

60 Mr. Mastronicola began the day by introducing the new members of the Board and Mr. Patrick Creehan.
61
62 He then yielded the floor to Application Review Committee.
63 Mr. Mastronicola convened the Board at 3:45 pm.
64
65 With the addition of new members to the Board of Professional Surveyors and Mappers, Mr. Mastronicola asked
66 Mr. Bennett Miller to conduct New Board Member Training.
67
68 Mr. Bennett Miller discussed with the Board the following topics: a general overview of the Department and how
69 the Board operates, the responsibility of the Board Members to serve the public, civil liability for actions as a
70 Board member, public records laws, and public meetings laws.
71
72 Mr. Bennett Miller provided guidance on conduct outside of meetings, including the use of computers, social
73 media, and public appearances.
74
75 Mr. Bennett Miller advised that if a Board Member is contacted by a lobbyist, please contact the Board Office to
76 determine what would be the best action for that Member to take. Mr. Bennett Miller advised the Board that
77 there is a 2 year ban on lobbying the Department after a Board term has concluded. Mr. Bennett Miller
78 explained that "lobbying" is defined by statute and generally means representing a third party for compensation
79 before the Department.
80
81 Mr. Bennett Miller provided guidance on conflicts of interest. He urged the Board Members to avoid stating how
82 the Board rules or feels regarding any situation.
83
84 Mr. Bennett Miller reminded the Board that they ~~many~~ may not act as an instructor for any Continuing Education
85 courses, either paid or unpaid. This would be a violation of the Ethics Commission rulings and may be
86 considered a conflict of interest.
87
88 A sitting Board Member may not be a member of any state, county or local committee of any professional
89 association. If a Member is sitting or is asked to sit on a Committee, please contact the Board Counsel for
90 direction. There is no prohibition on being on a National Committee.
91
92 Mr. Bennett Miller reminded the Board Members that the state law banning gifts to public officers will be covered
93 at a different setting, however he cautioned the Board not to take any gifts from anyone that may be considered
94 a lobbyist or employed by a lobbyist.
95
96 Mr. Bennett Miller concluded by pointing out the circumstances where a Board Member can be disciplined,
97 including when the Commissioner has the ability to remove a sitting Member from the Board for misconduct or a
98 criminal action.
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100 Mr. Bennett Miller briefly discussed the Investigation process.
101
102 Mr. Eric Miller asked to address the Board. Information pertaining to a file that will be brought in front of the
103 Board on November 18, 2010, was received after the agenda materials were completed. These are being
104 presented to the Board in hard copy format.
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106 The Board agreed to recess at 4:53 p.m. on November 17, 2010.
107 The Board reconvened at 8:30 a.m. on November 18, 2010
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MEMBERS PRESENT

Arthur Mastronicola, Chair
Pamela Nobles
W. Lamar Evers
Larry Wright
Mary Hanna Clodfelter
Patrick Talbott
Howard Ehmke
Robin Petzold

OTHERS PRESENT

Leon Biegalski, Executive Director
Bennett Miller, Board Counsel
Patti Kight, Senior Management Analyst I
Eric Miller, Prosecuting Attorney
Patrick Creehan, Prosecuting Attorney
Daniel Gillingham
Matt Staley
Jay Sweet
Fred Gelston
Gary Salzman
Marilyn Evers
Adam Benjamin
Ray Niles
Albert Bradshaw

REVIEW AND APPROVAL OF THE AUGUST 2010 GENERAL BUSINESS MEETING MINUTES

After discussion, the following motion was made:

MOTION: Ms. Nobles made a motion to approve the minutes with corrections.
SECOND: Mr. Ehmke seconded.
ACTION: The motion passed unanimously.

Mr. Mastronicola yielded the floor to Ms. Clodfelter to chair the Disciplinary Proceedings as Mr. Mastronicola participates as a member of the Probable Cause Panel.

DISCIPLINARY PROCEEDINGS – Eric Miller

Settlement Stipulations

Daniel D. Gillingham – 2009-045607

Mr. Gillingham was present.

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

Mr. Eric Miller presented this case to the Board.

After discussion the following motion was made:

MOTION: Ms. Nobles made a motion to accept the Settlement Stipulation.
SECOND: Mr. Evers seconded.
ACTION: The motion passed unanimously.

178 Petition for Voluntary Relinquishment

179
180 Edwards – Panter Surveying, Inc. – 2009-042384

181
182 Mr. Gillingham was present representing the business.

183
184 Mr. Mastronicola and Mr. Talbott were recused because of their participation on the Probable Cause Panel in
185 this case.

186
187 Mr. Eric Miller presented this case to the Board.

