

# State Board of Professional Engineers and Land Surveyors

Minutes of December 7, 2000

## PUBLIC SESSION

### CALL TO ORDER

The meeting of the State Board of Professional Engineers and Land Surveyors was called to order by Board President Albert Faraldi at 9:15am 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: Pravin Patel      Edward Vernick  
                  Robert Marshall    Louis Raimondi  
                  Richard Frantz    James Kelly (departed 3:00 pm)  
                  Albert Faraldi      Rishi Raj

BM's absent: Robert Bogart      Theodore Cassera

Others present: Arthur Russo, Executive Director, William Mandeville, Management Assistant, Joseph Grabowy, Management Assistant, Ernest Gonzalez, Acting Recording Secretary, Olga E. Bradford, Deputy Attorney General and two members of the public.

### APPROVAL OF MINUTES

#### October 5, 2000

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

#### October 19, 2000

On a motion by BM Raimondi, seconded by BM Patel, the Board unanimously voted to approve the minutes of October 19, 2000 as amended.

#### November 2, 2000

On a motion by BM Raimondi, seconded by BM Patel, the Board unanimously voted to approve the minutes of November 2, 2000 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 referred to the Senate Commerce Committee. 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 each bill was introduced and referred to the Senate Judiciary Committee. On May 22, 2000 each bill was introduced and referred to the Assembly Judiciary Committee. S1079 passed the Senate on October 2, 2000, with amendments. A2448 is still with the Assembly Judiciary Committee. 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 each bill was introduced and referred to the Assembly Consumer Affairs and Regulated Professions Committee. On June 15, 2000 each bill 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 has expressed in its writing to the Director of Consumer Affairs. The Board, at its October 19, 2000 meeting, voted to support the concerns raised and the positions 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 was introduced and referred to the Assembly Local Government Committee. This bill would prohibit "no damage for delay" clauses in contracts made under the Local Public Contracts Law.

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.

**Residential Site Improvement Standards** - A public hearing on the proposed revisions was held on September 21, 2000. D.C.A. to publish response 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.

ED Russo mentioned that two new bills were recently introduced this month affecting home inspectors. They are Senate Bill S1915 which would allow licensed construction and building subcode officials to become licensed home inspectors; and Assembly Bill A3027 which would also allow licensed construction and building subcode officials to be licensed as home inspectors and which would revise the Home Inspection Professional Licensing Act by, among other provisions, adding three members to the Committee consisting of two licensed construction or subcode officials, and one representative of a county college.

## **Administration**

BM Frantz stated that he will continue to monitor the lighting and other physical conditions at the examination test sites. He also noted that the current contract with Professional Credential Services, Inc. expires in 2001.

## **Examinations**

No report.

## **Education**

ED Russo reported on a published article in the Star-Ledger on the subject of high schools not offering credits toward graduation for students taking vocational courses, and thereby discouraging students from taking these courses. He indicated that under this scenario, students would be less inclined to take these vocational courses which offer a practical hands-on experience in technology and industry.

## **Regulations**

President Faraldi spoke about very recently introduced legislation affecting the Board of Landscape Architects. Landscape Architects are now seeking to be included in the definition of "other allied professionals", a classification similar to that of land surveyors, engineers and land planners.

## **Finance**

No report.

## **Special Committee Reports**

## **Newsletter**

BM Raimondi reported that the third edition of the newsletter is nearing completion and that there is still room for additional articles.

## **Applications: Revisions Design Experience**

No report.

## **Joint Committee**

No report. ED Russo informed the Board that the next scheduled meeting will be held on February 6, 2001.

## **Website**

In a discussion on this topic, BM Vernick proposed to include an article on the Board's Website in the upcoming newsletter. He also informed the Board that the Certificate of Authorization application form is available on the Website in a printable format.

The Board also discussed the issue of whether posting the contents of the roster book onto its Website would satisfy the requirement to publish a public register of its membership on an annual basis pursuant to N.J.S.A. 45:8-34. It was generally agreed that doing so would result in considerable cost savings, which could possibly defer any potential fee increases. After further discussion, and on a motion by BM Patel, seconded by VP Kelly, a request will be made for an Attorney General's opinion on the sufficiency of providing the roster book information on a Website to satisfy statutory requirements.

There were some questions regarding the Website's search capability and functionality of the online licensing directory. It was reported that a licensee's name could be searched and displayed by typing in the full or partial last name.

Broadly defining a search may yield more than 500 matches which is the maximum number of records that can be displayed. If a search yields more than 500 records, these additional records will not be displayed. In addition, any search of the online licensing system will display the following information: name, address, license number, disciplinary history (yes/none) and licensure status (active, expired, or suspended).

Finally, the Board requested that the statutes and regulations governing the Board along with the directions for completing the Certificate of Authorization applications be added to the Website.

