

# State Board of Professional Engineers and Land Surveyors

Minutes of February 1, 2001

## 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 Albert Faraldi at 9:20 am in the Hudson Conference Room, Sixth 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 Faraldi read the statement required by Chapter 231, Laws of 1975 known as the Open Public Meeting 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:	Albert Faraldi	James Kelly (departed 1:00 pm)
	Robert Bogart	Theodore Cassera
	Pravin Patel	Louis Raimondi
	Edward Vernick	

BMs absent: Richard Frantz Robert Marshall Rishi Raj

Others present: William Mandeville, Program Development Assistant, Sadiqa Smith, Recording Secretary, Martha Richardson, Board Staff, Olga E. Bradford, Deputy Attorney General and two members of the public.

### APPROVAL OF MINUTES

#### December 7, 2000

On a motion by BM Bogart, seconded by BM Patel, the Board unanimously voted to approve the minutes of December 7, 2000 as amended.

#### December 21, 2000

On a motion by BM Bogart, seconded by BM Patel, the Board unanimously voted to approve the minutes of December 21, 2000 as amended.

#### January 4, 2001

On a motion by BM Bogart, seconded by BM Patel, the Board unanimously voted to approve the minutes of December 7, 2000 as amended.

### REAPPOINTMENT OF BOARD MEMBERS

President Faraldi reported that he is pleased to announce that Governor Christine Todd-Whitman has reappointed BM Frantz and BM Patel to another term on the Board.

## COMMITTEE REPORTS

### Legislation

BM Vernick submitted a legislation report outlining the following:

**A1712/S842 - Authorizes 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.

**A1180/S1557 - Broadens the education requirement for professional planning licensure** - Passed the Assembly on March 27, 2000 and referred to the Senate Commerce Committee. The Board, at its April 6, 2000 meeting, initially opposed this bill. After a later discussion, however, it voted to take "no position". Its position on A1180 has been communicated to the Director's office.

**S16 - Congestion Relief and Transportation Trust Fund Renewal Act of 2000** - This bill conforming to the Governor's recommendations passed the Senate on June 29, 2000 and the Assembly on July 13, 2000. It was signed by the Governor on July 20, 2000. Authorization to fund the Trust Fund was approved by the voters on November 7, 2000.

**A1673/S813 - Funding for the 1999 Statewide Transportation and Local Bridge Bond Act (\$251 million)** - This bill passed the Assembly on February 24, 2000, the Senate on March 23, 2000, and was signed by the Governor on April 6, 2000.

**S200 - Educational Facilities Construction and Financing Act (Gormely/Lynch)** includes Abbott Districts - A bill conforming with the Governor's recommendations passed the Senate on June 29, 2000, and the Assembly July 13, 2000. It was signed by the Governor on July 18, 2000.

**A426/S496/S601 - Authorizes the Adoption of Municipal Time Growth Ordinance** - On January 11, 2000 each bill was introduced and referred to the Assembly, Local Government Committee or Senate Community and Urban Affairs Committee.

**S1079/A2448 - Establishes ten year limitation on surveyor's liability with an exception for adverse possession cases** - On March 16, 2000 each bill was introduced and referred to the Senate Judiciary Committee. On May 22, 2000 each bill was introduced and referred to the Assembly Judiciary Committee. S1079 passed the Senate on October 2, 2000, with amendments. A2448 is still with the Assembly Judiciary Committee. The Board, at its September 7, 2000 meeting, voted to support both bills.

**A2567/S1408 - Provides broader investigative and enforcement authority to professional licensing boards and other amendments to the statute** - On June 1, 2000 each bill was introduced and referred to the Assembly Consumer Affairs and Regulated Professions Committee. On June 15, 2000 each bill was introduced and referred to the Senate

Commerce Committee.

**A2768 - Interior Designers Certification Act** - On September 25, 2000 this bill was introduced and referred to Assembly Consumer Affairs and Regulated Professions 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 has expressed in its writing to the Director of Consumer Affairs. The Board, at its October 19, 2000 meeting, voted to support the concerns raised and the positions taken by the Board of Architects.

**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 was introduced and referred to the Assembly Local Government Committee. This bill would prohibit "no damage for delay" clauses in contracts made under the Local Public Contracts Law. This bill was reported out of Assembly Local Government Committee on January 18, 2001, with amendments to include the Public School Contracts Law.

