

MINUTES

BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS

General Business Meeting

Hawthorn Suites Orlando
7450 Augusta National Drive
Orlando, Florida

October 8-9, 2003

Call to Order / Roll Call

Pamela Nobles, Chair, called the meeting to order October 8, 2003 at 12:30 p.m.

Members Present:

Pamela Nobles, Chair
Omar Armenteros, Vice Chair
Dennis Blankenship
Lou Bush
Jeffrey Cooner
Beverly Sutphin
Sidney Greer
Frances Poppell

Members Not Present:

Louis Lebron

Others Present

Juanita Chastain, Executive Director
Christa Patterson, Government Analyst I
Paul Martin, Board Counsel
Charles Pellegrini, Prosecuting Attorney
David Melvin
Harley Gilmore
Alvin Gloer
Gail Oliver
David Schryver
Jessica Porter
Stephen Gordon
Marilyn Evers
Allen Nobles
Henry Echezabal
Ed Bayo
Karen Schukman
Bryan Ryan

PLEDGE OF ALLEGIANCE

REVIEW AND APPROVAL OF MINUTES

July 17, 2003 Rule Workshop Minutes

The board reviewed the July 17, 2003 rule workshop minutes and after discussion the following motion was made.

MOTION: Mr. Greer made a motion to approve the July 17, 2003 rule workshop minutes.

SECOND: Mr. Armenteros seconded the motion and it passed unanimously.

July 18, 2003 General Business Meeting Minutes

The board reviewed the July 18, 2003 general business meeting minutes and after review the following motion was made.

MOTION: Mr. Bush made a motion to approve the July 18, 2003 general business meeting minutes with corrections.

SECOND: Mr. Cooner seconded the motion and it passed unanimously.

September 9, 2003 TCC General Business Meeting Minutes

The board reviewed the September 9, 2003 general business meeting minutes and after review the following motion was made.

MOTION: Mr. Greer made a motion to approve the September 9, 2003 general business meeting minutes.

SECOND: Mr. Armenteros seconded the motion and it passed unanimously.

REVIEW OF THE TASK FUNCTION FORM

Ms. Nobles reviewed the task function form with the board. Ms. Nobles stated most of the task had been completed. Ms. Nobles asked Ms. Chastain if a meeting had been arranged with FSMS to discuss the solution to allowing FSMS the ability to electronically submit continuing education hours for chapter and annual meetings. Ms. Chastain advised the board that a meeting has been scheduled with the continuing education office. Ms. Nobles asked Ms. Sutphin and Mr. Martin the status of the draft language to address the ABET issue. Ms. Sutphin stated she had not drafted any proposed language at this time but did have the opportunity at the FSMS conference to discuss the issue. Mr. Cooner asked if the issues of ABET included the list of courses identified by FSMS. Mr. Gordon stated that FSMS had not drafted a list of courses at this time. Mr. Cooner stated he thought Dr. Gibson was in the process of preparing a list of courses. Ms. Oliver advised the board she had been appointed to the FSMS committee and was in the process of researching courses.

After discussion, it was the consensus of the board that a course title list would be hard to compile considering Florida and out of State schools. Ms. Nobles suggested a course description list.

Mr. Pellegrini advised the board that the Ronald Schumann case was included in their agenda materials in error and requested that the case be withdrawn from the agenda.

COMMITTEE REPORTS

Application Review Committee – Lou Bush

Mr. Bush reported that the application review committee met and reviewed seven (7) applications. Mr. Bush stated four (4) applicants reviewed were by examination and the other three (3) applicants were by endorsement.

Mr. Bush reported that the committee recommended that Michael Barbee and Randy Leon Tompkins be approved for licensure by examination.

Mr. Bush reported that the committee recommended that Carla Jean Rollins be denied for licensure by examination. Ms. Rollins does not meet the education requirements for licensure.

Mr. Bush reported that the committee recommended that Josshua Bryan be denied for licensure by examination. Mr. Bryan does not have good moral character.

Mr. Bush reported that the committee recommended that Allen Tilly be denied for licensure by endorsement. Mr. Tilly did not provide verification that he was a subordinate to a licensed surveyor and mapper.

Mr. Bush reported that the committee recommended that Michael Eugene Bartenfeld be approved for licensure by endorsement.

Mr. Bush reported that the committee recommended that Douglas Cruse be denied for licensure by endorsement. Mr. Cruse did not submit proper forms to verify work experience.

MOTION: Ms. Sutphin made a motion to approve the application review committee report.

SECOND: Mr. Cooner seconded the motion and it passed unanimously.

