

# State Board of Professional Engineers and Land Surveyors

Minutes of July 12, 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 James Kelly 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 Kelly 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:

James Kelly      Pravin Patel  
Edward Vernick Robert Bogart  
Richard Frantz   Theodore Cassera (11:00am)  
Rishi Ra            j Louis Raimondi

**BM's absent:** Robert Marshal, Albert Faraldi

**Others present:** Arthur Russo, Executive Director, William Mandeville, Program Development Assistant Joseph Grabowy, Management Assistant Ernest Gonzalez, Acting Recording Secretary, Martha Richardson, Staff, and Olga E. Bradford Deputy Attorney General.

### APPROVAL OF MINUTES

#### June 7, 2001

On a motion by BM Frantz, seconded by BM Vernick, the Board unanimously voted to approve the minutes of June 7, 2001 as amended. BM Bogart abstained from this approval.

### 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.

**S1079 - Establishes ten year limitation on surveyors 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 on May 4, 2001.

**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. On June 21, 2001 this bill passed the Senate.

**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 March 1, 2001 this bill was reported out of this Committee and referred to the Assembly Appropriations Committee on March 29, 2001. Similar legislation (S2282) was introduced in the Senate.

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 contractors 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 Assembly and was referred to the Senate Education Committee. This bill passed the Senate on June 28, 2001 and was sent to the Governor.

**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 reported out of Assembly Transportation Committee. On December 15, 2000, S1991 was introduced and referred to the Senate Transportation Committee. A2945 passed the Assembly on June 28, 2001.

**A3154/S2269 - Permits issuance of home inspector licenses to professional engineers and architects** - A3154 passed both the Assembly & the Senate and was sent to the Governor.

**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.

**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 introduced and referred to the Senate Transportation Committee.

**Watershed Management Rules (D.E.P. rules & regulations)** - Opposition 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.

### **Administration**

ED Russo spoke about the proposed contract with Professional Credential Services, Inc. (PCS) and led a discussion on having the law examination mailed to candidates instead of examinees taking this test on the examination date. As part of its proposed contract PCS will mail the law examination to candidates and upon return, score the test for a fee of \$8.00 per exam. The Board unanimously voted in favor of conducting the law examination via the mails.

The Board instructed ED Russo to inform PCS, along with the New Jersey Institute of Technology (NJIT), that NJIT is willing and able to host the October 2001 examinations.

Regarding the April 2002 examination sites, ED Russo, and BMs Vernick & Faraldi will visit Rowan University on August 22, 2001 to discuss with university administrators the feasibility of Rowan hosting the April 2002 examinations. If agreed to, Rowan will become the third examination site along with NJIT and West Trenton.

The Board voted upon and unanimously approved the PCS contract. ED Russo was instructed to sign the contract as proposed.

### **Examinations**

ED Russo advised the Board that the April 2001 examination scores have been tabulated and are now ready for release to examinees. On a motion by BM Patel, seconded by BM Vernick, the Board unanimously voted to approve the release of the test scores to examinees.

### **Education**

BM Frantz discussed his draft letter to the New Jersey Department of Education (NJDOE) regarding the exclusion of high school level industrial art classes for credit towards graduation. On a motion by BM Frantz, seconded by BM Patel, the Board unanimously voted to approve this draft letter for release. The letter will be forwarded to Deputy Director Miragliotta for approval prior to its release to the NJDOE.

### **Regulations**

No report.

### **Finance**

The Board reviewed a financial report from Darlene Kane, Budget Analyst, on the Boards current and projected cash surpluses. This report was noted for the record. Also discussed was the examination fee increase proposed by Assistant Director June Levy to offset the higher examination administrative fees being charged by Professional Credential Services, Inc.

## **Special Committee Reports**

### **Newsletter**

William Mandeville informed the Board that its third newsletter can be viewed and downloaded from the Boards Website, although it has not yet been mailed to the licensees. The hard copy version will be mailed to licensees in approximately one week. BM Raimondi informed the Board that the 4th edition of the newsletter is currently being drafted.