**AJR51/SJR26 - Establishes a "Local Public Works Contracting Law Stud Commission" consisting of nineteen members** - On October 12, 2000 this bill was introduced and referred to the Assembly Local Government Committee. On December 4, 2000 this bill was introduced and referred to the Senate Community and Urban Affairs Committee. A Senate Committee hearing was held on December 14, 2000, and SJR26 was amended to add two members, one from NJSME.

**A2945/S1991- Authorizes public entities to use asphalt milling and recyclable concrete as a paving material, not withstanding any other law, rule or regulation by NJDEP** - On December 7, 2000 A2945 reported out of Assembly Transportation Committee. On December 15, 2000 S991 was introduced and referred to Senate Transportation Committee.

**A3154 - Permits issuance of home inspector's licenses to professional engineers and architects** - On January 23, 2001 this bill was introduced and referred to Assembly Consumer Affairs and Regulated Professions Committee. The Board reviewed and discussed this bill and on a motion by VP Kelly, seconded by BM Patel, the Board unanimously voted to support A3154.

**A3027/S1915** - A3027 revises various provisions of the "Home Inspection Professional Licensing Act, while companion bill S1915 permits the issuance of a home inspector license to certain licensed construction and building subcode officials. The Board will indicate its position on these bills after it has had an opportunity to review and discuss the Home Inspection Advisory Committee's (HIAC) position on both these bills.

**A2232** - Authorizes an administrative law judge to make a final decision in contested cases, appealable to the Appellate Division of the Superior Court -The Board reviewed and discussed this bill at it's January 4, 2001 Public Session meeting and initially voted to support it. A position paper supporting the bill as written was communicated to the Director's Office. ED Russo reported at the January 18, 2001 Public Session meeting that he was informed by the Director's Office that this Board was the only one to support the bill and that they thought this was an error. The Board reviewed this bill further and determined that it had misinterpreted the meaning and intent of the bill, and noted that administrative law judges would lack the technical expertise in considering and administering final decisions on matters unfamiliar to them. The Board voted to send a corrected position paper opposing this bill to the Director's Office.

**Wetland Legislation - Watershed Management Rules (D.E.P. rules & regulations)** - The Comment period ended on October 2, 2000. The D.E.P. reported that opposition was voiced by both builders and environmental groups. The Assembly has passed ACR 124 opposing the rules and the Senate is considering the same. A rule change is now on hold so that the NJDEP may consider some changes.

**Residential Site Improvement Standards** - A public hearing on the proposed revisions was held on September 21, 2000. D.C.A. to publish response to public comments in the forthcoming edition of the New Jersey Register. The adopted revisions were published in the December 4, 2000 edition of the New Jersey Register. The effective date is

December 4, 2000, and the operative date is June 3, 2001.

### **Administration**

The 2000 roster book has been mailed to all licensees.

### **Examinations**

The October 2000 exam results were released to all examinees.

### **Education**

No report.

### **Regulations**

No report.

### **Finance**

No report.

### **Special Committee Reports**

#### **Newsletter**

BM Raimondi has completed the draft of Newsletter volume three. A copy has been supplied to the Print Production Unit for review. BM Raimondi will begin to work on the fourth edition of the Newsletter.

#### **Applications - Design Experience**

BM Bogart reported that his committee has completed its revisions of the design experience portion of the application. A user manual which will include examples of design experience by engineering discipline, is being assembled and will be made available to Board members as an aid in the review of applications when completed.

#### **Application - Revisions PE/LS**

No report.

#### **Joint Committee**

BM Patel stated that the next Joint Committee meeting is scheduled for February 6, 2001.

#### **Website**

No report.

#### **Certificate of Authorization**

No report.

#### **Brokering of Land Surveying Services**

No report.

#### **Annual Meeting**

The Annual Meeting is scheduled for May 18, 2001. BM Patel reported that he will be meeting with June Levy to go over the details.

## **REPORT OF THE EXECUTIVE DIRECTOR**

### **Incoming Correspondence**

**Jeffrey J. Careaga, PE, Civil Engineering, INC.**  
**(December 20, 2000)**

**Re: Ownership of Engineering Documents**

Mr. Careaga is requesting the Board's opinion regarding the right of ownership of original sealed engineering documents.

The Board stated that once plans are signed and sealed they are official documents and the client should be able to rely upon the documents. However, the issue regarding fees is not under the Board's jurisdiction.

**James Knox, Gebhardt & Kiefer**  
**(January 23, 2001)**

**Re: Assignment of engineering responsibilities**

Mr. Knox is requesting the Board's opinion regarding the responsibility of engineering documents that are signed and sealed.

The Board reviewed Mr. Know's correspondence and stated that VP Kelly and BM Cassera will draft a response to Mr. Knox's correspondence for the Board's review.