OLD/NEW BUSINESS

FSMS Annual Meeting Update

Mr. Gordon was present at the meeting and he addressed the board. Mr. Gordon advised the board that at the FSMS annual general business meeting the committee voted to approve and support the proposed privatization legislation. Mr. Gordon advised the board that FSMS was moving forward with the draft legislation and that their attorney was in the process of reviewing the final draft prior to submitting to the legislature. Mr. Gordon stated Mr. Kottcamp was sponsor of House Bill 543 and Mr. Clary was sponsor of Senate Bill 472. Mr. Cooner asked Mr. Gordon to forward a copy of the final draft. Mr. Gordon asked the board to contact him regarding feedback to the legislation.

COMMITTEE REPORTS – Continued

Examination Committee- Ms. Nobles

Ms. Nobles reported that there were three exam candidates who would be taking the photogrammetry exam in October. Ms. Nobles advised the board that at the April 2004 administration of the NCEES exams, candidates would no longer be able to use the HP 48 calculator. Ms. Nobles stated that exam candidates would be able to use the HP 48 calculator during the administration of the Florida examinations.

ELECTIONS OF OFFICERS

Ms. Nobles stated the officers elected would become effective at the January 2004 meeting.

MOTION: Mr. Armenteros made a motion to elect Ms. Nobles for Chair.

SECOND: Mr. Blankenship seconded the motion and it passed unanimously.

MOTION: Mr. Greer made a motion to elect Mr. Blankenship for Vice Chair.

SECOND: Ms. Nobles seconded the motion and it passed unanimously.

MOTION TO DENY PETITION FOR FORMAL HEARING AND SET MATTER FOR HEARING NOT INVOLVING DISPUTED ISSUES FOR MATERIAL FACT

Mr. Blankenship was recused due to his participation on the probable cause panel.

Mr. Ryan and Ms. Schuckman were present at the meeting and was represented by Mr. Edwin Bayo, Esquire.

Mr. Bayo thanked the board for hearing their petition. Mr. Pellegrini advised the board that they were considering case number 2002-01713 and case number 2002-10712. Mr. Pellegrini presented both cases to the board and after discussion the following motion was made.

MOTION: Mr. Bush made a motion to deny the motion for administrative hearing and to hear the case as an informal hearing.

SECOND: Ms. Sutphin seconded the motion and it passed.

Mr. Armenteros opposed the motion.

Mr. Pellegrini advised the board that both cases would now be heard as informal hearings. Mr. Pellegrini advised the board that by granting the licenses in error the licenses should be revoked. It was the consensus of the board that the licenses were issued in error and that Mr. Ryan and Ms. Schuckman did not meet the licensure requirements for licensure by endorsement. After discussion, it was the consensus of the board that Mr. Ryan's education credentials did not meet the licensure requirements for examination. However, Ms. Schuckman education and experience credentials did meet the licensure requirements for licensure by examination.

After discussion by the board the board, asked Ms. Schuckman if she would be willing to take the NCEES licensure examination. Ms. Schuckman declined.

MOTION: Mr. Cooner made a motion that the licenses were issued in error by the board.

SECOND: Ms. Sutphin seconded the motion and it passed unanimously.

MOTION: Mr. Armenteros made a motion to revoke Mr. Ryan and Ms. Schuckman's license.

SECOND: Mr. Cooner seconded the motion and it passed unanimously.

Mr. Bayo asked for a stay of the final order. Mr. Martin advised Mr. Bayo to make his request to the Department in writing.

The general business meeting recessed at 3:00 p.m. and would reconvened at the conclusion of the probation committee meeting held October 9, 2003.

Ms. Nobles called the general business meeting to order October 9, 2003 at 9:30 a.m.

Members Present:

Pamela Nobles, Chair
Omar Armenteros, Vice Chair
Dennis Blankenship
Lou Bush
Jeffrey Cooner
Beverly Sutphin
Sidney Greer
Frances Poppell

Members Not Present:

Louis Lebron

Others Present:

Juanita Chastain, Executive Director
Christa Patterson, Government Analyst I
Paul Martin, Board Counsel
Charles Pellegrini, Prosecuting Attorney
John Mella
Angel Bosque
William Hayhurst
Billy Moody
David Melvin
Gerald Muldowney
Bruce Klein
Perry Leavell
Mike Joiner
Harley Gilmore
Alvin Gloer
Gail Oliver
Lanier Mathews
Sherwood Coleman
Rodney Maxwell
David Schryver
Marilyn Evers
Henry Echezabal
John O'Neill

PLAQUE PRESENTATION – John O’Neill

Ms. Nobles presented John O’Neill with a board member service plaque. Ms. Nobles thanked Mr. O’Neill for his participation and service to the board. Mr. O’Neill thanked the board.