188
189 After discussion the following motion was made:

190
191 MOTION: Mr. Ehmke made a motion to accept the Petition to allow the Respondent to Voluntarily
192 Relinquish the license.

193 SECOND: Mr. Petzold seconded.

194 ACTION: The motion passed unanimously.

195
196 Motions and Informal Hearings

197
198 Environmental Land Services, Inc. – 2009-031657

199
200 Mr. Mastronicola and Mr. Talbott were recused because of their participation on the Probable Cause Panel in
201 this case.

202
203 Mr. Eric Miller presented this case to the Board.

204
205 After discussion the following motions were made:

206
207 MOTION: Ms. Nobles made a motion that the Board finds that there are no disputed issues of material fact
208 regarding each count of the Administrative Complaint.

209 SECOND: Mr. Petzold seconded.

210 ACTION: The motion passed unanimously.

211
212 MOTION: Mr. Ehmke made a motion that the Board adopt the Findings of Fact and Conclusions of Law as
213 alleged in each count of the Administrative Complaint and move all case materials into evidence.

214 SECOND: Mr. Evers seconded

215 ACTION: The motion passed unanimously

216
217 MOTION: Mr. Ehmke made a motion to impose the following penalty upon the Respondent, \$2,000 fine,
218 \$180 in costs

219 SECOND: Mr. Wright seconded.

220 ACTION: The motion passed unanimously.

221
222 Gary Samuel Salzman – 2009-036193

223
224 Mr. Mastronicola and Mr. Talbott were recused because of their participation on the Probable Cause Panel in
225 this case.

226
227 Mr. Salzman and Mr. Fred Gelston were present.

228
229 Mr. Gelston filed a motion with Mr. Eric Miller prior to the meeting. Mr. Gelston withdrew the motion. Mr. Bennett
230 Miller addressed Mr. Gelston regarding the allowable actions under the Florida Administrative Code and
231 requested clarification as to the filing of the motion.

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233 Mr. Eric Miller presented the case to the Board.

234
235 Mr. Gelston responded to the case as presented.

237 After discussion, Mr. Eric Miller asked for a brief recess in order to confer with co-counsel.

238

239 (See line 312 for disposition)

240

241 APPLICATION HEARINGS: NO DISPUTED FACTS, RECONSIDERATIONS

242

243 Adam Benjamin

244

245 Mr. Benjamin was present.

246

247 After discussion the following motion was made:

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249 MOTION: Ms. Nobles made a motion to approve Mr. Benjamin's application for Surveyor in Training.

250

250 SECOND: Mr. Petzold seconded.

251

251 ACTION: The motion passed unanimously.

252

253 Matthew Staley

254

255 Mr. Staley was present.

256

257 After discussion the following motion was made:

258

259 MOTION: Mr. Evers made a motion to approve Mr. Staley's application for licensure by examination

260

260 contingent upon receipt of signed and sealed employment verification form demonstrating that

261

261 he has met the statutory requirements submitted to the Board Office within 30 days.

262

262 SECOND: Mr. Wright seconded.

263

263 ACTION: The motion passed unanimously.

264

265 Antonio Cortes

266

267 Mr. Cortes was not present.

268

269 After discussion the following motion was made:

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271 MOTION: Ms. Nobles made a motion to approve Mr. Cortes' application for licensure by examination.

272

272 SECOND: Ms. Clodfelter seconded.

273

273 ACTION: The motion passed unanimously

274

275 APPLICATION REVIEW: RETIRED

276

277 Grover Dingus

278

279 Mr. Dingus was not present.

280

281 After discussion the following motion was made:

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283 MOTION: Ms. Clodfelter made a motion to accept Mr. Dingus' application for Retired Status.

284

284 SECOND: Ms. Nobles seconded.

285

285 ACTION: The motion passed unanimously.

286

287 Richard Fischer

288

289 Mr. Fisher was not present.

290

291 After discussion the following motion was made:

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293 MOTION: Ms. Nobles made a motion to accept Mr. Fisher's Application for Retired Status.

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294 SECOND: Mr. Evers seconded.

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295 ACTION: The motion passed unanimously.

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Mr. Biegalski asked the Board to consider delegating the authority to accept Applications for Retired Status.

MOTION: Ms. Nobles made a motion to delegate the authority to accept Applications for Retired status.

SECOND: Mr. Wright seconded.

Mr. Evers and Mr. Mastronicola requests the Board Staff compile a list of licenses on retired status for addition to the agenda.

After further discussion the following action was taken:

ACTION: The motion passed unanimously.

The Board agreed to take a brief recess at 10:25 a.m.

The Board reconvened at 10:43 a.m.