**Pravin Patel, PE, Pravin H. Patel Associates, INC**  
**(January 11, 2001)**

**Re: Engineering Times "Florida DOT Creates System to Sign and Seal Electronic Files"**

The Board noted this article for the record.

**Stephen T. Boswell, Ph.D, PE, Boswell Engineering**  
**(January 15, 2001)**

**Re: NSPE Model Law for Professional Engineer Licensure**

Mr. Boswell expressed concern that NSPE Board of Directors approved a change in the model law for professional engineer licensure. Two of the significant changes include exemption from the requirement to pass the Fundamental of Engineering examination if a person holds an advanced degree in engineering and a change in the professional engineering examination to a "non-technical" examination. He stated that NJSPE approved a motion to oppose these revisions.

The Board requested that Mr. Boswell be notified that it will be writing to NSPE expressing its concerns. The Board stated that it disagrees with the proposed changes that applicants with an advanced degree should be exempt from the Fundamentals of Engineering examination.

### **Licensing Data**

This information was included in the agenda packet for informational purposes.

### **Applications Received/Verifications Processed - December 2000**

The Board noted this information for the record.

## **Exam Change**

The examination format for the October 2001 mechanical engineering exam will change from essay to multiple choice and in October 2002 for the electrical exam. DAG Bradford stated that a regulatory change will need to be made to concur with this change. The Board office will notify the regulatory department that the process of reviewing exam solutions will change as of October 2001.

## **ARTICLES OF INTEREST**

NJSPE - State Bulletin

NJSPE - Perspectives "In Memoriam - Joseph F. Wiseman, PE"

NJSPE - Perspectives "Legislative Update"

The Board noted this article for the record.

## **APPROVAL/DENIAL OF APPLICATIONS FOR LICENSURE**

The Board reviewed the January 18, 2001 Examination/Comity Applications Report and voted to approve 8 exam and 19 comity applications, and to deny 6 exam and 5 comity applications. (list attached).

On a motion by BM Bogart, seconded by BM Patel, the Board unanimously voted to accept the January 18, 2001 list of approved/denied applications for licensure.

## **REPORT OF THE DAG**

### **Joseph G. Hodak, PE, PLS - # 11667 (Response to POD)**

A Provisional Order of Discipline (POD) previously issued, instructed Joseph Hodak to pay an assessed fine of \$2,500.00 for his failure to comply with the Board's request to obtain the necessary continuing educational credits. A response was received from Robert J. Fogg, Esq., Mr. Hodak's attorney, who requested that the Board rescind the previously issued POD, and, in exchange, Mr. Hodak would relinquish his land surveyor's license but retain his engineering license. The Board had voted at its December 7, 2000 meeting to rescind the assessed penalty of \$2,500, for his failure to obtain the requisite PDHs. However, the Board voted to finalize the \$1,000.00 civil penalty previously assessed for his failure to cooperate with the Board's written requests, in violation of N.J.S.A. 45:1-21(e). Additionally the Board voted to permit Mr. Hodak to retire his land surveying license but retain his engineering license. DAG Bradford issued the Final Order on this matter.

In response to the Final Order of Discipline, Mr. Fogg wrote to the Board on January 26, 2001 requesting that it reconsider the \$1,000.00 civil penalty based on financial hardship to Mr. Hodak. The Board reviewed this matter and on a motion by BM Patel, seconded by BM Vernick, the Board unanimously voted to deny this request. However, the Board voted to allow Mr. Hodak to pay the \$1,000.00 in installments of \$100.00 for a ten month period. This will begin once the Final Order is received by Mr. Hodak.

## **MEETING WITH BRITISH CONSULATE-GENERAL NEW YORK**

President Faraldi reported that he, ED Russo, BM Patel, William Mandeville and Joseph Grabowy met with Vice-Consul for Trade, Charles Picarelli, on January 25, 2001 at the Board office. The meeting was very informative.

## **MOVE TO EXECUTIVE SESSION**

On a motion by BM Vernick, seconded by BM Patel, the Board unanimously voted to move into Executive Session for the purpose of reviewing complaints.

## RETURN TO PUBLIC SESSION

In accordance with a motion contained in Executive Session, the Board unanimously voted to return to Public Session for the purpose of adjournment.

## ADJOURNMENT

On a motion by BM Vernick, seconded by BM Raimondi, the Board unanimously voted to adjourn at 2:20 pm.

### Approved by:

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Albert N. Faraldi, PLS  
President

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Arthur Russo  
Executive Director

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*Modified March 2002*