DISCIPLINARY PROCEEDINGS – Charles Pellegrini

William Edwards Hayhurst
Case # 2002-01938

Mr. Hayhurst was present at the meeting and was not represented by counsel. Mr. Pellegrini reviewed the case with the board and after discussion the following motions were made.

MOTION: Mr. Bush made a motion to accept the stipulated agreement as presented.
SECOND: Mr. Cooner seconded the motion.

Ms. Nobles called the question and Mr. Armenteros suggested that the board offer a counter stipulation to include a boundary determination course and a Florida laws and rules course.

All members opposed the motion and the motion failed.

MOTION: Ms. Sutphin made a motion to reject stipulation as presented and offer a counter stipulation to include the fine to be paid within 60 days and if not paid the stay of suspension would be lifted, and that the respondent would be required to take a boundary control course and a Florida laws and rules course.
SECOND: Mr. Armenteros seconded the motion and it passed unanimously.

Mr. Martin asked Mr. Hayhurst if he would accept or reject the counter stipulation. Mr. Hayhurst asked the board if the fine could be reduced. After discussion Mr. Hayhurst accepted the counter stipulation without a reduction of the fines.

Mr. Hayhurst asked the board if he could receive a copy of Ms. Marley checksheet to use for an example of what to submit with his surveys for probation review. Ms. Nobles reviewed Ms. Marley’s outline with Mr. Hayhurst.

Mr. Madson stated he would send Mr. Hayhurst a copy of the probation letter. The committee thanked Mr. Madson.

The board asked Mr. Hayhurst to submit elevation surveys to the probation committee if possible. The board noted this request was not part of the counter stipulation.

Bruce Klein
Case # 2001-01894

Mr. Klein was present at the meeting and was represented by counsel.

Mr. Pellegrini reviewed the case with the board and after discussion the following motions were made.

MOTION: Mr. Bush made a motion to reject the stipulation as presented and to offer a counter stipulation.

SECOND: Mr. Armenteros seconded the motion and it passed unanimously.

MOTION: Mr. Bush made a motion to offer a counter stipulation to include that if the fine is not paid within the time frame, the stay of suspension would be lifted, fine payment changed to 6 months, MTS course, boundary control course, Florida laws and rules course, and the surveys to be submitted to the probation committee for review will include three surveys with elevations.

SECOND: Mr. Armenteros seconded the motion and it passed unanimously.

Mr. Martin asked Mr. Klein if he would accept or reject the counter stipulation. Mr. Klein and his counsel accepted the counter stipulation.

Gerald Muldowney
Case # 98-22081

Mr. Muldowney was present at the meeting and was presented by Mr. Ted Madson, Esquire.

Mr. Pellegrini reviewed the case with the board and after discussion the following motions were made.

MOTION: Ms. Sutphin made a motion to reject the stipulation presented.

SECOND: Ms. Poppell seconded the motion and it passed unanimously.

MOTION: Mr. Armenteros made a motion to offer counter stipulation to include that if the fine is not paid on time, the stay of suspension would be lifted, and Mr. Muldowney would have to provide verification of compliance to 61G17-2.005, F.A.C.

SECOND: Ms. Sutphin seconded the motion and it passed unanimously.

Mr. Martin asked Mr. Muldowney if he would accept or reject the counter stipulation. Mr. Muldowney accepted the counter stipulation.

Billy Merl Moody
Case # 2002-01789

Mr. Moody was present at the meeting and was not represented by counsel. Mr. Greer stated Mr. Moody was his son-in-law and he recused himself from discussion and participation in the case. Ms. Poppell was recused due to her participation on the probable cause panel.

Mr. Pellegrini reviewed the case with the board and after discussion the following motions were made.

MOTION: Ms. Sutphin made a motion to reject the stipulation as presented.

SECOND: Mr. Armenteros seconded the motion and it passed unanimously.

MOTION: Ms. Sutphin made a motion to offer a counter stipulation to change the fine amount to \$2250.00 and if the fine is not paid within the time frame that the stay of suspension be lifted, and add a boundary control course and a Florida laws and rules course.

SECOND: Mr. Armenteros seconded the motion and it passed unanimously.

Mr. Martin asked Mr. Moody if he would accept or reject the counter stipulation. Mr. Moody accepted the counter stipulation.

Mr. Moody advised the board that his current mailing address was 926 17th Avenue, Vero Beach, Florida 32960 and asked staff to check the Department's data bank to assure accuracy.

Mr. Pellegrini reminded the board that the Ronald Schumann case was withdrawn from the board's agenda.