### **Applications: Revisions PE/LS and Design Experience**

BM Bogart informed the Board that his analyses of providing examples of engineering design experience broken down by engineering discipline is complete. This analyses will be utilized by the Board as an aid in reviewing applications. BM Bogart will work along with BMs Cassera and Patel in completing the revisions portion of the applications. This topic will be included in the next agenda.

### **Joint Committee**

No report. VP Patel mentioned that the next scheduled meeting in August has been canceled.

### **Website**

Staff member Joseph Grabowy informed the Board that there has been an addition to the Certificate of Authorization report on the Boards Website stating that Professional Service Corporations incorporated pursuant to the Professional Service Corporation Act, (N.J.S.A. 14A:17-1 et seq.) are exempt from obtaining a Certificate of Authorization.

ED Russo requested an update regarding the Boards previous request to DAG Bradford inquiring if the posting of the names and addresses of its licensees on its Website would satisfy the statutory requirement for the annual distribution of roster books to licensees. DAG Bradford indicated that a decision is forthcoming in August 2001 from the Attorney General and that it appears to be favorable. The Board will not publish the roster book until further notification from the Attorney General.

### **Certificate of Authorization**

While there was not a formal report on this subject, the status of proposed regulations were brought up. Specifically, the regulation involving changes to the title block which will require that C/A numbers of incorporated businesses be included in title blocks.

For an update on this regulation, as well as the others, DAG Bradford suggested that a memorandum be sent to regulatory analyst Stacy Mola requesting this information.

The Board recommended that the C/A Committee be deleted as a subcommittee from upcoming agendas, and that a Cape May, 2003 agenda item be included in its place.

## **REPORT OF THE EXECUTIVE DIRECTOR**

### **General Report**

ED Russo stated that he was informed by Joseph Simonetta that Edward Jones, PE, has been appointed by the New Jersey Society of Professional Engineers to replace John Gragoritz as its representative to the Board.

## **Incoming Correspondence**

**Servey Drabkin/ Consela Inc. (April 25, 2001)**

**RE: Interpretation of N.J.S.A. 45:4B-7**

Mr. Drabkin requests in his letter an interpretation of the Building Design Services Act.

The Board previously referred his inquiry to the Joint Committee of Engineers & Architects for review and response.

**Edward J. Lang/ Roto-Roter (May 29, 2001)**

**RE: Septic System Inspection**

In his letter Mr. Lang writes about the issue regarding professional engineers performing septic systems inspections. Apparently he is under the impression that the Board is the agency proposing such regulations.

The Board discussed this correspondence and directed the staff to respond advising Mr. Lang that there are no existing or proposed regulations pertaining to the matter of septic system inspections.

**Richard Graham/ A.I.A. Architect (June 7, 8 and 12, 2001)**

**RE: Legal Issue**

Mr. Graham asks the question of whether an out of state non-licensed engineer can legally prepare an engineering report for a residential building project, if such reports would be in compliance with the Boards statutes and if the referenced reports would be considered expert testimony.

The Board discussed this matter and concluded that it will address the issues concerning this inquiry if a formal complaint has been filed. The Board is aware that Mr. Graham is currently in litigation regarding this matter and would expect a formal complaint to be filed at its conclusion. In addition, the Board recommended that Mr. Graham refer to the regulations governing the practice of engineering in this state to clarify this matter. Finally, on the matter of expert witnesses, the Board advised that Mr. Graham be advised that the courts determine who can be relied upon as expert witnesses.

**Anthony Miragliotta, Deputy Director/ DCA (May 8, 2001)**

**RE: Website Posting of Rule Proposals**

This correspondence was noted for the record.

**H. Clay Mc Eldowney, PE, LS/ Studer & Mc Eldowney, PA (June 18, 2001)**

**RE: Request for Statistical Information**

Mr. Mc Eldowney is requesting statistical information on the number of PEs licensed thus far in 2001, the number of LSs licensed to date in 2001, the number of women who have LS licenses and finally, the number of women who have both PE & LS licenses. The Board directed the staff to provide Mr. McEldowney with the information regarding the number of PEs and LSs licensed to date and to advise him that the Boards records are not maintained by gender, and that his request for the number of female land surveyors and female land surveyors/professional engineers cannot, therefore, be accommodated.

