

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59

GENERAL BUSINESS MINUTES

BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS

**HYATT PLACE COCONUT POINT
23120 VIA VILLAGIO
ESTERO, FL 33928**

**August 24, 2010 Committee/General Business Meeting at 8:30 am
August 25, 2010 General Business Meeting at 8:30 am**

The meeting was called to order by Jeffrey Cooner at 1:01 p.m.

MEMBERS PRESENT

Jeffery Jeffrey Cooner, Chair
Arthur Mastronicola, Vice Chair
Nickolas Fusco
Pam Nobles
Patrick Talbott
Mary Hanna Clodfelter
Louis Lebron
Larry Wright
Howard Ehmke

OTHERS PRESENT

Leon Biegalski, Executive Director
Bennett Miller, Board Counsel
Patti Kight, Senior Management Analyst I
Eric Miller
Ray Niles
Valentin Ivanov
Michael Solitro
Kim Solitro
Luis Gaztambide
Justin Harris
Robert DuBois
Fred Myers
Michael Ray
Daniel Binz
Bryan Smith
Andy Lobe
John R. Litton
Ronald Litton
Allen Nobles
Kryisia Sapeta
Henry Johnston

60 REVIEW AND APPROVAL OF THE AUGUST 2010 GENERAL BUSINESS MEETING MINUTES

61
62 After discussion, the following motion was made:

- 63
- 64 MOTION: Mr. Ehmke made a motion to approve the minutes as modified.
- 65 SECOND: Ms. Clodfelter seconded.
- 66 ACTION: The motion passed unanimously.
- 67

68 EXECUTIVE DIRECTOR'S REPORT

69
70 Mr. Biegalski reported that the Continuing Education providers are currently using the roster upload system and
71 the Division has had positive response from the providers regarding the ease of the system. He further
72 explained that provider numbers have been reissued to a two digit number beginning with CE. Although the
73 Division is still using the provider number issued by DBPR, the providers have been notified that they should be
74 amending their certificates to use the CE number issued by DACS.

75
76 The "Find A Surveyor" function found on the Division's website: www.800helpfla.com/psm is now a real time
77 search. As part of the Division's attempt to ensure that all information is included in database, DACS personnel
78 will be working on adding past licensed people into the database that were previously removed due to non
79 activity, i.e. deceased, null and void, etc. to make them available through this search. Mr. Biegalski explained
80 that there will be intentional gaps in the database due to the early processes. This is a long term project as it will
81 take some special programming by the IT area and will not be addressed until the current database is up and
82 running.

83
84 DACS has contracted with an outside vendor to convert microfiche and microfilm files into a digital format. With
85 this new software Board Staff will be able to view all past applications and "attach" them to the database file. Ms.
86 Nobles complimented the Board Staff on this process citing the Cruse application file as an example.

87
88 Licensee's can now view their Continuing Education credits online by creating an account with our system. User
89 accounts previously set up at DPBR will not work in DACS' system. Before the renewal period begins licensees
90 will have access to update their address and submit their renewal.

91
92 Mr. Biegalski reported that he has created a history of MTS in chart form on the Board's website with links to the
93 individual rules.

94
95 In the October 2009 and April 2010 NCEES exam: 1,963 applicants sat for the Fundamentals exam, down
96 22.6% from last year and 1,542 applicants sat for the Principals exam, down 12.4% from last year. According to
97 a report, possibly NCEES report, the average age of surveyors is 56-58 years of age.

98
99 Mr. Biegalski is currently seeking articles for the next newsletter, he asked the Board to consider any articles that
100 they wish to submit for the newsletters.

101
102 COMMITTEE REPORTS

103
104 Probation Committee – Mary Hanna Clodfelter

105
106 Ms. Clodfelter gave the following report:

107
108 The Committee reviewed 2 sets of surveys and made the following recommendations:

109
110 First Set of Surveys for Review

111
112 John R. Litton accepted; remain on probation until the remaining terms are completed

113
114 Second Set of Surveys for Review

115
116
117 William Boyd accepted; released from probation on the condition he send the
118 Department a corrected set of surveys

119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177

Non-Compliance Review

Thomas E. Jenkins, Jr. lift the stay and send the case to collections for fines and costs and to refer to the Bureau of Investigations for failure to comply

The Committee reviewed the Probation Tracking form.

