

State Board of Professional Engineers and Land Surveyors

Minutes of December 6, 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 Union Room, Third 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 Marshall
Richard Frantz Theodore Cassera (10:00am)
Rishi Raj Louis Raimondi
Albert Faraldi

BM's absent: Robert Bogart

Others present: Arthur Russo, Executive Director, William Mandeville, Program Development Assistant Joseph Grabowy, Auditor/Accountant Assistant, Ernest Gonzalez, Senior Clerk Transcriber, and Deputy Attorney General Michelle Albertson.

APPROVAL OF MINUTES

October 4, 2001

The Board unanimously voted to approve the minutes of October 4, 2001 as modified.

October 18, 2001

The Board unanimously voted to approve the minutes of October 18, 2001 as modified.

November 1, 2001

The Board unanimously voted to approve the minutes of November 1, 2001 as modified.

COMMITTEE REPORTS

Legislation

BM Vernick submitted the last legislation report of the year which included 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 surveyor's 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 - S1408 passed the Senate on June 21, 2001 and passed the Assembly on November 29, 2001.

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 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. 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 signed by the Governor on August 8, 2001.

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 and on October 3, 2001 was referred to the Senate Transportation Committee.

A3154/S2269 - Permits issuance of home inspector licenses to professional engineers and architects - A3154 passed both the Assembly & the Senate and was signed by the Governor on July 13, 2001.

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. Received in the Senate for concurrence on amendments on October 3, 2001. Passed both Houses on November 26, 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.

S2596 - Increase civil penalties for certain violations of "New Jersey Conflicts of Interest Law" Impacts State Officers and Employees. Introduced and referred to the State Government Committee on November 8, 2001.

S2648 - Allows inactive licenses to complete required continuing education at any time prior to reactivating license. Introduced and referred to the Commerce Committee on November 8, 2001.

S2487 - Provides for the certification of certain crane operators. This bill was introduced and referred to the Commerce Committee on September 6, 2001.

S2564 - Prohibits the public release of professional licensees' home addresses. This bill was introduced and referred to the Commerce Committee on October 3, 2001.

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

No report.

Examinations

Engineering Examination Services, a subsidiary of Professional Credential Services, Inc., provided statistical information regarding the attendance for the October 2001 examinations for both the Newark and Trenton examination sites. This information was noted for the record.

Education

BM Frantz stated that the correspondence to the NJ Department of Education voicing the Board's opposition to the elimination of credits for manual arts courses towards High School graduation. This letter will be forwarded at a later date.

Additionally, BM Frantz took a moment to reflect on the unprovoked Japanese attack on Pearl Harbor, sixty years ago, on December 7, 1941.

Regulations

No report.

Finance

No report.

Special Committee Reports

Newsletter

A November 13, 2001 memorandum from Director Herr stated that all Board newsletters will now be electronically produced and displayed on the Internet. This will allow for substantial cost savings versus printed versions, and provide for more timely reporting to licensees.

The Board opposes this position taken by the Director and will voice its concerns on this matter at a later date.

VP Patel indicated that he will prepare the President's message for the Board's 4th edition of its newsletter.

Applications: Revisions PE/LS and Design Experience

Due to the absence of BM Bogart, this item will be held to the next Public Session Meeting.

Joint Committee

No report. The Joint Committee meeting scheduled for December 5, 2001 was canceled.

Website

Joseph Grabowy informed the Board that a formal request has been forwarded to the Print Production Unit to add the following content matter to its Website: the addition of Electrical Engineering as a separate testing discipline; examination dates for the year 2003; 3 examination sites now available: NJIT, Rowan, and the West Trenton Fire Department; Year 2002 Board/Committee meeting dates; and the addition of a hyper-link to Engineering Examination Services (EES), a division of Professional Credentials Services, Inc. EES handles examination scheduling, examination administration, and grade reporting for the Board.

In addition, BM Faraldi requested that the licensure verification module be enhanced to allow for licensee searches by license number. Currently, this mechanism only allows name searches of licensees. This added functionality would allow home owners to identify land surveyors and/or their firms by the license number provided on corner markers. William Mandeville will contact Fran Wildrich of the Print Production Unit to see if this request can be accommodated.

2003 Northeast Zone Meeting

BM Raimondi informed the Board that the arrangements for the 2003 Northeast Zone Meeting are going well and that promotional flyers will soon be distributed. NCEES will make the necessary hotel arrangements in Orlando, Florida.

Signing and Sealing of Computer Generated Plans

No report.