**John Durante/ Risk Logic Inc. (June 21, 2001)**

**RE: Fire Protection Examination**

Mr. Durante is requesting of the Board that it support the fire protection examination which is administered by NCEES.

The Board will respond to Mr. Durante informing him that the fire protection examination is not offered in this State and that he write to the National Council of Examiners for Engineering and Surveyors to voice his concerns and to

determine where the fire protection examination is offered.

**Paul A. Feifert (June 25, 2001)**

**RE: Expert Testimony**

In his correspondence, Mr. Feifert is requesting the Board's opinion whether he is eligible to appear as an expert witness in a court hearing based on the fact he is a licensed professional engineer or does he need an additional certification to perform this function.

In the Board's response, Mr. Feifert will be informed that the Board has no jurisdiction in such matters and that it is the courts who determine who qualifies as an expert witness.

**Mike Shannon, PE/ Director of FE Examination Development/ NCEES (June 29, 2001)**

**RE: April 2001 National Pass Rates**

This correspondence was noted for the record.

**J. Richard Cottingham, PE, LS, President/ NCEES (June 29, 2001)**

**RE: Cross Border Mobility**

This correspondence was noted for the record.

**John C. Richardson, Jr., LS/ Boswell Engineering (June 29, 2001)**

**RE: Crossing Between Planning and/or Engineering**

Due to the absence of BM Faraldi, this correspondence will be carried over to the September 6, 2001 meeting.

**Thomas R. Lemanowicz, PE, PP, CME/ Professional Planning Engineering Corp. (July 2, 2001)**

**RE: Engineer of Record: Title Block Issues**

Mr. Lemanowicz's correspondence deals with the issue of a client and an associated project moving with him from his former firm to a new engineering firm.

After reviewing this letter the Board concluded that his exact inquiry is unclear since not enough information was provided to evaluate the matter.

In order to pursue this matter, the Board requested that Mr. Lemanowicz provide the Board with the applicable drawings and plans, copies of contracts and all related documentation, a full and detailed explanation of the history of this matter, and his specific questions regarding this scenario.

**Martin Ventura, Manager, Elevator Safety Unit/ Division of Codes & Standards/ Bureau of Code Services (July 5, 2001)**

**RE: Additional Notes to Drawings**

Mr. Ventura's inquiry pertains to the acceptable procedure(s) required for additional notes made to signed and sealed drawings.

After reviewing and discussing this matter, the Board concluded stating that since notes are addendums to plans, all plans should be updated to reference such notes. Therefore, drawings must be incorporated into all plans, the plans signed and sealed, and the revision date noted as per N.J.A.C. 13:40-1.1 thru N.J.A.C. 13:40-1.6.

April 2001 Exam Attendance Statistics from Professional Credential Services, Inc.

The Board noted this statistical data for the record.

Licensing Statistics as of April 30, 2001

The current licensing statistics shows that there are currently 18,906 professional engineers, 1173 professional land surveyors, 379 professional engineers & land surveyors for a total of 20458 licensees. The Board noted these statistics for the record.

## **REPORT OF THE DAG**

### **Sabetay Behar, PLS #15103 (Provisional Order of Discipline)**

Since the Board has not received a response to its Provisional Order of Discipline previously rendered to Mr. Behar, it unanimously voted to issue a Final Order of Discipline. The Final Order will include a civil penalty of \$1,000 for his failure to cooperate with the Boards previous requests for information and will also require Mr. Behar to obtain 24 Continuing Education Units (CEUs).

### **Richard C. Barrios, PE #36845 (Final Order of Discipline)**

In his June 28, 2001 correspondence to the Board, Mr. Barrios appealed the Final Order of Discipline that was previously rendered to him dated June 8, 2001. The Boards previous Final Order of Discipline (FOD) included a civil penalty of \$2,500 for failure to disclose information regarding the disciplinary action taken by the Illinois Board during the renewal process.