After discussion the following motion was made:

MOTION: Ms. Nobles made a motion to accept and ratify the recommendations of the Probation Committee.

SECOND: Mr. Ehmke seconded.

ACTION: The motion passed unanimously.

Application Review Committee – Louis Lebron

Mr. Lebron gave the following report:

The Committee reviewed 25 applications for licensure, 13 by examination, 8 by endorsement and 4 Surveyors of Record.

MOTION: Mr. Lebron made a motion to accept and ratify the actions of the Application Committee.

SECOND: Mr. Mastronicola seconded.

ACTION: The motion passed unanimously.

Examination Committee – Pam Nobles

Ms. Nobles reported that she has not had any activity with DBPR. Mr. Biegalski stated that is not aware of any reports that should be forwarded to the Committee. Ms. Nobles explained the examination question selection process. Mr. Biegalski noted that DACS is in the process of adding exam consultants and DBRP would be using their services.

Ms. Nobles reviewed the Summary of Exam Activities in the State of Florida for the Board. A total of 93 candidates took all or a portion of the examinations.

NCEES Committee – Jeffrey Cooner

Mr. Cooner reported back on discussions taking place at the NCEES meeting in Denver. One of the issues discussed was regarding the remnant land surveying reference in the operational manual of NCEES which needs to be updated. Although there were some hold out states; there was overwhelming support ant the action to remove the language passed.

There was a discussion on a development in NCEES to create a faculty licensure track for Engineering, at the Ph.D. level only, giving acknowledgement for the testing that it takes to become a Ph.D. and the work that one does to obtain that degree. After much discussion that action failed.

PDH's (CE's) would require business and ethics PDH's for engineering, after discussion, there was a limited number of PDH's of business and ethics for engineers, the action passed.

There was discussion on the 150 hour minimum semester hours for a Bachelor's degree in Engineering, after discussion this action was passed.

As Mr. Biegalski stated in his report that the number of surveyors taking the examination are down, the applicants for engineers has risen by 10-15%.

A notable issue that passed and will impact the exams that the candidates will take is the Computer Based Testing (CBT). There has been a sum of money allocated for the development of CBT.

178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235

Mr. Cooner told the Board that a surveyor approached Mr. Biegalski at the NCEES meeting asking about his licensure status, with the implementation of the web based applications, Mr. Biegalski was able to respond within minutes of his request.

Discussion in an open forum was the desire of a lot of states wanting to share exam questions. Although Florida has a question bank that is specific to Florida, the way the question is worded might serve as a template for another state. Mr. Cooner relayed that he had questions regarding the security of the exam questions if this were to become a reality.

Rules Committee – Pam Nobles

Ms. Nobles gave the following report:

The Committee reviewed the rules presented and made a recommendation to accept.

MOTION: Ms. Clodfelter made a motion to accept and ratify the actions of the Rules Committee

SECOND: Mr. Talbott seconded.

ACTION: The motion passed unanimously.

NCEES Committee – Jeffrey Cooner

Mr. Cooner asked that we revisit the NCEES Committee report. He stressed to the Board that if Florida wishes to keep up with the national trends and how licensure is being accomplished successfully nationally and all the different ways we share information at these meetings. He encouraged the Board to remain active at the NCEES meetings.

ACSM Liason – Nickolas Fusco

Mr. Fusco had no report to give at this time.

Probable Cause Panel – Arthur Mastronicola

Mr. Mastronicola made the following report:

The Panel reviewed 7 cases:

2 were closed as recommended by DACS

5 were found to have probable cause

Mr. Mastronicola made note that Mr. Eric Miller has done an excellent job of clearing the backlog of cases.

MOTION: Ms. Nobles made a motion to accept and ratify the actions of the Probable Cause Panel

SECOND: Mr. Fusco seconded.

ACTION: The motion passed unanimously.