## **Certificate of Authorization**

After a brief discussion on this topic, BM Frantz requested that there should be an amendment to the regulations requiring that the Certificate of Authorization number be included within the title block area of all drawings. BM Frantz was informed that a draft of a proposed regulation on this subject is currently being processed. ED Russo informed the Board that he had received a response to his letter to State Treasurer Roland Machold, requesting assistance in identifying companies registered with the state which are offering engineering and or land surveying services. In his response, Mr. Machold indicated he will submit a report containing all companies using the term "engineering" and/or "land surveying," and any derivatives of their company name. This report will be used as a comparison to the Certificate of Authorization report in identifying those companies without a certificates.

ED Russo will draft a letter for mailing to all municipal and county clerks and engineers, public agencies, and authorities requesting enforcement of compliance with N.J.S.A. 45:8-56, requirement of a certificate of authorization, by engineering and land surveying which will be sent to all public agencies requesting that they check the companies in which they contract with in order to verify that they have a Certificate of Authorization, or are exempt from obtaining one.

## **Brokering of Land Surveying Services**

No report.

## **Annual Meeting**

BM Patel informed the Board that preparations are ongoing for the May 18, 2001 Annual Board Meeting.

## **REPORT OF THE EXECUTIVE DIRECTOR**

### **General Report**

ED Russo reported to the Board that Century 21, a company in which the Board has previously investigated, is currently using the term "Design Build" in their advertisements. This firm was previously issued a Cease and Desist Order (Order) for using the term "engineer" in their advertising. Century 21 did sign and agree to comply with all the terms of the Order. The Board discussed this matter and on a motion by BM Raimondi, seconded by VP Kelly, the Board unanimously voted to refer this issue to the Joint Committee to determine if there has been any infractions of the regulations affecting the practice of architecture.

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Mr. John Schuring, Assistant Dean of the Engineering Department of the New Jersey Institute of Technology (NJIT), requested from ED Russo a listing of names for all NJIT students who sat for the Fundamentals of Engineering exam and their respective scores, for the past five years. The Board discussed this matter and on a motion by VP Kelly, seconded by BM Patel, the Board unanimously voted to continue the practice of providing such information to school requesting it but without providing scores, provided that this exercise is not a burden to the staff. If this exercise proves to be overly burdensome, then NJIT, in this instance, should forward their request directly to the exam administrator, Professional Credential Services, Inc.

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An invoice for the administration of the October 2000 examination provided by the Engineering Examination Services was presented to the Board. On a motion by BM Patel, seconded by BM Marshall, the Board unanimously voted to approve payment of said bill.

### **Incoming Correspondence**

**Barry Chalofsky, PP, Department of Environmental Protection - Bureau of Non Point Pollution Control  
(October 24, 2000)**

**Re: Attendance of the December 7, 2000 meeting**

This correspondence from Barry Chalofsky reiterates the DEP's awareness of the Board's interest in being part of any discussions surrounding the drafting of regulations affecting the inspections of septic systems. Mr. Chalofsky concluded that until this matter has been thoroughly thought out by the DEP management, any discussion with the Board would have to be deferred until such time that this issue has been endorsed by the DEP.

At this time, BM Raimondi voiced that the Board should insist on being part of the DEP committee formulating rules regarding the inspection of septic systems. The Board concluded that it will wait for the draft regulations to be published in the New Jersey Register and to voice their comments at that time. An invitation will be extended to Mr. Chalofsky to speak to the Board once the regulations pertaining to septic system inspections near completion.

**Michael C. Carideo, American Standard Inc.  
(October 26, 2000)**

**Re: Eligibility for Professional Licensing Exam**

In his letter Mr. Carideo has requested advice regarding a workable path to professional engineering licensure based upon his previous experience and current employment at American Standard, Inc. The Board discussed this matter and concluded that it was not their responsibility to advise applicants on how to pursue professional engineering licensure. A response will be sent to Mr. Carideo, along with an application and copy of the Board's governing statutes and regulations, advising him that the Board is not authorized to develop paths for licensure for applicants.

**James F. Sickels, Jr., PE, PP, CME, Sickels & Assoc. Inc.**  
**(October 20, 2000)**

**Re: Request for Interpretation**

Mr. Sickels asked for a clarification of the Board's policy regarding the matter of non-professionals representing licensed professional engineers. The Board discussed this matter and directed ED Russo to draft a response to Mr. Sickles indicating that while it is aware that such circumstances, as described, do occur, they can only be advocated on a case by case basis and then only if reported to the Board. In addition, the Board requested that a complaint form be sent to Mr. Sickels for him to complete if he feels a violation of the statutes or regulations promulgated by this Board has occurred.

