

State Board of Professional Engineers and Land Surveyors

Minutes of March 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 9:00 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

BM's present:

Albert Faraldi
James Kelly
Richard Frantz
Robert Marshall
Pravin Patel
Rishi Raj (arrived 9:30 am)
Louis Raimondi
Edward Vernick

BM's absent:

Robert Bogart and Theodore Cassera

Others present: Arthur Russo, Executive Director, William Mandeville, Program Development Assistant, Joseph Grabowy, Management Assistant, Sadiqa Smith, Recording Secretary, Martha Richardson, Board Staff, Olga E. Bradford, Deputy Attorney General and one member of the public.

APPROVAL OF MINUTES

January 18, 2001

On a motion by BM Frantz, seconded by BM Vernick, the Board unanimously voted to approve the minutes of January 18, 2001 as printed.

February 1, 2001

On a motion by BM Raimondi, seconded by BM Frantz, the Board unanimously voted to approve the minutes of February 1, 2001 as amended.

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 passed the Senate on February 15, 2001. 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 S1079 was introduced and referred to the Senate Judiciary Committee. On May 22, 2000 A2448 was introduced and referred to the Assembly Judiciary Committee. S1079 passed the Senate on October 2, 2000, with amendments. A2448 is reported out of the Assembly Judiciary Committee as of September 25, 2000. 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 A2567 was introduced and referred to the Assembly Consumer Affairs and Regulated Professions Committee. On June 15, 2000 S1408 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 expressed in its writing to the Director of Consumer Affairs, and, at its October 19, 2000 meeting, voted to support the position 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, 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.

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 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, notwithstanding 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 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. A February 14, 2001 memo was sent to Director Herr stating the Board's position in support of this bill.

S2112 - Includes Certified Landscape Architect as a "closely allied professional" - On February 15, 2001 this bill was introduced and referred to the Senate Commerce Committee. The Board reviewed and discussed this bill and on a motion by BM Vernick, seconded by BM Patel, it unanimously voted to take no position on S2112. Director Herr was notified of the Board's position in a March 5, 2001 memo.

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 this bill and on a motion by BM Vernick, seconded by BM Patel, unanimously voted to take no position on it. Director Herr, in a March 5, 2001 memo, was so notified.

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. The portion of the rules that covers discharge of wastewater to groundwater was published in the February 10, 2001 edition of the New Jersey Register and will become effective on March 20, 2001. The rule is adopted as N.J.A.C. 7:15-8

Residential Site Improvement Standards - A public hearing on the proposed revisions was held on September 21, 2000. D.C.A. will publish their responses 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

Professional Credential Services, Inc - Renewal of Contract

ED Russo stated that the Professional Credential Services (PCS) contract is coming up for renewal and that the April 2001 examinations will be the last to be administered under the current contract. The Board indicated they would like to invite PCS to come in to discuss the contract. However, before doing so, BMs were asked to submit questions to BM Frantz regarding PCS before a meeting is scheduled.

Examinations

ED Russo reported that the April 2001 exam is scheduled for April 20 and 21, 2001. President Faraldi and BM Marshall will be visiting the southern location at the West Trenton Volunteer Fire Co., and BMs Raimondi and Frantz will visit the northern location at the Crystal Springs Golf and Spa Resort during examinations.

Education

BM Frantz spoke about plans by the Department of Education to remove practical arts courses from the high school graduation requirements. The Board reviewed and discussed this matter and on a motion by BM Frantz, seconded by BM Vernick, unanimously voted to oppose dropping these courses from the curriculum. BM Frantz will draft a letter opposing this change for the Board's review.

Regulations

No report.

Finance

No report.

Special Committee Reports

Newsletter

BM Raimondi stated that he has begun work on the fourth edition of the Newsletter. William Mandeville stated that with the departure of Jonathan Andrews to the public sector, publication of the third Newsletter will be delayed. Mr. Andrews previously served as editor and coordinator of the Division's newsletters.

Applications - Design Experience

No report.

Application - Revisions PE/LS

No report.

Joint Committee

BM Patel stated that a Joint Committee meeting was held on February 6, 2001. One of the items discussed at that meeting was a correspondence referred to it by the Board from Al Vasys of Cambridge Associates, Ltd. Mr. Vasys asked who may perform the energy/insulation calculations to determine if a newly constructed residential building complies with the BOCA national energy conservation code.