Continuing Education Committee – Howard Ehmke

Mr. Ehmke gave the following report:

The Committee reviewed 28 courses from 6 providers; the Committee recommends approval of all courses.

MOTION: Ms. Nobles made a motion to accept and ratify the actions of the Continuing Education Committee

SECOND: Mr. Lebron seconded.

ACTION: The motion passed unanimously.

NEW BOARD MEMBER TRAINING

236 Section 472.006, Florida Statutes, requires the Department to provide training to New Board Members. Mr.
237 Bennett Miller discussed the scope of the responsibilities of the Board of Professional Surveyors and Mappers
238 and the operation of DACS. He indicated that more specific training on topics such as investigations will be done
239 on a person by person basis to the new members. Mr. Bennett Miller reminded the Board that they are public
240 officers and are designated to do the business of the government and the people's business and asked that
241 everyone keep their comments on a professional level. He further explained that if a Board Member is acting
242 within the boundaries of the Board and holding themselves to the professional level expected by the Department,
243 the Department will defend those actions. However, a Board Member may still be responsible for a willful act. A
244 willful act means, but is not limited to, disregarding advice given by the Board Staff and proceeding on an opinion
245 or action. Any tortuous or criminal conduct would be considered a willful act, such as remarks made that would
246 fail to meet the standard of care of a reasonable public officer and causes provable injury with quantifiable
247 damages.

248
249 Mr. Bennett Miller explained, Chapter 286, Florida Statutes, the Sunshine Law, which provides that Board
250 Members may not discuss any business, opinion or general information of the Board with other Board Members,
251 either in person, telephone or electronic, unless properly noticed in the Florida Administrative Weekly. The
252 attorney-client privilege is attached to Board business, any information related to you by the Board Counsel or
253 the Prosecuting Attorney under that privilege is protected. Failure to maintain that confidentiality has recourse
254 outlined in the Florida Statutes, including but not limited to removal and criminal or civil penalties.

255
256 Mr. Bennett Miller reminded those present that any correspondence sent to the Executive Director and Senior
257 Management Analyst is considered public record and would be subject to a public records request. Mr. Bennett
258 Miller advised members to refer any questions from the public, specifically from consumers, to the Board Staff
259 and cautioned that any questions from licensed individuals regarding their actions and the response could be
260 construed as advice given from a Board Member rather than one licensed professional to another and may be a
261 violation of the Sunshine Law.

262
263 A question was raised regarding how a complainant would receive information regarding a complaint that was
264 filed on unlicensed activity. They were advised to contact the Bureau of Investigations.

265
266 The Board has asked for a quarterly report regarding unlicensed activity complaints, Mr. Eric Miller will bring the
267 latest numbers to the Board during his report on August 25th.

268
269 The meeting was recessed at 2:44 pm
270

271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294

295 The meeting was reconvened by Jeffrey Cooner at 8:32 am on August 25, 2010.

296

297 MEMBERS PRESENT

298

299 Jeffrey Jeffrey Cooner, Chair

300 Arthur Mastronicola, Vice Chair

301 Nickolas Fusco

302 Pam Nobles

303 Patrick Talbott

304 Mary Hanna Clodfelter

305 Louis Lebron

306 Larry Wright

307 Howard Ehmke

308

309 OTHERS PRESENT

310

311 Leon Biegalski, Executive Director

312 Bennett Miller, Board Counsel

313 Patti Kight, Senior Management Analyst I

314 Eric Miller

315 J. Sherman Frier

316 Jonathan Branson

317 Timothy Coil

318 Mark W. Evans

319 Ray Niles

320 Donald Lanthorne

321

322 DISCIPLINARY PROCEEDINGS – Eric Miller

323

324 Settlement Stipulations

325

326 Mark W. Evans – 2009-039964

327

328 Mr. Evans was present.

329

330 Mr. Mastronicola and Mr. Talbott were recused because of their participation on the Probable Cause Panel in
331 this case.