**Louis A. Raimondi, PE, PLS**  
**(November 7, 2000)**

**Re: Letter from the DEP to every Municipality**

This letter from Mr. Raimondi, stems from a correspondence he reviewed regarding certain maps which the New Jersey Department of Environmental Protection is making available which should be, in his opinion, prepared by a licensed land surveyor. After reviewing this correspondence, the Board declined to take any action at this time. A member of the public, Nick Wunner, PE, PLS, indicated that he will bring this issue before the Board of Directors of the New Jersey Society of Professional Land Surveyors for their input.

**John A. Giunco, Esq. Giordano, Halleran & Ciesla, PC**  
**(November 3, 2000)**

**Re: Advisory Opinion Relating to Ownership of Land Survey Plans**

This correspondence relates to a client represented by Mr. Giunco. His client, a professional land surveyor, is fearful that a draftsman employed by himself, will sell plans he drafted, upon termination of his employment with the client's company.

The Board discussed this matter and decided against rendering a general opinion on this subject. It concluded that the situation described in the letter would be controlled by the terms of the contractual agreement between the parties involved.

While the Board does not address hypothetical situations, It advised the writer that the preparation of surveys by unlicensed persons constitute the unlicensed practice of land surveying in violation of N.J.S.A. 45:8-28.

**John V. DeGrace, PE, LS, PP, CME, DeGrace Architects, Engineers & Surveyors**  
**(November 6, 2000)**

**Re: Electronic Signatures & Seals**

Mr. DeGrace's correspondence provides his personal experiences whereby the embossment of his plans with a raised seal was instrumental in the detection of these plans being fraudulently altered by another. In an effort to eliminate the potential for altering final plans, Mr. DeGrace commented that he fully supports the Board's current regulation requiring that completed plans be signed and sealed with a raised seal.

The Board noted Mr. DeGrace's letter for the record.

**Roland M. Machold, State Treasurer, State of New Jersey Office of the State Treasurer**  
**(November 2, 2000)**

## **Re: Response to letter requesting assistance**

In his response to ED Russo's request that he identify those companies registered with the Division of Revenue which offer or perform engineering services and/ or land surveying services, the Division of Revenue will provide a report listing those business names utilizing the word "engineers" or "surveyors," or any derivatives thereof.

The Board noted this correspondence for the record.

## **Barry S. Jones, PLS, New Jersey Society of Professional Land Surveyors (November 13, 2000)**

### **Rw: NJSPLS Annual Conference February 2000**

In his letter, Mr. Jones has expressed his disappointment with the Board's decision not to attend the annual New Jersey Society of Professional Land Surveyor's conference in February 2001. This correspondence was noted for the record.

## **Certificate of Authorization Report - October 2000**

The Board noted the Certificate of Authorization report for the record.

## **Applications Received/Verifications Processed - October 2000**

The Board noted the Applications Received/Verifications Processed for the record.

## **REPORT OF THE DAG**

### **Thomas J. Cawley, PE, PLS - #11806 (Response to the Provisional Order of Discipline)**

Mr. Cawley claims to have responded, in a timely manner, to the Board's Provisional Order of Discipline (POD), and is now requesting the order be rescinded.

DAG Bradford reviewed Mr. Cawley's response and informed the Board that he has requested that his land surveying license be placed on inactive status. This licensee was audited for continuing competency compliance for the 2000-2002 licensure period and was found to be deficient. In addition, the Board preliminarily determined that Mr. Cawley had failed to cooperate with and respond to its written correspondence. Hence, the Board voted to issue a Provisional Order preliminarily imposing a civil penalty of \$1,000.00 for these violations.

DAG Bradford recommended that the Board dismiss the Provisional Order previously issued since it is clear that Thomas Cawley responded timely to the Board.

On a motion by BM Frantz, seconded by BM Raimondi, the Board unanimously voted to accept DAG Bradford's recommendations to rescind the original POD and grant his request to place his land surveying license on inactive status but maintain his professional engineer's license.

### **Henry J. Mc Guigan, PE, PLS - #23192 (Response to Continuing Competency Requirement)**

A Final Order of Discipline (FOD) was previously issued to Henry J. Mc Guigan for his failure to complete the required 24 professional development hours (PDHs) in land surveying for the 1998-2000 renewal period. Mr. Mc Guigan has requested additional time to complete his delinquent PDHs as well as an extension of time in which to pay the assessed civil penalty of \$250.00. After a discussion on this matter, the Board unanimously voted to require that Mr. Mc Guigan pay the entire amount of the fine immediately and to complete the delinquent PDHs by March 1, 2001.

### **Joseph G. Hodak, PE, PLS - # 11667 (Response to Continuing Competency Requirement)**

A Provisional Order of Discipline (POD) previously issued, instructed Joseph Hodak to pay a fine of \$2,500.00 for his failure to comply with the Board's request to obtain the necessary continuing educational credits and \$1000 fine for his

failure to respond to the Board's written correspondences. A response was received from Robert J. Fogg, Esq., Mr. Hodak's attorney, who requested that the Board rescind the previously issued POD, and, in exchange, Mr. Hodak would relinquish his land surveyor's license but retain his engineering license.