Ralph Young
Case # 2002-01903

Mr. Young was not present at the meeting and was not represented by counsel. Mr. Pellegrini reviewed the case with the board and after discussion the following motions were made. Mr. Pellegrini advised the board that Mr. Young had been disciplined by the board four times. Mr. Pellegrini stated Mr. Young's license was currently delinquent and the Department had not been successful in locating Mr. Young.

Mr. Martin advised the board that in accordance to Chapter 455, it's the responsibility of the licensee to notify the Department or board of a current mailing address.

MOTION: Mr. Bush made a motion to accept the motion for default.

SECOND: Mr. Greer seconded the motion and it passed unanimously.

MOTION: Mr. Bush made a motion to revoke Mr. Young's surveyor and mapper license.

SECOND: Mr. Cooner seconded the motion and the motion passed.

Mr. Armenteros opposed the motion.

INFORMAL HEARING OF APPLICATION DENIALS

Angel Bosque

Mr. Bosque was present at the meeting and was not represented by counsel. Ms. Sutphin recused herself from the hearing due to her DOT consultant relationship with Mr. Bosque.

Mr. Bosque provided the board with additional information regarding his work experience. After discussion the following motion was made.

MOTION: Mr. Greer made a motion to approve Mr. Bosque's application by endorsement.

SECOND: Mr. Cooner seconded the motion and it passed unanimously.

Jeffrey Genzel

Mr. Genzel was not present at the meeting and was not represented by counsel. Ms. Patterson advised the board that Mr. Genzel contacted her and requested to postpone the hearing to January. Ms. Patterson stated Mr. Genzel mailed additional information regarding his work experience and the information had not arrived in the board office.

MOTION: Mr. Bush made a motion to table Mr. Genzel's informal hearing to the January 2004 meeting.

SECOND: Mr. Armenteros seconded the motion and it passed unanimously.

Rodney Maxwell

Mr. Maxwell was present at the meeting and was not represented by counsel. Mr. Martin reviewed the notice of intent to deny with the board. Mr. Maxwell submitted additional information regarding his work experience and after discussion the following motion was made.

MOTION: Mr. Greer made a motion to approve Mr. Maxwell's application for licensure by endorsement.

SECOND: Ms. Sutphin seconded the motion and it passed unanimously.

REVIEW AND CONSIDERATION OF FLORIDA ENVIRONMENTAL, INC. PETITION FOR DECLARATORY STATEMENT

Mr. Steven Ford and Mr. Roger Miller were present at the meeting to review their petition with the board. Mr. Martin stated that in accordance to Chapter 472, if a company offers to provide surveying and mapping services they would need to have a certificate of authorization issued by the board. After discussion the following motion was made.

MOTION: Ms. Sutphin made a motion to decline declaratory statement and advise Mr. Miller that EarthBalance would need to apply for a certificate of authorization license.

SECOND: Mr. Armenteros seconded the motion and it passed unanimously.

PROSECUTING ATTORNEY REPORT – Charles Pellegrini

Mr. Pellegrini reviewed his report with the board. Ms. Nobles asked Mr. Pellegrini to provide a report at the January 2004 meeting regarding how the Department allocates the costs of prosecution for disciplinary cases. Mr. Cooner stated that the board wants to be assured that the disciplined licensee is being charged with the costs.

BOARD COUNSEL REPORT – Paul Martin

Mr. Martin reviewed the rules report with the board. Mr. Martin asked the board to review proposed language to 61G17-2. 0015, F.A.C., and after review the following motion was made.

MOTION: Mr. Greer made a motion to approve proposed language to 61G17-2.0015, F.A.C.

SECOND: Mr. Cooner seconded the motion and it passed unanimously.

Ms. Chastain advised the board that in accordance to Chapter 455.02 the board would need to consider drafting a rule to address the issue of the exemption of spouses of members of armed forces from licensure renewal provisions.

Mr. Martin stated he would notice the rule for development and would draft proposed language for the board to consider.

COMMITTEE REPORTS – Continued

Probation Committee Report – Mr. Armenteros

Mr. Armenteros reported that the probation committee had met that morning. Mr. Armenteros stated that the committee reviewed Mr. Mella's 1st set of surveys and found the surveys not in compliance. Mr. Armenteros stated that the committee recommends Mr. Mella submit a 2nd set of surveys.

Mr. Armenteros reported that the committee reviewed Ms. Marley's 2nd set of surveys and found the surveys were in compliance and recommended the Ms. Marley be released from probation.

Mr. Armenteros reported the committee reviewed Mr. Rowell's field notes and that the committee recommended that the survey work be accepted as in compliance.

