

STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Minutes of October 2, 2003

Public Session

CALL TO ORDER

The meeting of the State Board of Professional Engineers and Land Surveyors was called to order by President Edward Vernick at 9:00 a.m. at 124 Halsey Street, 3rd Floor Union Conference Room, Newark New Jersey. All parties were duly notified of the time, date and place, with all pertinent material being provided.

SUNSHINE LAW ANNOUNCEMENT

President Vernick 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 Camden Press, and the Courier Post.

ROLL CALL

BMs present:

Edward Vernick
Albert Faraldi (10:00am)
James Kelly (left at 2:00 p.m.)
Louis Raimondi
Pravin Patel
Rishi Raj
Robert Bogart
James Valenti

BMs absent: Richard Frantz Robert Marshall

Others present:

Arthur Russo, Executive Director, Michelle Albertson, Deputy Attorney General, and staff members Joseph Grabowy, Ernest Gonzalez, Martha Richardson, Robert Welsh, and Yolanda Winston.

COMMITTEE REPORTS

Legislation

President Vernick presented the following report to the Board:

S581/A2231 - Certification of Crane Operators - Signed by Governor James E. McGreevey on September 4, 2003. A separate board will be created under the Department of Labor.

Watershed Management Rules (D.E.P. rules & regulations) - Further modifications were published in the September 15, 2003 New Jersey Register. It is expected that the final rules will be adopted in December, 2003.

Administration

No report.

Examinations

The Board reviewed the revised law examination provided by PCS.

After a discussion on this matter, the Board had concerns that the questions dealt primarily with land surveying. This matter shall be further reviewed when Linda Kellner, PCS, appears before the Board at its meeting of October 16, 2003.

Education

No report.

Regulations

No report

Finance

No report.

Special Committee Reports

Newsletter

Joseph Grabowy indicated that he is working with the Print Production Unit to edit the current newsletter.

Joint Committee

BM Patel informed the Board that the Joint Committee's next meeting is scheduled for October 7, 2003.

Website

Robert Welsh reported that he is currently reviewing the Board's website to update it.

Applications

No report.

Disciplinary Action Committee

BM Raimondi stated that the sub-committee is reviewing the examination which will be given to licensees who have been disciplined for violations of the Board's statutes and regulations.

Licensure Promotion Committee

Robert Welsh indicated that the Licensure Promotion Committee is scheduled to meet Deans and staff at the following schools:

NJIT - October 9, 2003

Stevens Institute of Technology - October 21, 2003

Civil Service Committee

No report.

REPORT OF THE EXECUTIVE DIRECTOR

General Report

ED Russo informed the Board that PCS will be proctoring 23 examinees from other states for the October 2003 examinations.

He stated that approval has been requested from the Director's Office for reimbursement to BM Bogart for attending the annual Colonial States Meeting, which will be held in Kentucky.

He informed the Board that there are currently 254 licensed home inspectors, of which 28 are professional engineers. There are 3 pending PE/HI applications and 1 application was denied. He reminds the Board that the deadline to apply for a home inspection license is June 30, 2004.

The Certificate Award Ceremony will be conducted on October 16, 2003 in Jamesburg, New Jersey for all licensees who have passed the principles and practices examination in April 2003.

ED Russo advised the Board that Jake Gertsman resigned as the Board's regulatory analyst and assumed a new position with the Bureau of Securities. He will be replaced by Devon Graf.

The Board received an invoice from PCS for the preparation of a revised law examination. The Board will review the invoice once the exam is complete. This matter will be further discussed with Linda Kellner, PCS, during her appearance at the next meeting.

ED Russo will give an update on the printing of the statute and regulations booklets at its next meeting.

Incoming Correspondence

Richard A. Moralle, PE, PLS, Senior Vice - President/T&M Associates
RE: Setting of monuments in accordance with the map filing law
(August 29, 2003)

BM Valenti was recused.

Mr. Moralle appeared before the Board to discuss this correspondence. He asked the Board various questions on issues related to corner markers and specifically how to proceed if corners were not found. He provided the Board with various blueprints of the area in question.

After much discussion, the Board requested that Mr. Moralle submit a letter documenting his understanding of the Board's determination. The Board will review the correspondence for accuracy.

Donald C. Meserlian, PE
RE: PE/ Site plans; topography
(September 26, 2003)

At his request, Donald Meserlian appeared before the Board to discuss the issue of whether professional engineers may prepare topographic surveys. Mr. Meserlian disputes the Board's interpretation that only licensed land surveyors can perform these surveys.

