

State Board of Professional Engineers and Land Surveyors

Minutes of July 6, 2000

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

BMs present:

Albert Faraldi Robert Bogart
Theodore Cassera Richard Frantz
Pravin Patel Rishi Raj
Louis Raimondi Edward Vernick

BMs absent: James Kelly and Robert Marshall

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

APPROVAL OF MINUTES

May 5, 2000

On a motion by BM Bogart, seconded by BM Raimondi, the Board unanimously voted to approve the minutes of May 5, 2000 as amended.

May 18, 2000

On a motion by BM Bogart, seconded by BM Frantz, the Board unanimously voted to approve the minutes of May 18, 2000 as amended.

June 1, 2000

On a motion by BM Bogart, seconded by BM Patel, the Board unanimously voted to approve the minutes of June 1, 2000 as amended.

COMMITTEE REPORTS

Legislation

BM Vernick submitted a legislation report that outlined the following:

Residential Site Improvement Standards - A draft of the 2nd annual revision was approved by the Site Improvements Advisory Board (SIAB) on March 23, 2000, and forwarded to the DCA Commissioner. Publication for comment is projected for June 2000, with adoption in the fall. Thicker pavement sections have been adopted. The basin maintenance issue is being delayed until next year.

A1712 - 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 - 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 opposed this bill. The Board later discussed the bill and 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 - Bill conditionally vetoed by Governor on June 29, 2000. A bill conforming to the Governor's recommendations passed the Senate on June 29, 2000. The Assembly is scheduled to address this bill at a special session on July 13, 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 District - Bill conditionally vetoed by Governor on June 29, 2000. Senate passed bill conforming with Governor's recommendations on June 29, 2000. No vote in Assembly.

A2041 - Educational Facilities Construction and Financing Act (Collins/Malone) includes Abbott Districts - Introduced on February 7, 2000. This bill has passed both Houses and was received by the Assembly in concurrence with the Governor's recommendation as of June 29, 2000. Substituted by Bill S200.

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.

Administration

No report.

Examination

No report.

Education

No report.

Regulations

The Board reviewed the proposed amendments to the rules and made changes where appropriate. Among those changes, as recommended by BM Raimondi, is that the title block specification be modified to include space for a Certificate of Authorization number for engineering and /or land surveying firm providing or offering to provide said services.

Finance

No report.

Special Committee Reports

Newsletter

BM Raimondi reported that he has reviewed the final draft of the second edition of the Newsletter and found everything to be in order. He is presently working on the third edition.

Applications: Revisions Design Experience

BM Bogart reported that the Committee is currently working on revising the PE application.

Shop Drawings

BM Bogart indicated that he is awaiting VP Kelly's report regarding the Board's position on the subject of shop drawings.

Home Inspection Advisory Committee Regulations

No report.

Joint Committee

ED Russo reported that the next Joint Committee meeting is scheduled for August 1, 2000.

Sunsetting Regulations

Stacy Mola, Regulatory Analyst, will be appearing before the Board later today to discuss this matter.

Website

A brief meeting was held between the Committee Chair Ed Vernick and staff member Joseph Grabowy. CC Vernick requested an update on what is currently provided on the Board's Website and suggested adding the following items: a counter to determine the number of Website visits; a link to NCEES; Board approved minutes; a list of companies issued Certificates of Authorization; and directions to the Board office in Newark, NJ.

REPORT OF THE EXECUTIVE DIRECTOR

Incoming Correspondence

Colonial States Board of Land Surveyor Registration (3/2000)

Re: Annual Dues for period November, 1999 to October, 2000

ED Russo requested the Board's approval to pay the \$200.00 annual registration dues for the Colonial States Board of Land Surveyors registration.

On a motion by BM Raimondi, seconded by BM Bogart, the Board unanimously voted to authorize ED Russo to pay this fee.

James Hsu, Board of Architects (5/1/2000)

Re: Home Inspectors Revised Draft Rules

This memorandum is notice to the Board of Professional Engineers and Land Surveyors that the Board of Architects reviewed the home inspectors revised draft rules and is concerned about their contents as they affect architects and engineers.

The Board noted Mr. Hsu's memorandum for the record.