332

333 Mr. Eric Miller presented this case to the Board.

334

335 Mr. Evans responded to the case as presented.

336

337 After discussion the following motion was made:

338

339 MOTION: Ms. Nobles made a motion to accept the Settlement Stipulation.

340 SECOND: Mr. Talbott seconded.

341 ACTION: The motion passed unanimously.

342

343 Mr. Bennett Miller stated that Mr. Talbott was recused from consideration of this case because of his participation
344 on the Probable Cause Panel.

345

346 MOTION: Ms. Nobles made a motion to accept the Settlement Stipulation.

347 SECOND: Mr. Ehmke seconded.

348 ACTION: The motion passed unanimously.

349

350 Mark W. Evans & Associates, Inc. – 2009-040161

351

352 Mr. Mark W. Evans was present.

353

354 Mr. Mastronicola and Mr. Talbott were recused because of their participation on the Probable Cause Panel in
355 this case.

356
357 Mr. Eric Miller presented this case to the Board.

358
359 Mr. Evans responded to the case as presented.

360
361 After discussion the following motion was made:

362
363 MOTION: Mr. Fusco made a motion to accept the Settlement Stipulation.

364 SECOND: Mr. Ehmke seconded.

365 ACTION: The motion passed unanimously.

366
367 Mr. Evan requested an extension of time or consideration of administrative action being taken on either him
368 individually or the business.

369
370 MOTION: Ms. Nobles made a motion to amend the terms of the Settlement Stipulation to payment within
371 90 days on cases 2009-039964 and 2009-040161.

372 SECOND: Ms. Clodfelter seconded.

373 ACTION: The motion passed unanimously.

374
375 Timothy Coil – 2009-006363

376
377 Mr. Coil was present.

378
379 Mr. Mastronicola was recused because of his participation on the Probable Cause Panel in this case.

380
381 Mr. Eric Miller presented this case to the Board.

382
383 Mr. Coil responded to the case as presented.

384
385 After discussion the following motion was made:

386
387 MOTION: Ms. Clodfelter made a motion to accept the Settlement Stipulation.

388 SECOND: Mr. Lebron seconded.

389 ACTION: The motion passed unanimously.

390
391 TMC Surveying, Inc. – 2009-010222

392
393 Mr. Timothy Coil was present.

394
395 Mr. Mastronicola was recused because of his participation on the Probable Cause Panel in this case.

396
397 Mr. Eric Miller presented this case to the Board.

398
399 Mr. Coil responded to the case as presented.

400
401 After discussion the following motion was made:

402
403 MOTION: Ms. Clodfelter made a motion to accept the Settlement Stipulation.

404 SECOND: Ms. Nobles seconded.

405 ACTION: The motion passed unanimously.

406
407 Hearing – No Disputed Facts

408
409 J. Sherman Frier – 2008-028699

410
411 Mr. Frier was present.

412
Board of Professional Surveyors and Mappers
August 2010 General Business Meeting Minutes
Page 7 of 10

413 Mr. Mastronicola and Mr. Talbott were recused because of their participation on the Probable Cause Panel in
414 this case.

415
416 Mr. Eric Miller presented the case to the Board.

417
418 Mr. Frier addressed the Board.

419
420 After discussion the following motion was made:

421
422 MOTION: Mr. Ehmke made a motion to dismiss the petition for hearing and allow Mr. Frier to respond to
423 the election of rights notice within 30 days.

424 SECOND: Ms. Nobles seconded.

425 ACTION: No vote taken

426

427 After further discussion the motion was amended:

428

429 MOTION: Mr. Ehmke made a motion to dismiss the petition for hearing and allow Mr. Frier to respond to
430 the election of rights notice within 60 days.

431 SECOND: Ms. Nobles seconded.

432 ACTION: The motion passed unanimously.

433

434 Settlement Stipulations

435

436 Christopher Kirk Brown – 2008-038978

437

438 Mr. Brown was not present.

439

440 Mr. Eric Miller informed the Board that the Department has withdrawn the Settlement Agreement as Mr. Brown
441 has retained counsel.

442

443 APPLICATION HEARINGS: NO DISPUTED FACTS, RECONSIDERATIONS

444

445 Mr. Cooner yielded the floor to the Application Committee Chair, Mr. Louis Lebron. Mr. Bennett Miller presented
446 the applications for reconsideration.

