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GENERAL BUSINESS MEETING MINUTES

BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS

**DOYLE CONNER BUILDING
3125 CONNER BOULEVARD
TRAINING ROOM
TALLAHASSEE, FL 32399**

February 2, 2011

The meeting was called to order by Mr. Arthur Mastronicola, chair at 10:30 a.m.

MEMBERS PRESENT

Arthur Mastronicola
Nickolas Fusco
Robin Petzold
Lamar Evers
Howard Ehmke
Pamela Nobles
Patrick Talbott
Larry Wright

OTHERS PRESENT

Leon Biegalski, Executive Director
Bennett Miller, Board Counsel
Patti Kight, Senior Management Analyst
Michael Lowiec
Jeffrey S. Foster
Mona Martin
Dan Ferrans
Victor Schumer
Messan Konou
John Krause
Randy Rhods
Horace Roberts
Michael Donaldson
Marilyn Evers
John E. Matthews
John M. Pulice
W. Lanier Mathews, II
Richard Matthews
Alvin Gloer
Gordon R. Niles

60 REVIEW OF REINSTATEMENT OF NULL AND VOID LICENSE APPLICATION

61

62 John Coates

63

64 Mr. Coates was present for the review of his application.

65

66 Mr. Coates addressed the Board and answered questions posed by the Board regarding the status of license.

67

68 After discussion the following motion was made:

69

70 MOTION: Ms. Nobles made a motion to deny Mr. Coates' application for reinstatement.

71

72 SECOND: Mr. Evers seconded

73

74 ACTION: The motion passed ~~7-4~~ 6-2 with Mr. Talbott and Mr. Ehmke against.

75

76 The General Business Meeting was recessed at 10:40 a.m.

77

78 The General Business Meeting reconvened at 1:20 p.m.
79 Mr. Miller explained the reason for the full Board's participation is to consider if the Department of Agriculture and
80 Consumer Services (Department) should rely upon the rules that were considered on in the November 2010
81 meeting. The Department can rely upon a not yet adopted rule as long as rulemaking has begun and the policy
82 meets the definition of the rule. The Florida Department of Transportation has made a request that would meet
83 this rule, specifically 5J.17-0411 and 5J.17-041, Florida Administrative Code.

84

85 After discussion the following motion was made:

86

87 MOTION: Mr. Ehmke made a motion to allow the Department to rely upon the rules that were discussed in
88 the November 2010 meeting.

89

90 SECOND: Mr. Evers seconded.

91

92 After further discussion the following action was taken.

93

94 ACTION: The motion passed unanimously.

95

96 The General Business Meeting was recessed at 1:25 p.m.

97

98 The General Business Meeting reconvened at 3:02 p.m.

99

100 REVIEW AND APPROVAL OF THE NOVEMBER 2010 GENERAL BUSINESS MEETING MINUTES

101

102 After discussion the following motion was made:

103

104 MOTION: Mr. Ehmke made a motion to approve the November 2010 minutes as amended.

105

106 SECOND: Mr. Evers seconded.

107

108 ACTION: The motion passed unanimously.

109

110 CHAIRPERSON'S REPORT

111

112 Mr. Mastronicola met with Paul Pagano, Rick Brown, Patrick Creehan, Bennett Miller and Leon Biegalski, from
113 the Department, to discuss the status of the complaint process and the importance of Unlicensed Activity. Mr.
114 Mastronicola stated that in order for the Department to get the information that is necessary to pursue a
115 complaint, a complaint form which can be found at www.800helpfla.com should be filed. Mr. Mastronicola
116 stressed that the more information a complainant can offer will allow a more thorough investigation. In addition,
117 if a complaint is submitted anonymously and if there is not enough information, there is no one to contact for
118 clarification. Mr. Mastronicola reported that six (6) citations have been issued for violations ranging from
119 unlicensed activity to advertising violations. As part of the complaint process, legal sufficiency must be
120 determined before any action can be taken. Mr. Paul Pagano, Bureau Chief of the Bureau of Investigations,
121 personally reviews each complaint to determine if there is legal sufficiency to warrant further action.