REPORT OF THE EXECUTIVE DIRECTOR

Incoming Correspondence

John J. Zimmerman, PE

RE: Newsletter Summer-Fall 2001

November 2, 2001

In his letter, Mr. Zimmerman expressed his concern with the decreasing number of licensees entering the land surveying profession. He also mentions his disapproval for requiring land surveyors to obtain continuing competency courses. He claims these courses are not instructive and often result in financial hardship (by not being able to work while attending class) to the licensee.

The Board noted Mr. Zimmerman's correspondence for the record. A letter of appreciation will be forwarded to Mr. Zimmerman along with the most recent edition of approved courses for continuing competency.

Albert L. Cohn, Esq./ Cohn Lifland Pearlman Herrmann & Knopf, LLP.

RE: Michael Walker

November 13, 2001

In this correspondence, Mr. Cohn states a situation involving a Michael Walker who had previously signed an As-Built Septic System Plan. Mr. Cohn informs the Board that Mr. Walker is a licensed engineer, and not a land surveyor, and may not be qualified to sign As-Built Septic System Plans.

Mr. Cohn is requesting that the Board advise him of any possible Board violations that Mr. Walker may have violated in signing these plan.

The Board will advise Mr. Cohn that questions such as those he has raised cannot be addressed without further information, and that he should submit a formal complaint to the Board if he wishes to pursue this matter.

General Report

ED Russo discussed a October 31, 2001 dated letter sent to Dr. Fenster, President of NJIT, from Kim Adcock of Engineering Examination Services. The letter applauded the efforts of the respective individuals from NJIT and the Board who contributed to the "flawless" execution of the October examinations held at NJIT.

ED Russo informed the Board that Stacy Mola has resigned from the position of Regulatory Analyst. A replacement will be named at a future date.

Letter to Joel Bloom

ED Russo discussed a November 7, 2001 letter from himself to Joel Bloom, Vice President for Academic and Student Services at NJIT. The letter emphasizes the Board's intent to having NJIT host the professional examinations on a long-term basis. Additionally, examination dates for the years 2002 thru 2006 were noted in the letter.

Licensing Statistics

As of October 31, 2001 there were 19,291 professional engineers, 1,185 professional land surveyors, and 385 professional engineers and land surveyors. This information was noted for the record.

APPEARANCE BY EVA-ANGELA ADAN, ABET-Engineering Credentials Evaluation International (ECEI)

Ms. Adan appeared before the Board to outline the services and advantages of Engineering Credentials Evaluation International, (ECEI), an exclusive service of the Accreditation Board for Engineering and Technology, Inc. (ABET). Her presentation outlined the foreign credential evaluation services ECEI offers covering such topics as fraud involving educational degrees, misrepresentation of courses and other subject matters.

A general discussion commenced after her presentation. Overall, the Board was very impressed with the thoroughness of ECEI's service and its specific knowledge of many country's educational systems. ECEI charges \$375.00 to applicants in order to have their foreign degree evaluated. Normal turn around time for an evaluation is 6 weeks. Ms. Adan stated that as a cross-check, every record of an applicant is also sent to NCEES. This process would curtail an applicant's attempt to jump from state to state in an effort to get licensed.

The Board put this issue to a vote, and on a motion by BM Cassera, seconded by BM Frantz, voted in favor of adopting ECEI as its official foreign degree evaluator, and to discontinue the services of Educational Credential Evaluators, (ECE), Inc. The vote was 8 to 1 in favor of using ECEI, with BM Raj casting the only opposing vote. BM Raj cited the substantial fee increase to \$375.00 from \$155.00 currently charged by ECE, and the lack of a choice among applicants to select a competing evaluation service as the basis for his opposing vote. This change to ECEI will become effective on January 1, 2002.

Additionally, the Board requested that in their future degree evaluations, ECEI prepare an analyses to show engineering design. Finally, in the evaluation of non-ABET accredited American schools, ECEI indicated they can provide the Board with a private letter breaking down course work into 3 categories.

Mrs. Adan will be in contact with William Mandeville regarding processes needed for applicants to obtain this evaluation. The Board also informed her that the ECEI organization will need to forward a letter of intent outlining the role and responsibilities of ECEI.

Upon finalization of the memorandum of understanding, the Board may consider linking its Website to ECEI.

REPORT OF DAG

DAG Albertson briefed the Board on the use of the "PE" designation and/or term "Engineering" by the Department of Environmental Protection (NJDEP) Dam Section personnel listing on their Website. Since NJDEP titles are civil service and fall under the civil service government exception, they are not subject to the Board's regulations. Of particular concern was the use of the Professional Engineer title utilized by John Ritchey and Michelle Krueger. While these two individuals are licensed in Delaware they are not licensed in New Jersey. The Board believes this practice to be misleading and deceptive and finds Mr. Ritchey and Mrs. Krueger to be in violation of N.J.S.A. 45:8-27, even if disclosure to this fact is footnoted.