Lewis H. Conley, Jr., PLS, Van Note-Harvey Associates, P.C.(5/3/2000)

Re: Preparation of Drug Free Zone Maps

The Board discussed this letter which indicated that municipal/county engineers, and not land surveyors, were preparing drug-free zone maps in violation of the Board's regulations. Pursuant to N.J.S.A. 45:8-28(e), professional engineers can perform measurements necessary for the design, construction stake-out, construction and post-construction records of an engineering project, provided that these measurements are not related to property lines, lot lines, easement lines, or right-of-way lines, the establishment of which are required to be made by a land surveyor.

Mr. Conley mentions in his letter that municipal engineers are preparing maps indicating the location and boundaries of these drug-free zoned areas. In addition, he stated that when the governing body of a municipality or county has adopted a resolution or ordinance approving these maps as official findings and records for the location, it is considered proper authentication to be admissible, and constitutes prima facie evidence of the location and boundaries of those areas.

The Board has consistently determined that these drug-free zoned maps must be prepared by licensed land surveyors. The conflict between N.J.S.A. 45:8-28 (e) and N.J.S.A. 2C:35-5 and N.J.S.A. 2C:35-7, needs to be resolved.

The Board has requested that ED Russo send a memo to Deputy Director Anthony Miragliotta seeking a resolution to this matter. The Board also suggested that in lieu of a time consuming legislative change process, that a written opinion from the Attorney General could be requested to resolve this conflict.

Joe Rhoads, PE, National Society of Professional Engineers (6/5/2000)

Re: NSPE-PEC Mentoring Group/Licensure Board Workshop July 27, 2000, Norfolk, Va.

Mr. Rhoad's correspondence outlined the issues which will be discussed at this workshop. BM Patel will be representing the Board at this seminar.

Mark Herr, Director Office (5/25/2000)

Re: Credibility of Material Witnesses in Cases

Mr. Herr's correspondence stated that in an investigation of a licensee, where a question of credibility exists between the testimonies of a licensee and complainant, the Board or the Enforcement Bureau must interview both witnesses. It is not enough to interview only the licensee, an act which creates the appearance of unfairness, if not actual unfairness.

The Board noted Mr. Herr's correspondence for the record.

June Levy, Administration (6/13/2000)

Re: Travel Reimbursement Request and Payment Vouchers

Ms. Levy's correspondence stated that all travel reimbursement requests and payment vouchers for Fiscal Year 2000 must be received no later than July 5, 2000.

The Board noted Ms. Levy's correspondence for the record.

Mark Herr, Director Office (6/14/2000)

Re: Private Letter Agreements

Mr. Herr's correspondence stated that effective immediately, boards are not to enter into any private letter agreements with defendants or subjects, unless first having the approval of Deputy Director Miragliotta or Director Herr.

The Board noted Mr. Herr's correspondence for the record.

Edward Lane, PLS, Stavola (6/20/2000)

Re: Renaissance Project, Manchester Township, Ocean County, NJ

Mr. Lane's correspondence addresses technical questions on the setting of monuments in unconventional locations. The Board stated that it will need additional information in order to answer Mr. Lane's questions. ED Russo will write to Mr. Lane requesting this information.

The matter will be placed on the July 20, 2000 Public Session agenda.

Nicholas J. Wunner, PE, PLS, Wunner Engineering Associates (6/16/2000)

Re: Permeability Testing for Septic Systems

The Board tabled this matter for the September 7, 2000 Public Session meeting, for further discussion.

General Report

Continuing Education Audit

ED Russo reported that approximately 167 audit letters were mailed to randomly selected land surveyors in compliance with the continuing educational requirement.

April 2000-2002 renewal period

ED Russo reported that as of July 1, 2000: 1438 Professional Engineers, 25 Land Surveyors and 62 Professional Engineers & Land Surveyors failed to renew their license for the 2000-2002 renewal period.

Municipal Engineers & Land Surveyors

ED Russo reported that notices were mailed to all municipalities in January 2000 requesting the identification of their appointed municipal engineer(s) and land surveyor(s). To date, 26 municipalities have not responded, even after two additional notices were mailed requesting this information.

Reappointment of Board Member

ED Russo reported that BM Bogart has been reappointed by the Governor to the Board for an additional five year term.