122

123 Ms. Nobles has asked for a listing of all citations issued by the Department. Mr. Mastronicola stated that this
124 information, at least the numbers, will be a part of Mr. Creehan's report.

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EXECUTIVE DIRECTOR'S REPORT

Mr. Biegalski reported that 4,501 renewal notices were mailed to businesses and individuals currently holding licensure in the State of Florida. As of February 1, 2011, 1,056 businesses and individuals have renewed their licenses. Mr. Biegalski reported that, based on the phone calls and emails received by the Board office, the individuals who had not completed the Continuing Education requirements were not allowed to renew which was a reason for the low number of individual renewals. Mr. Biegalski also reported that the average time for people contacting the Consumer Assistance Center was on average 5 minutes 22 seconds from start to finish of phone call. The system is not designed to determine the calls regarding the renewal process versus the complaint process.

BOARD COUNSEL REPORT

Mr. Miller's report was given during the Rules Committee; he waives his report at this time.

COMMITTEE REPORTS

Probation Review Committee

Mr. Petzold reported on the recommendations of the Probation Review Committee.

After discussion the following motion was made:

MOTION: Mr. Ehmke made a motion to ratify the actions of the Probation Review Committee.
SECOND: Mr. Fusco seconded.
ACTION: The motion passed unanimously.

Application Committee

Mr. Fusco reported on the recommendations of the Application Committee.

After discussion the following motion was made:

MOTION: Mr. Ehmke made a motion to ratify the actions of the Application Committee.
SECOND: Mr. Petzold seconded.
ACTION: The motion passed unanimously.

Examination Committee

Ms. Nobles reported that the Examination Committee needs to meet with the Bureau of Education and Testing to review the Florida examination. She then reported on the exam candidate numbers.

NCEES Committee

Mr. Mastronicola reported the Board Presidents' Assembly will be in held in Atlanta on February 10-11, 2011 and the Southern Zone meeting in Austin, Texas in April. Mr. Mastronicola is planning on attending both meetings.

There are two candidates for NCEES President-Elect from the Southern Zone. Ms. Nobles addressed the Board and ask that the Board support Gene Dinkins.

After discussion the following motion was made:

MOTION: Ms. Nobles made a motion to support Gene Dinkins for President-Elect of NCEES.
SECOND: Mr. Fusco seconded.
ACTION: The motion passed unanimously.

Ms. Nobles asked if the Department would consider sending more delegates to the Southern Zone meeting. Mr. Biegalski explained that with the financial status of the Board and the requirement to justify all travel as mission

178 critical that it would be unlikely that any other delegates would be approved to have travel reimbursement from
179 the Department.

180
181 Rules Committee

182
183 Ms. Nobles gave her report on the actions of the Rules Committee.

184
185 ACSM Committee

186
187 Mr. Fusco gave his report on the ACSM Committee.

188
189 Probable Cause Panel

190
191 Mr. Mastronicola gave the following report from the Probable Cause Panel.

192
193 3 cases were heard:
194 1 was dismissed with a letter of guidance.
195 2 were found to have probable cause.

196
197 Continuing Education Committee

198
199 Mr. Ehmke gave his report on the recommendations of the Continuing Education Committee.

200
201 After discussion the following motion was made:

202
203 MOTION: Mr. Fusco made a motion to approve and ratify the recommendations of the Continuing
204 Education Committee.

205 SECOND: Mr. Petzold seconded.

206 ACTION: The motion passed unanimously.

207
208 The following motion was made:

209
210 MOTION: Mr. Fusco made a motion to recess the General Business Meeting until 8:30 on February 3,
211 2011.

212 SECOND: Mr. Ehmke seconded.

213 ACTION: The motion passed unanimously.

214
215 The meeting was recessed at 3:53 p.m.

216
217 The meeting was called to order by Mr. Arthur Mastronicola, chair at 8:30 a.m.