The Board will submit a letter to NJDEP informing them that these two individuals are in violation of the aforementioned statute. This matter will be revisited in the future.

DAG Albertson also spoke about the issue of foreign applicants needing 2 years of work experience in order to sit for the Fundamentals of Engineering (FE) examination. This requirement is stated in the regulations but not in the enabling statute.

In 1980, the regulations required that foreign applicants have two years of experience prior to taking the FE examination. In 1989, both the statute and regulation was changed to delete this requirement. In 1997, the regulations were codified to reflect that foreign applicants needed two years of experience to apply for the FE examination, but not the statute. At this point the regulation does not comport with the statute. Since the Legislature deleted it the Board cannot put it back in.

But the Board could now set other standards to address this situation. DAG Albertson presented the Board with several options. It can go with the regulation and require 2 years of experience to sit for the FE. Or, the Board can establish a

policy regarding the 2 years experience. Another option would be is to treat everyone the same and would require regulatory approval. A third option would be to allow one year of work experience if a foreign applicant has a master's degree.

On a motion by BM Patel, seconded by BM Raimondi, the Board unanimously voted to delete the 2 year work experience requirement for foreign applicants.

Bill Mandeville will discuss this issue with Deputy Director Miragliotta.

APPLICATION - FULL BOARD REVIEW

Easa Moulana - 52243

VP Patel stated that this applicant has a foreign degree and has been licensed since 1962. The applicant states that 3 of his supervisors have since passed away and, obviously, cannot substantiate his work experience. VP Patel indicated he has reviewed ample evidence of design work in his application.

On a motion by VP Patel, seconded by BM Vernick, the Board unanimously voted to grant the applicant his license by comity.

Glenn Watson - 50955

Upon a re-review of this application, VP Patel reaffirms his prior decision which indicates that Mr. Watson still lacks adequate design experience.

The Board expressed concern with the manner in which Mr. Watson conducts his New Jersey based business since he is not working under the regular and effective supervision of a licensed PE. The Board will invite Mr. Watson to appear before it to discuss his application and his business operations.

John Olsen - 52508

VP Patel explained to the Board that Mr. Olsen has been licensed in Pennsylvania since 1986 and has experience with Westinghouse Corporation. However, his work experience cannot be verified with his previous supervisors.

On a motion by VP Patel, seconded by BM Vernick, the Board unanimously voted to grant Mr. Olsen his New Jersey license through comity.

John Mettee - 51869

BM Faraldi explained to the Board that Mr. Mettee is applying for a Land Surveying license by comity, and that there is a pending complaint against him.

The Board unanimously voted to withhold any further review or decision on his application until such time that the current complaint against him is finalized.

Clark Tkacs - 50517

Mr. Tkacs has requested the Board waive the Fundamentals of Engineering examination requirement. VP Patel re-reviewed this application and reaffirmed his original decision to deny the FE waiver request. The Board staff will advise Mr. Tkacs accordingly.

Mark F. Schiffman - 52277

Mr. Schiffman has applied for licensure via comity after a review of his records revealed that his license has lapsed for over 10 years. He now falls under the Uniform Enforcement Act where new regulations require individuals with lapsed

licenses greater than five years to reapply for licensure. His original NJ license was gained in the 1971/1972 time frame. VP Patel voiced concern with his design experience. William Mandeville indicated that the licensing requirements were less stringent in 1972 and did not require any design experience. After reviewing the Board's regulations from 1972, the Board unanimously voted to approve this application for licensure by comity.

TITLE BLOCK REVIEW

T&M Associates

BM Raimondi reviewed the proposed title blocks submitted by T&M Associates and recommended to approve them. The Board unanimously approved BM Raimondi's decision.

SK Realty & Development Association

Upon his review, BM Raimondi recommended to decline the proposed title block submitted by SK Realty & Development Association. However, he would approve it if appropriate changes were made.

The Board unanimously voted to approve BM Raimondi's decision and a letter will be sent to SK Realty informing them of the Board's decision.

Finally, the Board recommended that "Title Blocks" be added as an agenda item.

APPROVAL/ DENIAL OF APPLICATIONS FOR LICENSURE - NOVEMBER 1, 2001

The Board reviewed the November 1, 2001 Examination/Comity Applications Report and voted to approve 9 exam and 27 comity applications, and to deny 15 comity applications (list attached).

On a motion by BM Frantz, seconded by BM Raimondi, the Board unanimously voted to accept the November 1, 2001 list of approved/denied applications for licensure.

ADJOURNMENT

On a motion by BM Frantz, seconded by BM Raj, the Board unanimously voted to adjourn at 2:00 pm.

Approved by:

James D. Kelly
President

Arthur Russo
Executive Director

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Modified March 2002