NCEES Annual Conference

ED Russo reported that NCEES will conduct its annual conference in Chicago, IL from August 2-5, 2000. President Faraldi, VP Kelly, BM Raimondi, DAG Bradford and ED Russo are scheduled to attend. The staff has made all necessary travel and scheduling arrangements.

Certificates of Authorization

Committee Chair Richard Frantz has prepared a draft letter requesting the assistance of the New Jersey Department of the Treasury in identifying corporations offering and/or performing engineering and/or land surveying services without a current Certification of Authorization issued by this Board.

The Board has requested that ED Russo send this request to the New Jersey Department of the Treasury.

April 2000 exam results

ED Russo requested Board approval to release the April 2000 exam results.

On a motion by BM Vernick, seconded by BM Bogart, the Board unanimously voted to release the April 2000 exam results.

"Agreement Between NCEES and Member Board"

ED Russo requested the Board's approval to adopt the "Agreement Between NCEES and Member Board".

The Board reviewed the agreement and on a motion by BM Vernick, seconded by BM Frantz, the Board unanimously voted to accept the NCEES agreement.

Discussion - Draft letter to licensees seeking reinstatement with lapsed licenses for 5+ years

ED Russo requested that the Board draft a letter for licensees who have failed to renew for 5+ years.

The Board discussed this matter and stated that ED Russo can quote the appropriate provisions of the Uniform Enforcement Act to such licensees seeking reinstatement.

Discussion - State Board of Professional Planners "Civil Service Titles"

The Board tabled this matter until the September 7, 2000 Public Session meeting.

MOVE TO EXECUTIVE SESSION

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

RETURN TO PUBLIC SESSION

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

APPEARANCE BY MICHAEL FITZPATRICK (HIAC-CHAIRMAN)

Michael Fitzpatrick, Chairman, Home Inspection Advisory Committee (HIAC), met with the Board to discuss the inspection of septic systems and wells, and the new proposed regulations affecting same. The Board held a lengthy discussion on this matter.

The HIAC's position is that the majority of home inspector's lack the necessary knowledge to inspect septic systems

and wells, and as such, are not qualified to do so. He further indicated that even if a well or septic inspection is sub-contracted out to another party, the home inspector is not sufficiently trained to assume the responsibility and liability of relying on a sub-contractor's report. He also added that clear-cut, consistently applied established standards for the inspection of septic systems do not exist.

The Board advocates a one-stop shopping approach to home inspections and contends that the inspection of septic systems and wells should be part of a home inspection and performed by home inspectors.

President Faraldi thanked Mr. Fitzpatrick for meeting with the Board to discuss this matter.

APPEARANCE BY STACY MOLA

Stacy Mola, Regulatory Analyst, met with the Board to discuss the sunseting of regulations, and to review suggested amendments to the existing regulations.

On a motion by BM Patel, seconded by BM Raimondi, the Board unanimously voted to adopt the sunseting of the existing regulations.

The Board reviewed the changes to the proposed amendments to the regulations and on a motion by BM Bogart, seconded by BM Vernick, the Board unanimously voted to approve the changes to the proposed amendments.

APPROVAL/DENIAL OF APPLICATIONS FOR LICENSURE

The Board reviewed the June 15, 2000 Examination/Comity Applications Report and voted to approve 90 exam and 12 comity applications and to deny 14 exam and 8 comity applications. (list attached).

On a motion by BM Bogart, seconded by BM Vernick, the Board unanimously voted to accept the June 15, 2000 list of approved/denied applications for licensure.

APPLICATION - FULL BOARD REVIEW

Norman Mills - #50695

The Board discussed this application and referred this matter to BM Raimondi for further review. BM Raimondi will report back to the Board on this application once he has completed his review.

PRESENTATION FOR BM BOGART

President Faraldi, on behalf of the Board, presented BM Bogart with a plaque for his service as Board President for the 1999-2000 term. There were many approving comments made by the Board Members in attendance. ED Russo and DAG Bradford thanked BM Bogart for his dedication and commitment to the Board.

ADJOURNMENT

On a motion by BM Frantz, seconded by BM Vernick, the Board unanimously agreed to adjourn at 2:30 p.m.

Approved by:

Albert N. Faraldi, PLS
President

Arthur Russo
Executive Director

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Modified March 2002