218
219 MEMBERS PRESENT

220
221 Arthur Mastronicola
222 Nickolas Fusco
223 Robin Petzold
224 Lamar Evers
225 Howard Ehmke
226 Pamela Nobles
227 Patrick Talbott
228 Larry Wright

229
230 OTHERS PRESENT

231
232 Leon Biegalski, Executive Director
233 Bennett Miller, Board Counsel
234 Patti Kight, Senior Management Analyst
235 Gordon R. Niles
236 Sherman Frier

237 Larry R. Sharp
238 Alvin T. Gloer
239 T.S. Madson II
240 Mike Jones
241 John Breed
242 Bon Dewitt
243 Jack Butler
244 Justin Ferrans
245 Chris Brown
246 David Minacci
247 Jeffrey C. Cooner
248 John E. Matthews
249 Erick S. Milnes
250 Richard G. Matthews
251 John M. Pulice
252 Beverly Sutphin
253 Marilyn Evers
254 Deborah Peavey
255 Kathy L. Wade
256 John Liptak
257 Lanier Mathews

258
259 DISCIPLINARY PROCEEDINGS – Patrick Creehan

260
261 Settlement Stipulations

262
263 Christopher Kirk Brown – 2008-038978 & 1007-26912

264
265 Mr. Brown was present.

266
267 Mr. Mastronicola was recused because of his participation on the Probable Cause Panel in this case.

268
269 Mr. Creehan presented this case to the Board.

270
271 After discussion the following motion was made:

272
273 MOTION: Ms. Nobles made a motion to accept the Settlement Stipulation.

274 SECOND: Mr. Ehmke seconded.

275 ACTION: The motion passed unanimously.

276
277 James Sherman Frier – 2008-028699

278
279 Mr. Frier was present.

280
281 Mr. Mastronicola was recused because of his participation on the Probable Cause Panel in this case.

282
283 Mr. Creehan presented this case to the Board.

284
285 After discussion the following motion was made:

286
287 MOTION: Mr. Ehmke made a motion to accept the Settlement Stipulation.

288 SECOND: Ms. Nobles seconded.

289 ACTION: The motion passed unanimously.

290
291 DECLARATORY STATEMENTS

292
293 Florida Land Surveyors Council

294
295 Mr. Ted Madson was present representing the Council.

296
297 After discussion the following motion was made:
298
299 MOTION: Mr. Mastronicola made a motion to decline to answer the Petition for Declaratory Statement by
300 the Florida Land Surveyors Council and Mr. Madson on the grounds that it fails to state with
301 sufficient particularity the facts or the subject of the question in the Petition for Declaratory
302 Statement, that it fails to ask a question regarding the future conduct of the petitioner and rather
303 asks for consideration of questions that are now moot, and it asks for general statement of broad
304 agency policy when the text of the relevant administrative rule is plain and unambiguous.
305 SECOND: Ms. Nobles seconded.
306 ACTION: The motion passed unanimously.

307
308 Jack A. Butler

309
310 Mr. Butler was present.

311
312 After discussion the following motions were made:

313
314 MOTION: Ms. Nobles made a motion to allow Management Association for Private Photogrammetric
315 Surveyors (MAPPS) to intervene.

316 SECOND Mr. Ehmke seconded.

317 ACTION: The motion passed unanimously.

318
319 MOTION: Ms. Nobles made a motion to allow Florida Surveying and Mapping Society (FSMS) to intervene.

320 SECOND: Mr. Fusco seconded.

321 ACTION: The motion passed unanimously.

322
323 Ms. Claire Duchemin was present representing FSMS.

324
325 The Board agreed to recess at 10:30 a.m.

326 The Board reconvened at 10:45 a.m.

327
328 After discussion the following motion was made:

329
330 MOTION: Ms. Nobles made a motion to deny the Petition for Declaratory Statement by Mr. Jack A. Butler
331 based upon the Board's determination that the statute is clear.

332 SECOND: Mr. Ehmke seconded.

333
334 After further discussion the motion was amended:

335
336
337 MOTION: Ms. Nobles amended the motion to deny the Petition for Declaratory Statement by Jack A.
338 Butler, based on the grounds that the substance of the Petition, the memorandum and the
339 testimony before the Board it is clear that he is asking for a broad statement of Agency policy
340 where the statutes and the Administrative Rules have a plain and unambiguous meaning.