Gary Samuel Salzman – 2009-036193 - continued

Mr. Eric Miller addressed the Board and reviewed the discussions with co-counsel during their recess.

After discussion the following motions were made:

MOTION: Ms. Nobles made a motion to dismiss the Respondent's petition for hearing with prejudice and finding of waiver of right of evidentiary hearing under Chapter 120.57(1), Florida Statutes.

SECOND: Mr. Evers seconded.

After further discussion the following motions were made:

MOTION: Ms. Nobles made a motion to move all case materials into evidence.

SECOND: Mr. Evers seconded.

ACTION: The motion passed unanimously.

MOTION: Ms. Nobles made a motion to adopt as the findings of fact paragraphs 1-4 in the Petitioner's motion.

SECOND: Mr. Evers seconded.

ACTION: The motion passed unanimously.

MOTION: Ms. Nobles made a motion as finding of fact that the response filed October 12, 2010 was not timely filed.

SECOND: Mr. Wright seconded.

ACTION: The motion passed unanimously.

MOTION: Ms. Nobles made a motion taking Board notice of Rule 28-106.103, F.A.C. – Computation of Time.

SECOND: Mr. Evers seconded.

ACTION: The motion passed unanimously.

MOTION: Ms. Nobles made a motion taking Board notice of Section 110.117, F.S. – Holidays that shall be considered State Holidays.

SECOND: Mr. Evers seconded.

ACTION: The motion passed unanimously.

MOTION: Ms. Nobles made a motion **that** by failing to respond timely to the Administrative Complaint within the extension of time agreed upon by the parties the Respondent waived his right to a evidentiary hearing involving disputed issues of material fact.

SECOND: Mr. Evers seconded.

ACTION: The motion passed unanimously.

MOTION: Ms. Nobles made a motion to make a formal conclusion of law that the Respondent failed to file

Board of Professional Surveyors and Mappers

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355 a response to the Administrative Complaint and request a hearing within the timeframe allotted
356 under Section 120.562(2), F.S.

357 SECOND: Mr. Evers seconded.
358 ACTION: The motion passed unanimously.
359

360 MOTION: Ms. Nobles made a motion to grant petitioner's motion, dismiss the request for hearing with
361 prejudice and proceed to Section 120.57(1), F.S. hearing without further delay.
362 SECOND: Mr. Evers seconded.
363 ACTION: The motion passed unanimously.
364

365 Mr. Bennett Miller asked Mr. Gelston if he understood the actions that were taken, Mr. Gelston responded
366 affirmatively and had no questions. Mr. Bennett Miller asked the record reflect the Board was entering a Chapter
367 120.57(2), F.S. hearing.
368

369 MOTION: Ms. Nobles made a motion that the Board finds that there are no disputed issues of material fact
370 regarding each count of the Administrative Complaint.
371 SECOND: Mr. Evers seconded.
372 ACTION: The motion passed unanimously.
373

374 MOTION: Ms. Nobles made a motion that the Board adopt the Finding of Fact as alleged in each count of
375 the Administrative Complaint and move all case materials into evidence.
376 SECOND: Mr. Evers seconded.
377 ACTION: The motion passed unanimously.
378

379 MOTION: Ms. Nobles made a motion that the Board adopt the Conclusions of Law as contained in each
380 count of the Administrative Complaint.
381 SECOND: Mr. Evers seconded.
382 ACTION: The motion passed unanimously.
383

384 MOTION: Ms. Nobles made a motion to adjudicate the Respondent guilty as to each count of the
385 Administrative Complaint.
386 SECOND: Mr. Ehmke seconded.
387 ACTION: The motion passed unanimously.
388

389 MOTION: Ms. Nobles made a motion to impose the following penalty upon the Respondent: a fine of \$375
390 for the 19 counts that the Respondent has been adjudicated guilty of a violation of (1)(h) a total
391 of 19 counts and \$500 for each of the 10 counts that the Respondent has been adjudicated
392 guilty of a violation of (1)(g) for a total fine of \$12,125 Administrative Fine, no costs, standard
393 term of probation, provide a list of six (6) surveys performed by the Respondent within 120 days
394 of completing all continuing education courses required by the Board, provide proof of
395 professional liability insurance or a statement that he does not hold any within 30 days of the
396 final order, and successful completion of a 6 hour course on ethics.
397 SECOND: Mr. Wright seconded.
398 ACTION: The motion passed unanimously.
399

400 Mr. Gelston responded to the Board. Mr. Salzman was asked questions by Mr. Gelston regarding his financial
401 status, the terms of probation and his current relationship with Kathleen Rapsis. Mr. Bennett Miller posed
402 questions to Mr. Salzman regarding the relationship with Ms. Rapsis.
403