In his correspondence of February 14, 2001, James Hsu, Executive Director, Board of Architects, advised ED Russo that the Board of Architects, to whom the letter was referred, concluded and voted that either a professional engineer or architect can perform the energy/insulation calculations. However, Mr. Hsu stated that in accordance with N.J.S.A. 45:4B Building Design Services Act only an architect can sign and seal plans for alterations or renovations.

The Board discussed this matter and requested that ED Russo write to Mr. Hsu to obtain clarification to his last

statement and its relevance to the earlier response that either a professional engineer or architect may perform these calculations.

Website

Joseph Grabowy stated that the Division of Consumer Affairs has revised the standardized complaint form for use by all Boards. The new form indicates that the complaint information provided on the form may be released to the public, and that the question on existing forms concerning release of the form to respondents has been removed. The Board expressed its concern with the first change that information provided may be released to the public before a final determination is made of the complaint.

Certificate of Authorization

ED Russo reported that eighty-one New Jersey corporations, and sixty-eight out of state corporations failed to renew their C/As.

Brokering of Land Surveying Services

No report.

Annual Meeting

The Board's Annual Meeting is scheduled for May 18, 2001. ED Russo reported that approval has been given to hold the meeting at the Liberty Science Center, Jersey City, NJ.

REPORT OF THE EXECUTIVE DIRECTOR

**John D'Onofrio, PE, PLS, D'Onofrio Engineers, P.C.
(January 17, 2001)**

Re: Accident reconstruction services

In his letter Mr. D'Onofrio questions the qualifications of accident investigators to perform such work without a PE license inasmuch as this work involves rendering opinions on the evaluation of roadways elements and the application of special knowledge in fields of mathematics and physical science.

The Board reviewed Mr. D'Onofrio's correspondence and directed ED Russo to thank him for the information and that the Board will consider his suggestions.

**Jerome H. Irick, PE, PP, Irick Engineering
(February 14, 2001)**

Re: Statute interpretation

Mr. Irick's correspondence raised the question of whether professional engineers can perform field measurements including typographic elevations, as necessary, for the design of drainage systems including site plans.

The Board directed ED Russo to request from Mr. Irick additional information pertaining to the case cited to include the municipal engineer's report, engineering plans submitted and the survey of record. In addition, the Board also requested that Mr. Irick define his inquiry succinctly.

**Thomas W. Brooks, Jr., National Society of Professional Surveyors
(January 31, 2001)**

Re: NSPS Registration Forum

An announcement was made that the NSPE Registration Forum will be held in Las Vegas, NV on March 19, 2001 at the Riviera Hotel and Casino. It will be held in conjunction with the American Congress on Surveying and Mapping.

The Board noted this forum for the record.

**James Kelly, PE, Boswell Engineering
(February 5, 2001)**

Re: Engineering Times article "Legal Corner"

A column published in the February 2001 edition of the Engineering Times (NSPE), in its "Legal Corner" section, includes a letter from a contractor, whose company employs professional engineers, who asks if his company can perform "design/build" work. The response from the columnist, Arthur Schwartz, NSPE Deputy Executive Director and General Counsel, is that his company "...would not appear to qualify as a company that could offer engineering services in New Jersey."

BM Kelly says that while he found this response to be accurate, it was not necessarily complete and potentially misleading since the company discussed employs professional engineers which would qualify the company for a Certificate of Authorization (C/A) thereby meeting the requirements to provide building design services.

The Board discussed the article and requested that ED Russo write to the author to express the Board's concerns.

**Edward Vernick, PE, Remington & Vernick Engineers
(February 5, 2001)**

Re: Engineering Times article "More schools make the FE exam a requirement for graduation"

The Board noted the article for the record.

**Betsy Browne, NCEES
(February 15, 2001)**

Re: Wayne Gardner, PE, PLS, President of Mississippi Member Board

The Board was notified that Mr. Gardner, known to some members of the Board, passed away on February 14, 2001. The Board will send its condolences.

**Lewis Conley, PLS, Colonial State Board of Land Surveyor Registration
(February 2001)**

Re: Annual Dues

The annual dues for CSBLSR membership, for the period from November 2000 thru October 2001, is \$250.00 as stated in the invoice.

The Board discussed this invoice and on a motion by BM Patel, seconded by BM Raimondi, unanimously voted to approve payment.

NCEES Exam Invoice

NCEES submitted an invoice for \$40,985.00 for the administration of the October 2000 examinations. The Board reviewed and discussed the invoice, found it to be in order, and on a motion by VP Kelly, seconded by BM Raimondi, unanimously authorized payment of this bill.