Mr. Meserlian submitted to the Board his interpretation of the statutes and regulations, which differs from the Board's interpretation. Mr. Meserlian argues that since the preparation of a site plan is within the scope of a licensed professional engineer, and that a site plan must show existing and proposed topographic features, then a licensed professional engineer can prepare a topographic survey (which depicts only existing conditions). To

support this position, Mr. Meserlian provided a memorandum of his meeting with several engineers who he alleges were not aware of the Board's interpretation that only licensed land surveyors can prepare a topographic survey. He further stated that on numerous occasions he has prepared surveys to show existing conditions. However, the Board rejects Mr. Meserlian's arguments that engineers are permitted to perform topographic surveys since some engineers may be erroneously preparing these surveys.

In further support of his position, Mr. Meserlian submitted his site plan for Lot 16, Block 1903 in the Borough of Woodcliff Lake, NJ for a proposed pool. The Board noted that his site plan appeared to contain numerous deficiencies including, but not limited to, title block violations, assumed datum being confusing, and failure to meet the required standard of care for a licensed professional engineer.

In connection with his presentation, the Board asked Mr. Meserlian various questions, such as:

1. How can one duplicate Mr. Meserlian's survey on ground at a later date by someone other than him? His answer was unclear; but he stated basically by scaling.
2. How can a pool contractor duplicate what is on your plan, on ground? His answer was that they must be able to since he has done it this way for a number of years, for a number of pools in various municipalities.
3. Who determines if a pool is in the right location from the property line? Mr. Meserlian stated that he sets distances from property lines beyond required setbacks; therefore, it should not be a problem. He also stated these distances are for reference and if the owner or pool company wanted to, they could hire a surveyor. He stated that he doesn't get involved in that aspect. Upon further questioning on how a person was to determine a "finite" distance shown on his plan, Mr. Meserlian stated that after he prepares site plans, surveyors can do this work if they want to.
4. Relating to the "scaling" of plans issue as stated by Mr. Meserlian, the Board asked him if the distance shown is from the property line, since no distance is shown from the house. He agreed that the Board is raising several valid points.

Based on the Board's discussions, the central issue related to Mr. Meserlian's appearance was whether a licensed professional engineer can depict existing conditions on a site plan without the preparation of a topographic survey. In response the Board directed him to N.J.S.A. 45:8-28(e) and N.J.A.C. 13:40-7.1 et seq. Pursuant to the statutes and regulations, the Board advised Mr. Meserlian that topographic surveys are within the responsibilities of a licensed land surveyor. Further, if Mr. Meserlian intends to depict existing conditions, then a topographical survey is required, which can only be performed by a licensed land surveyor.

Mr. Meserlian indicated he can refute their conclusion if the Board will review his e-mail of September 30, 2003 and all five questions. These questions dealt with the site plan rule. It is the Board's opinion that Mr. Meserlian is taking portions of the regulations out of context. Further, his practice appears to be to reference the survey on his site plan, but not supply the signed and sealed survey as required under N.J.A.C. 13:40-7.1 et seq. Mr. Meserlian believes this is an acceptable practice since he does not directly submit the site plan to municipalities. However, the Board advised Mr. Meserlian that this practice does not comply with the Board's statutes and regulations. Mr. Meserlian has agreed to submit signed and sealed surveys along with his plans.

Further discussions ensued regarding existing and proposed grade on his site plan. The plan shows existing grade which are taken by Mr. Meserlian with assumed datum of 0.0. This is contrary to the industry practice. Also, proposed grades, if any, are unclear. Mr. Meserlian agreed that there is a need to show proposed grade on his plan. In municipalities where USGS datum is required, Mr. Meserlian stated that his practice is to call upon municipal engineers, obtain information on the nearest available point and tie this into the property just as a surveyor would.

Discussions continued as to who can perform topographic surveys. Mr. Meserlian maintains that since he signs engineering plans and since he has the ability to perform topographic surveys, the law, in his opinion, gives him the right to perform this work. The Board rejects that simply because Mr. Meserlian may know how to prepare a

survey, then he should be permitted to do so without obtaining a license to practice land surveying. The Board also noted that while years ago surveying was included as part of an engineering curriculum, that has changed. The Board's primary concern, on a much broader level, is that of the health, safety and welfare of consumers. Accordingly, the Board maintains that a person who practices land surveying in New Jersey, which includes the preparation of a survey, must be a licensed land surveyor.

Further, the Board continues to reject Mr. Meserlian's argument that since the statutes and regulations do not specifically state that a licensed professional engineer cannot perform topographic surveys, that he can do so as a licensed professional engineer. The Board believes that the statutes and regulations are abundantly clear that only licensed land surveyors can perform surveys, not licensed professional engineers. In sum, Mr Meserlian has been advised that the Board continues to uphold its long standing interpretation of its statutes and regulations with regard to this issue.