Mr. Armenteros reported that the committee recommended that Mr. McNeal be removed from the non-compliance list and that Mr. McNeal be required to submit his 2nd set of 1st surveys to the board office by December 1, 2003 to be reviewed by the probation committee at their January 2004 meeting.

Mr. Armenteros reported Mr. Far is out of the country and is required to submit his surveys to the board office by December 1, 2003 to be reviewed at the January 2004 meeting. Mr. Armenteros stated that if Mr. Far does not comply with the deadline dates his name will be placed on the January 2004 probation committee agenda for non-compliance to the final order.

NCCES Committee – Pam Nobles

Ms. Nobles reported that she, Mr. Cooner, and Mr. Bush attended the NCEES annual meeting in Baltimore, Maryland. Ms. Nobles stated the meeting was very informative. Ms. Nobles stated there was a lot of discussion of sole sourcing the administration of the NCEES exams and felt that the counsel would bring the issue up again. Ms. Nobles stated she was confident with the Department's exam services office handling the administration of the exam.

Mr. Bush stated for the record that it would be beneficial for the board to allocate funds for all board members to attend the annual meeting.

Rule Committee – Jeff Cooner

Mr. Cooner past out an outline of MTS changes for members to consider and think about. Mr. Cooner stated he would also like to add ortho photo survey to the list of types of surveys.

ACSM Committee – Beverly Sutphin

No report.

Probable Cause Panel – Dennis Blankenship

Ms. Nobles reported for Mr. Blankenship. Ms. Nobles reported that the probable cause panel met and reviewed 8 cases and found probable cause in 5 cases, referred 2 cases back to the department for additional investigation, and 1 case was referred to a consultant. Ms. Nobles stated all three-panel members were present at the meeting.

Continuing Education Committee – Beverly Sutphin

Ms. Sutphin reported that the continuing education committee met and reviewed a provider application submitted by Photo Science. Ms. Sutphin stated that the provider did not provide sufficient information and the committee recommended that the application be denied. Ms. Sutphin stated that the committee briefly discussed the revisions of the continuing education rule that went into effective August 2003. Ms. Sutphin stated that it was the consensus of the committee that revisions would need to be made.

Ms. Chastain advised the board that there had been some change to the way the Department is handling the continuing education compliance plan. Ms. Chastain stated that when a licensee renews their license and they are not in compliance to their continuing education requirements the Department will mail out a notice within 30 days notifying the licensee of the deficiencies. Ms. Chastain stated that in the middle of the biennium those who did not comply with the deficiencies would receive a citation. Ms. Chastain stated that if the licensee does not comply with the deficiencies prior to the next renewal cycle the Department would not renew their license.

Adhoc Committee on MTS

Ms. Nobles asked that this committee be removed from the committee reports.

Positional Accuracy Committee – Lou Bush

Mr. Bush reported that the positional accuracy committee met and discussed an outline for the January 2004 meeting. Mr. Bush stated that at the January 2004 meeting the positional accuracy committee would be noticed as a Workshop. Mr. Bush stated FSMS is going to advertise the workshop and he hoped this would promote activity in the profession.

EXECUTIVE DIRECTOR REPORT – Juanita Chastain

Ms. Chastain advised the board that the financial report was included in their board member folder. Ms. Chastain reviewed the report with the board.

CHAIRPERSON'S REPORT – Pam Nobles

Ms. Nobles reported she attended a Chair/Vice Chair training session in Tallahassee and it was very informative. Ms. Nobles advised the board that Mr. Oliver from the

Department's Finance and Accounting office was on longer working in the Finance and Accounting office. Ms. Nobles stated she had provided copies of the handouts from that meeting.

OLD/NEW BUSINESS – continued

Mr. Bush reported that he would be attending a MAPPS meeting and discussion of photogrammetry licensure issues and the NCEES model law would be discussed at this meeting. Mr. Bush stated Florida is one of the leaders and feels the board needs to stay on top of the photogrammetry issues. Mr. Bush stated he would give a report at the January 2004 meeting.

Unlicensed Activity Update – Lou Bush

Mr. Bush advised the board that included in their board member folders was a copy of an email he received from Mark Whitten and Laura Gaffney regarding unlicensed activity reports. Mr. Bush expressed his concerns with regard to his working relationship with the Department. Mr. Bush stated the communication between himself and Regulation was moving along but now the process has been changed and he was not sure how this change was going to effect the communication of information. Mr. Bush stated he would continue to monitor the Departments actions on unlicensed activity cases.

There being no other business the meeting adjourned at 2:30 p.m.