NCEES Annual Membership Fee

NCESS submitted a invoice in the amount of \$5,000.00 representing its annual membership fee. The Board discussed the invoice and on a motion by VP Kelly, seconded by BM Vernick, unanimously voted to authorize its payment.

President/Administrative Assembly

ED Russo reported that he, President Faraldi and BM Raimondi attended the President/Administrative Assembly on

February 1, 2001 in Tempe, AZ.

Some of the major topics of discussion at the Assembly included:

- Promotion of PE licensure
- National registration
- Model Law Engineer
- Discussion on mobility
- Fast tracking of comity applications

ED Russo reported that during one of the discussions, he heard that New Hampshire is the only other state (besides NJ) that requires two years of engineering design experience to qualify for licensure.

A copy of the President/Administrative Assembly meeting minutes were distributed for the Board's review.

Meeting with Delegation from the Chinese National Administration Board of Engineering Registration

The meeting scheduled with the Chinese delegation on March 5, 2001 was canceled.

Home Inspection Advisory Committee

ED Russo reported that on February 28, 2001, Ernest Gonzalez, William Mandeville, Assistant Director Tony Miragliotta and himself met with investigators and supervisory investigators from the Office of Consumer Protection (OCP) to discuss the processing of HIAC complaints. ED Russo stated that the manner in which OCP handles complaints is far more involved, detailed and complex than the Board's procedures for handling complaints.

NCEES Record Programs

ED Russo reported that approximately only 8,000 out of 500,000 (1.6%) of licensees are using the NCEES records program for licensure applications.

NJDOT Title Block

The Board discussed and reviewed the letter sent to Dennis Keck, Assistant Commissioner, NJDOT, advising him that the standard title block used by NJDOT on its engineering plans does not comply with the Board's regulations. This matter was pointed out to the Board by Joseph Donato. ED Russo will notify Mr. Donato that the Board took preliminary action on this matter.

Review of Applications

ED Russo reported that there should be a constraint on the length of time an application is out for review. The Board discussed this matter and agreed that all applications should be returned by Board members within thirty days of their assignment.

Certificate of Authorization Report - January 2001

The Board noted this report for the record.

Applications Received/Verifications Processed - January 2001

The Board noted the report for the record.

ARTICLES OF INTEREST

"The Electronic Signature Law: Will It Change Your Practice?"

**Oklahoma State Board - The Board's Bulletin "Electrical PE Exam"
Changes to Electrical & Computer Engineering Exam (attachment)
NSPE - State Bulletin "Engineering Extended to K-12" (attachment)**

The Board noted the articles for the record.

APPROVAL/DENIAL OF APPLICATIONS FOR LICENSURE

The Board reviewed the February 15, 2001 Examination/Comity Applications Report and voted to approve 9 comity applications, and to deny 2 exam applications (list attached).

On a motion by BM Patel, seconded by BM Vernick, the Board unanimously voted to accept the February 15, 2001 list of approved/denied applications for licensure.

REPORT OF THE BOARD PRESIDENT

Appointment of the Nominating Committee

President Faraldi appointed BM Frantz (Chair), BM Raj and BM Raimondi to the Nominating Committee to prepare a slate of officers for the Board's consideration for the upcoming Board election. BMs were asked to submit the names of nominees to BM Frantz prior to April 5, 2001. The Committee will make its recommendations to the Board at the April 5, 2001 Public Session meeting.

APPLICATIONS - FULL BOARD REVIEW

Yanak Shagalov, #51683

BM Patel noted that Mr. Shagalov received a foreign undergraduate degree and had a course evaluation performed by another agency other than Educational Credential Evaluators, Inc. (ECE). In addition, it was noted that he worked for twenty years as an engineer. The problem is that the evaluation of his foreign degree was made by a non-Board approved evaluation service. The Board discussed this matter and on motion by BM Patel, seconded by BM Kelly, the Board unanimously voted to grant a PE license to Mr. Shagalov.

Yefin Gudesblat, #49645

In this application, BM Patel noted that Mr. Gudesblat was short undergraduate school credits in engineering design. Bm Patel discussed his evaluation of his undergraduate courses on a course by course basis with the Board which he found to be qualifying. On a motion by BM Patel, seconded by BM Kelly, the Board unanimously voted to approve this application and to grant a PE license to Mr. Gudesblat.

MOVE TO EXECUTIVE SESSION

On a motion by BM Patel, seconded by BM Raimondi, the Board unanimously voted to move into Executive Session for the purpose of discussing Executive Session items.

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 2:00pm.

Approved by:

Albert N. Faraldi, PLS
President

Arthur Russo
Executive Director

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Modified March 2002