Information

The following informational articles were reviewed and noted by the Board:

National Council of Examiners for Engineering & Surveying (NCEES)

NCEES informs its member boards of the discontinued use of calculators with communication or text editing capabilities from its exam sites beginning with the April 2004 examinations.

National Council of Examiners for Engineering & Surveying (NCEES)

NCEES informs its member boards that ELSESES will proctor out-of-state candidates for all NCEES examinations for any state. Effective with the October 2003 examinations, the administration of state specific examinations will be conducted by ELSESES only in the event that the requesting state has an existing contract with ELSESES.

Frank Petrozzo : Re: Changing engineering firm

This correspondence was previously submitted to the Board and was discussed at its meeting of September 18, 2003.

Majda Newman RE: Exception Request: Permission to take the PE exam in "Mechanical Engineering" in Spring 2004 (August 28, 2003)

Ms. Newman was approved to sit for the October 2003 principles and practices examination in chemical engineering. She has requested approval to sit for the this examination at another time. She stated that in the future she would also like to apply for licensure in another state as a mechanical engineer.

The Board will request NCEES' position on an applicant taking multiple principle and practices examinations after successfully passing one.

APPROVAL/ DENIAL OF APPLICATIONS

The Board, on a motion by VP Kelly, second by BM Bogart, unanimously voted to approve the following applications.

NAME	APP#	DECISION	NAME	APP#	DECISION
M.BOGLE	953578	GRANT	R. NEWMAN	960563	GRANT
T. MCGOEY	951361	GRANT	J. ADAMSKI	966708	GRANT
G.HOLLAND	960508	GRANT	W. ECKER	966704	GRANT

M.SVOBODA	962916	GRANT	J. PIDCOCK	965512	GRANT
B. STANKUS	879578	GRANT	D. FARRELL	940208	GRANT
D. JUSTICE	936402	GRANT	D.BHATTACHARYA	950920	TAKE F\ P
D.STRANG	909311	GRANT	M.CAMERA	90688	TAKE P
C.MOCK	960820	GRANT	Y. KIM	946477	TAKE P
R. KORTE	964178	GRANT	D. ARCILLA	883878	TAKE P/ WAIVE F
R. BURSI	963011	GRANT	A.KROEGER	916741	TAKE P
R. FREDA	955838	GRANT	-	-	-

The Board, on a motion by BM Valenti, second by BM Bogart, unanimously voted to approve the following E-I-T applications.

Name	Application #	Name	Application #	Name	Application #
V.M. Antonio-Ortega	945498	M. Thalasila	25846	-	-

On a motion by BM Raimondi, second by BM Bogart, the Board unanimously voted to deny the following applications:

NAME	APP#	REASON FOR DENIAL	NAME	APP#	REASON FOR DENIAL
-	-	-	-	-	-
TI-HUA CHIN	899193	References	D.GLORIE	953061	References
G. SCIBILIA	920713	Transcript	K.SOENEN	957872	Experience
J.HELWIG	956742	Experience	M.SANDERS	966702	Experience
R.SHOWALTER	951049	References	K.SWEITZER	953016	References
W.DUNN	933240	Experience	C.BREEN	962082	Experience

On a motion by VP Kelly, second by BM Patel, the Board unanimously voted to approve the following Certificate of Authorization applications:

Hyland Design Group, Inc.
101 E. 8th Street
Ocean City, NJ 08226
24GA28087300 Haines, Gipson & Associates, Inc.
1550 N. Brown Road, #100
Lawrenceville, GA 30043
24GA28087400

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Full Board Review

Sandra Wells - #884138

Ms. Wells appeared before the Board to discuss her design experience as a software engineer relating to her application.

After her presentation, the Board, on a motion by BM Patel, second by BM Bogart, unanimously approved her application to sit for the principles and practices examination.

MOVE TO EXECUTIVE SESSION

On a motion by BM Raimondi, second by BM Patel, the Board voted unanimously to move to Executive Session to complete the agenda.

RETURN TO PUBLIC

On a motion contained in the Executive Session minutes, the Board unanimously voted to return to Public Session.

PROVISIONAL ORDERS OF DISCIPLINE

The following Provisional Orders of Discipline were issued by the Board in connection with unlicensed practice issues providing for a reprimand and penalty:

Marshall Frost, PE
Richard T. Carlson, PE
John J. Ploskonka, PE
John William Hill, PE
Michael R. Steffener, PE
David Carlton Cowherd, PE
David M. Goodson, PE
Ralph R. Johnson, PE
James E. Dulny, PLS - BM Faraldi was recused

ADJOURNMENT

On a motion by BM Patel, second by BM Faraldi, the Board unanimously voted to adjourn at 3:00 p.m.

Approved by:

Edward Vernick, PE
President

Arthur Russo
Executive Director

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