404 After further discussion, the following motion was made:
405

406 MOTION: Mr. Evers made a motion to allow the Respondent 90 days to pay the stipulated fine.
407 SECOND: Ms. Nobles seconded.
408 ACTION: The motion passed unanimously.
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410 The Board agreed to recess at 12:50 p.m.
411 The Board reconvened at 1:00 p.m.
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413 PROSECUTING ATTORNEY REPORT – Eric Miller

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Mr. Eric Miller gave the following report to the Board:

As of November 12, 2010, there is a total number 31 active licensed activity investigations, 8 active unlicensed activity investigations, 6 matters that are pending, 4 of which are currently in settlement negotiations.

Bureau of Investigations referred 4 unlicensed activity cases to legal.

Mr. Mastronicola questioned the time frame from the time an unlicensed activity case to the time it gets to an investigator for review. Mr. Eric Miller explained that all complaints are forwarded to the Bureau of Investigations and based on the information he is given, the complaint is assigned to an investigator within a 7 to 10 days. Mr. Mastronicola asked that Mr. Eric Miller stress to the Bureau of Investigations the importance of quick action.

BOARD COUNSEL REPORT - Bennett Miller

The Department has received a Declaratory Statement dealing with wash out surveys. If possible this will be discussed at the February 2011 Board meeting; otherwise it will be necessary to have a conference call.

Mr. Bennett Miller notified the Board that in accordance to the incoming Commissioner's wishes, he has submitted a letter resignation. Normal practice is that the incoming Commissioner will make a decision to accept it or not.

The proposed Rules discussed in the workshop on November 17, 2010, should be final towards the end of February.

CHAIRPERSON'S REPORT – Arthur Mastronicola

Mr. Mastronicola did not have a report.

EXECUTIVE DIRECTOR'S REPORT – Leon Biegalski

Mr. Biegalski presented the financial report with the Board; it lists the revenues and expenditures through June 30, 2010 and another with the revenues and expenditures through September 30, 2010.

Mr. Biegalski explained the necessity to transfer the monies that are in the Unlicensed Activity Account into the Operating Account. These monies with the assessment will help make up any monetary shortfall to make the program cost neutral. Monies will be deposited to the Unlicensed Activity Account as new applications are received.

After discussion the following motion was made:

MOTION: Mr. Ehmke made a motion to authorize the Department to transfer funds from the Unlicensed Activity Account to the Operating Account.

SECOND: Mr. Petzold seconded.

ACTION: The motion passed unanimously.

The renewal notices will be printed on November 18, 2010 and mailed no later than November 29, 2010. The statute requires that the notice be mailed to their address of record. At the time of mailing, an email will be sent making licensee's aware of the renewal and directing them to the website for online renewal. Both the letter and email will address the special assessment. The renewal notices will also explain that if an individual has not met the CE requirement, it will stop the renewal process until that requirement is met. This will ensure that all the CE requirements will have been met and that no one goes into delinquent status due to renewing without the proper CE's.

A request has been made to the Department to review the statutes to determine if there is any obsolete language that should be stricken, reworked or tabled until a future date. Mr. Biegalski stated that such language has been identified in Chapter 472, F.S., specifically dealing with the Photogrammetrist areas, Chapter 472.015(3), F.S., in that the application must have been received prior to July 1, 2007. In addition, any

472 application that has been opened with no action for 2 years will be closed administratively which makes the
473 language identified above obsolete.

474
475 Mr. Biegalski shared that one of the changes that have been made with the electronic format is that the
476 corrections to the August 2010 meeting minutes have been made and are posted to the website.

477
478 Mr. Biegalski notified the Board that in accordance to the incoming Commissioner's wishes, he has submitted a
479 letter resignation. Standard practice is that the incoming Commissioner will make a decision to accept it or not.

480
481 Ms. Kight asked to address the Board regarding the travel vouchers. All receipts should be submitted no later
482 than the Monday following each Board meeting. She further explained for the new Board Members that they will
483 receive two checks, one for reimbursement and one for service to the Board. Ms. Kight reminded the Board of
484 the importance of signing in each day.

485
486 COMMITTEE REPORTS

487
488 Probation Committee – Mary Hanna Clodfelter

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490 Ms. Clodfelter gave her report on the Probation Review Committee:

491
492 MOTION: Ms. Nobles made a motion to approve and ratify the recommendations of the Committee.

493 SECOND: Mr. Ehmke seconded.

494 ACTION: The motion passed unanimously.

495
496 Application Review Committee – Pamela Nobles

497
498 Ms. Nobles gave her report on the recommendations of the Application Review Committee

499
500 MOTION: Mr. Wright made a motion to approve and ratify the recommendations of the Committee.

