engineer has been designated by the Planning Board and the Board of Adjustment of the City of Elizabeth as its Consulting Engineer.

The Board tabled this matter until the February 7, 2002 Public Session meeting.

Certificate of Authorization - November 2001

The Board noted the Certificate of Authorization report for the record.

Applications Received/Verifications Processed Report - November 2001

The Board noted the Applications/Verifications Processed report for the record.

Certificate of Authorization (C/A) Renewal 2002

William Mandeville reported that he has requested that the C/A 2002 renewal date be permanently changed

from May 1st to July 1st beginning in 2002. As a result, the licensure renewal date and the C/A renewal date will not overlap. Additionally, the licensee database can be used to check the licensure status of those licensees named on the C/A renewal forms. All existing C/A holders will be notified of the new renewal dates in a separate mailing.

The Board reviewed and discussed this matter and on a motion by BM Frantz, seconded by BM Vernick, the Board unanimously voted to approve the change in the renewal date.

LICENSURE REINSTATEMENT

James Hall, PE #30805

Mr. Hall requests renewal of his license for the May 1, 2000 - April 30, 2002 renewal period. His address was not correct in the licensing system and he did not receive his renewal notice. However, the Board noted that this was not the first time that Mr. Hall failed to renew his license or check with the Division staff in a timely fashion when he did not receive his renewal notice.

The Board reviewed and discussed this matter and on a motion by BM Frantz, seconded by BM Marshall, unanimously voted to renew Mr. Hall's license.

APPROVAL/ DENIAL OF APPLICATION FOR LICENSURE

The Board reviewed the December 20, 2001 Examination/Comity Applications Report and voted to approve 40 exam and 7 comity applications and to deny 12 exam and 1 comity applications (list attached).

On a motion by BM Frantz, seconded by BM Vernick, the Board unanimously voted to accept the December 20, 2001 list of approved/denied applications for licensure.

ADJOURNMENT

On a motion by BM Frantz, seconded by BM Raj, the Board unanimously voted to adjourn at 1:00 pm.

Approved by:

James D. Kelly

President

Arthur Russo

Executive Director