The Board unanimously voted to reaffirm the FOD previously rendered for lack of sufficiently persuasive information provided by Mr. Barrios. The staff will send DAG Bradford a draft of a cover letter in response to this inquiry.

## **DISCUSSION ITEMS**

### **Gary McKnight - Approval of Ethics Course**

Mr. McKnight submitted information regarding an ethics course offered at Middlesex County College in fulfillment of one of the Boards requirement. The description of the course submitted deals generally with business ethics. Previously, the Board determined that Mr. McKnight compromised the PE examination when he posted one of the examination questions on the Internet. One portion of the disciplinary action taken by the Board was for Mr. McKnight to take an ethics course acceptable to the Board.

After a brief review of this letter the Board declined to accept this particular course since it does not readily apply to engineering matters. Therefore, the Board will request that Mr. McKnight provide a course description for another ethics course which more closely relates to the practice of engineering.

## **APPLICATIONS - FULL BOARD REVIEW**

### **Kenneth Greech - #47148**

Since Mr. Greech recently received his undergraduate degree in engineering in May 2001, the Board indicated that work performed prior to receiving his degree would have to be evaluated on a job by job basis. The Board requested that he provide it with a detailed analysis of the technical courses taken, when these courses were completed, and the related engineering work he performed after the completion of the courses. It was emphasized that he be explicit in his analysis.

Pursuant to N.J.A.C. 13:40-2.5 (c) Experience prior to graduation from a Board approved program will be evaluated by the Board on a case-by-case basis if the experience is gained under the regular and effective supervision of a licensed professional engineer/land surveyor, and if the applicant has passed the appropriate technical courses needed to perform the work experience.

### **Rocco L. Trotta - #52078**

The Board determined that Mr. Trotta's experience resides primarily in the field of construction inspection and management experience, and cannot be considered for design experience. However, inspection experience will be considered for other engineering experience. On a motion by BM Raimondi, seconded by BM Vernick, the Board unanimously voted to have Mr. Trotta resubmit an updated detailed statement of experience form once he obtains an additional two years of design experience.

**Gregory Wilson - #52338**

With this application, VP Patel states that the applicant has 22 years of teaching experience and also has a Ph.D. After further review, the Board determined that Mr. Wilson needs to provide verification of two years of acceptable design experience under the direct supervision of a professional engineer.

**Mittul Patel - #26048**

**Mukesh Parikh - #25992**

VP Patel informed the Board that these two applications are short on math and science credits at the college level. However, with his knowledge of the Indian educational system, VP Patel stated that the applicants took a sufficient amount of advanced math & science courses at the high school level to more than offset this shortfall. On a motion by VP Patel, seconded by BM Vernick, the Board unanimously voted to approve these two applications.

**Theodore Zsirai - #51752**

The Board reviewed this application and determined that the 3 design credits that Mr. Zsirai has acquired need to be further evaluated. Additionally, the Board requested that he submit an original undergraduate transcript along with a course description and college transcript from the undergraduate institution he attended.

**APPROVAL/ DENIAL OF APPLICATION FOR LICENSURE**

The Board reviewed the June 21, 2001 Examination/Comity Applications Report and voted to approve 72 exam and 7 comity applications, and to deny 21 exam and 6 comity applications (list attached).

On a motion by BM Vernick, seconded by VP Patel, the Board unanimously voted to accept the June 21, 2001 list of approved/denied applications for licensure.

**MOVE TO EXECUTIVE SESSION**

On a motion by BM Frantz, seconded by BM Vernick, the Board unanimously voted to enter into Executive Session to complete the agenda.

**RETURN TO PUBLIC SESSION**

On a motion contained within the Executive Session minutes, the Board unanimously approved to return to Public Session for the purpose of adjournment.

**ADJOURNMENT**

On a motion by BM Frantz, seconded by BM Raj, the Board unanimously voted to adjourn at 1:30 pm.

Approved by:

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James D. Kelly, PE  
President

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Arthur Russo  
Executive Director



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*Modified March 2002*