447

448 Jonathan Branson

449

450 Mr. Branson was present.

451

452 After discussion the following motion was made:

453

454 MOTION: Ms. Nobles made a motion to approve Mr. Branson's application for licensure by examination.

455 SECOND: Mr. Lebron seconded.

456 ACTION: The motion passed unanimously.

457

458 Eugene J. Collins-Bonfill

459

460 Mr. Collins-Bonfill was not present.

461

462 After discussion the following motion was made:

463

464 MOTION: Mr. Fusco made a motion to deny Mr. Collins-Bonfill's application for licensure by examination
465 for failure to meet the educational requirements of Section 472.013(2), Florida Statutes.

466 SECOND: Ms. Nobles seconded.

467 ACTION: The motion passed unanimously.

468

469 Thomas W. Gritton

470

471 Mr. Gritton was not present.

472
473 Mr. Bennett Miller gave the Board information regarding Mr. Gritton's filing.
474

475 After discussion the following motions were made:
476

477 MOTION: Mr. Mastronicola made a motion to table the reconsideration of Mr. Gritton's application for
478 licensure by examination to the November 2010 meeting.

479 SECOND: Ms. Nobles seconded.

480 ACTION: The motion was withdrawn
481

482 MOTION: Mr. Mastronicola amended his motion to amend the Notice of Intent to Deny Mr. Gritton's
483 application for licensure by examination to include denial based on Section
484 472.0351(1)(c),(e),(h),(j) and Section 472.031(1)(d), Florida Statutes.

485 SECOND: Ms. Nobles seconded.

486 ACTION: The motion passed. Mr. Fusco voted against the motion.
487

488 MOTION: Mr. Mastronicola made a motion to table the reconsideration of Mr. Gritton's application for
489 licensure by examination to the November 2010 meeting.

490 SECOND: Ms. Nobles seconded.

491 ACTION: The motion passed, Mr. Fusco voted against the motion.
492

493 PROSECUTOR'S REPORT – Eric Miller 494

495 Mr. Eric Miller gave his report to the Board. He began his report by continuing the conversation of the previous
496 day regarding the contact person for unlicensed complaint updates. The contact person is Ms. Carol Allen at
497 850-410-3670. He advised the Board that she can give the status of the complaint; however it might be
498 necessary to speak to the investigator regarding the specifics.
499

500 He presented to the Board the Board Prosecutor's Report (Exhibit 1), with one amendment to Part II, C the
501 number was adjusted from 7 to 9. Discussion was held explaining the mechanism for unlicensed activity
502 complaints once legal sufficiency is found. Those matters would be forwarded from the Bureau of Investigations
503 to Mr. Eric Miller's office. The penalty for unlicensed activity could result in penalties ranging from citation to civil
504 injunction dependent on the evidence.
505

506 NEW/OLD BUSINESS 507

508 Mr. Bennett Miller presented electronic communication received by Mr. Robert Curtis to the Board for review and
509 consideration.
510

511 After discussion the following motion was made:
512

513 MOTION: Mr. Fusco made a motion to have the Board Counsel respond to the electronic communication
514 to include the formal procedure and paperwork to allow them to file for a declaratory statement.

515 SECOND: Ms. Nobles seconded.

516 ACTION: The motion passed unanimously.
517

518 Mr. Cooner and the Board extended a welcome to New Board Member Mr. Larry Wright.
519

520 Mr. Cooner read his letter of resignation to the Board (Exhibit 2) into the record. After discussion, the following
521 motion was made:
522

523 MOTION: Mr. Fusco made a motion to recognize Jeffrey C. Cooner as member of the Board as an
524 Emeritus member.

525 SECOND: Ms. Clodfelter seconded.

526 ACTION: The motion passed unanimously.
527
528
529
530

531 With no further business to discuss the following motion was made:
532
533 MOTION: Ms. Nobles made a motion to adjourn
534 SECOND: Mr. Ehmke seconded.
535 ACTION: The meeting was adjourned at 10:46 am