501 SECOND: Mr. Evers seconded.

502 ACTION: The motion passed unanimously.

503
504 Examination Committee – Pamela Nobles

505
506 Ms. Nobles updated the Board on the discussion she had with Mr. Biegalski regarding the Consultants and
507 databank.

508
509 NCEES Committee – Arthur Mastronicola

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511 Mr. Mastronicola had no report at this time.

512
513 Mr. Biegalski reported that every February NCEES has a meeting; every other February is a Board President's
514 Assembly. In February 2011, the Board President's Assembly will meet in Atlanta on February 11-12, 2011; this
515 meeting is for the Member Board Administrator and Chairperson or their designee to meet to discuss ideas and
516 issues. There will be no cost to the Board for this trip as it is taken from the dues paid to NCEES.

517
518 Ms. Nobles was appointed to the Special Committee on PAKS (Professional Activities and Knowledges Survey)
519 which is designed to create a survey questionnaire to evaluation the daily activities and knowledges that a
520 surveyor must have to perform. This will be used to create a future test matrix for the Fundamentals of
521 Surveying exam. This is the second PAKS Committee that Ms. Nobles will be involved in.

522
523 Rules Committee – Pamela Nobles

524
525 Ms. Nobles gave her report on the recommendations of the Rules Committee.

526
527 MOTION: Mr. Ehmke made a motion to approve and ratify the recommend the Committee and to authorize
528 the Department to enter into rulemaking.

529 SECOND: Mr. Evers seconded.

530 ACTION: The motion passed unanimously.

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ASCM Liason – W. Lamar Evers

In Mr. Fusco's absence, Mr. Evers reported that ACSM is currently being funded by NSPS through the June 2011. There will be discussions regarding the future of ASCM.

Probable Cause Panel – Arthur Mastronicola

Mr. Mastronicola gave the following report:

2 public cases – closed

4 private cases – 1 closed, and 3 referred for administrative complaint and further action

Continuing Education Committee – Howard Ehmke

Mr. Ehmke gave his report on the recommendations of the Committee.

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

SECOND: Ms. Clodfelter seconded.

Mr. Evers asked to be recused from the vote due to his relationship with a current provider. Mr. Bennett Miller briefly discussed the concern of a conflict of interest in regards to Mr. Evers' concerns; he further responded that there is no prohibition to Mr. Evers' participation in the vote based on his relationship with a provider.

ACTION: The motion passed unanimously.

NEW/OLD BUSINESS

The Board discussed Mr. Fusco's absence in accordance with the Rule and guidelines of the Board. According to the Rule, Mr. Fusco's absence would be considered unexcused.

MOTION: Ms. Nobles made a motion that Mr. Fusco's is absent and his absence is unexcused.

SECOND: Mr. Evers seconded.

ACTION: The motion passed unanimously.

Meeting Schedule

After a brief discussion, the Board agreed to the 2011 meeting calendar:

Feb 1-3 Tallahassee

May 10-12 Tallahassee

Aug 9-11 St. Augustine

Nov 8-10 Orlando

Election of Officers

Chair:

MOTION; Mr. Talbott nominated Arthur Mastronicola as the Chair.

SECOND Mr. Evers seconded.

MOTION: Ms. Nobles nominated Nick Fusco as the Chair.

SECOND: Mr. Ehmke seconded.

Ms. Nobles addressed the Board of conflicts that will occur since a Chair who serves on the Probable Cause Panel would have to recuse themselves from the majority of the General Meeting.

A vote of those present: 5 votes for Mr. Mastronicola, 3 for Mr. Fusco.

590 Vice Chair:

591

592 MOTION: Mr. Evers nominated Nick Fusco as the Vice Chair.

593 SECOND: Ms. Clodfelter seconded.

594

595 MOTION: Mr. Ehmke nominated Pamela Nobles as the Vice Chair.

596 SECOND: Mr. Talbott seconded.

597

598 A vote of those present: 5 votes for Mr. Fusco, 3 for Ms. Nobles.

599

600 PUBLIC COMMENT

601

602 Mr. Evers informed the Board that he will be installed as Vice President of the ~~NFPS~~ NSPS for 2011.

603

604 Ray Niles requested that the Department look into a letter, literature or possibly PSA regarding unlicensed
605 activity.

606

607 With no further business to discuss the following motion was made:

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609 MOTION: Mr. Ehmke made a motion to adjourn.

610 SECOND: Mr. Evers seconded.

611 ACTION: The meeting was adjourned at 2:28 p.m.