On a motion by BM Raimondi, seconded by BM Vernick, the Board unanimously voted to issue a Final Order of Discipline rescinding the assessed penalty of \$2,500.00, for his failure to obtain the requisite PDHs. However, the Board voted to finalize the \$1,000.00 civil penalty previously assessed for his failure to cooperate with the Board's written requests, in violation of N.J.S.A. 45:1-21(e). Additionally the Board voted to permit Mr. Hodak to retire his land surveying license but retain his engineering license. DAG Bradford will issue the Final Order on this matter.

#### **John F. Eberth, PLS - # 24197 (Response to Continuing Competency Requirement)**

Previously, Mr. Eberth had been issued a Provisional Order of Discipline (POD) which imposed a civil penalty in the amount of \$1,000.00 for his failure to timely respond to the Board's written requests and for his failure to provide requested requesting that he be able to retire his land surveyor's license on December 31, 2000.

The Board discussed this matter, and on a motion by BM Raimondi, seconded by BM Patel, the Board unanimously voted to issue a Final Order of Discipline finalizing the previously imposed civil penalty of \$1,000.00 for his failure to complete the requisite PDHs, and to require him complete the 24 delinquent PDHs by March 1, 2001. The Board concluded that fulfilling these two directives will allow Mr. Eberth to retire his land surveyor's license effective December 31, 2000. DAG Bradford will issue the Final Order on this matter.

#### **Syed M. Tariq-Shuaib, Application #40493 (Response to a Provisional Order Denying Licensure)**

This item was tabled until the December 21, 2000 meeting.

#### **Charles A. Atkinson, PLS - #33994 (Final Order of Discipline)**

A Final Order of Discipline which included a \$1,000.00 civil penalty was previously rendered against Mr. Atkinson, PLS, for his failure to complete the required twenty-four (24) professional development hours of continuing professional competency courses in land surveying.

The Board discussed Mr. Atkinson's response to the Final Order. On a motion by BM Raimondi, seconded by BM Patel, the Board unanimously agreed to re-open this case in order to consider his correspondence in which Mr. Atkinson stated that although he had compiled the information requested by the Board, he had failed to submit this information to the Board.

On a motion by BM Patel, seconded by BM Vernick, the Board unanimously voted to reaffirm the Final Order of Discipline.

### **APPLICATIONS - FULL BOARD REVIEW**

#### **Nihah Borhra - Application # 51004**

BM Marshall presented this application for a full Board discussion. The applicant had an educational evaluation of his undergraduate degree in which it was determined that he had a shortfall of twelve (12) credit hours in general math and sciences, but, the Board found that his earned number of credits in engineering and mathematics were in excess of the amount needed. The Board agreed to accept the educational portion of Mr. Borhra's application pending a further review of his file.

#### **Roger Boyell - Application # 50883**

After reviewing this application, the Board directed ED Russo to request additional references from Mr. Boyell, preferably from professional engineers familiar with his work, even though they did not provide regular and effective supervision of this work. In addition, the Board requested examples of his design work and some detailed discussion



from professional engineers regarding the satisfactory nature of his work.

## **ARTICLES OF INTEREST**

### **New Jersey Southern Professional Engineering Society**

BM Vernick brought to the Board's attention an article published by the New Jersey Southern Professional Engineering Society indicating that he would be the guest speaker discussing the subject of P.E. Board issues and judgements at the April 11, 2001 meeting. Mr. Vernick stated that he did not agree to speak to this group, and that he is not a member of this organization. ED Russo will forward this newsletter to Robert Campanelli, Ethics Officer, and Deputy Director Anthony Miragliotta for their input regarding resolution of this matter and to avoid any appearance of impropriety or conflict of interest.

### **The PTLCB&L Design Professional's Practice Bulletin**

This Board noted this article for the record.

## **APPROVED/ DENIED APPLICATIONS FOR LICENSURE**

The Board reviewed the November 2, 2000 listing of exam and comity applications, and voted to approve 12 exam and 27 comity applications, and to deny 9 comity applications, as per the attached list.

On a motion by VP Kelly, seconded by BM Frantz, the Board unanimously voted to accept the list of approved/denied applications for licensure.

## **MOVE TO EXECUTIVE SESSION**

On a motion by BM Raimondi, seconded by BM Patel, the Board unanimously voted to enter Executive Session to discuss an issue on unlicensed practice.

## **RETURN TO PUBLIC**

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

## **ADJOURNMENT**

On a motion by BM Frantz, seconded by BM Patel, the Board unanimously decided to adjourn the meeting.

### **Approved:**

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Albert N. Faraldi, PLS  
President

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Arthur Russo  
Executive Director