341 SECOND: Mr. Ehmke seconded.

342 ACTION: The motion passed unanimously.

343
344 Mr. Ehmke requested that the Department open an investigation for Unlicensed ~~Active~~ **Activity** against Mr. Butler.
345 The Department cannot confirm or deny that an investigation will or will not be opened, the appropriate
346 investigative staff will be made aware and a decision will be made from the information they gather.

347
348 DISCIPLINARY PROCEEDINGS – Patrick Creehan (continued)

349
350 Grusenmeyer-Scott-Walker – 2009-064978

351
352 A representative for Grusenmeyer-Scott-Walker was not present.

353
354 John William Walker – 2009-064930

355
356 Mr. Walker was not present.

357
358 After discussion the following motion was made:

359
360 MOTION: Mr. Fusco made a motion to table this proceeding until the May 2011 meeting.

361 SECOND: Mr. Petzold seconded.

362
363 After further discussion it was determined that the Board would take this matter up before the close of the
364 meeting. If Mr. Walker does not appear, the cases will be tabled until the May 2011 meeting.

365
366 (See line 384 for disposition)

367
368 APPLICATION HEARINGS: NO DISPUTED FACTS

369
370 Mr. Hartung was not present.

371
372 After discussion the following motion was made:

373
374 MOTION: Ms. Nobles made a motion to uphold the Notice of Intent to Deny.

375 SECOND: Mr. Fusco seconded.

376 ACTION: The motion passed unanimously.

377
378 PROSECUTOR'S REPORT – Patrick Creehan

379
380 Mr. Creehan gave his report; he stated that Unlicensed Activity is a priority in the Prosecutor's Office. Mr. Miller
381 explained the citation process to the Board at their request. Mr. Creehan and Mr. Miller took questions from the
382 audience.

383
384 DISCIPLINARY PROCEEDINGS – Patrick Creehan (continued)

385
386 Grusenmeyer-Scott-Walker – 2009-064978

387 John William Walker – 2009-064930

388
389 The Board voted on the motion regarding Mr. Walker and Grusenmeyer-Scott-Walker. Mr. Walker nor his
390 representative has appeared before the Board. The following action was taken:

391
392 ACTION: The motion passed unanimously, to table these proceedings until the May 2011 meeting.

393
394 NEW/OLD BUSINESS

395
396 Ms. Nobles requested clarification on the process of closing incomplete applications. Mr. Biegalski explained the
397 process.

398
399 Mr. Mastronicola received an email from Mr. Breed of the FSMS Legal Committee regarding questions from
400 County Building Departments; specifically can engineers sign FEMA Flood Certificates. Mr. Cooner stated that
401 he was approached regarding that same question and gave, at that time, his opinion as a surveyor, which was
402 that FEMA Flood Certificates should be handled by a licensed Surveyor and Mapper licensed in the State of
403 Florida. The Florida Board of Engineers has deferred the decision to the Florida Board of Professional
404 Surveyors and Mappers.

405
406 After discussion it was decided that Mr. Biegalski would speak with the Executive Director of the Florida Board of
407 Professional Engineers to explain the discussion of the Board.

408
409 PUBLIC COMMENT

410
411 Retired Status

412

413 Mr. Mastronicola presented the Retired Status list to the Board. He questioned why people that are known to be
414 deceased are still listed as a Surveyor, either delinquent or Null and Void, and not deceased. Mr. Biegalski
415 explained that without proof of death, the Board Office will not change the status to deceased.

416
417 Mr. Mastronicola asked for a status update for the rebuilding of the database. Procedures in the Department of
418 Business and Professional Regulation called for purging licenses if they are Null and Void after a period of time.
419 The Department is currently working through the digitizing format and will be rebuilding the database to include
420 those individuals. Currently, the Department is working with the vendor to clearly transfer all the microfilm and
421 microfiche into usable format to save into the database. With no further issues, the Department hopes to begin
422 that process in the Summer of 2011.

423
424 With no further business to discuss the following motion was made:

425
426 MOTION: Mr. Fusco made a motion to adjourn.

427 SECOND: Ms. Nobles seconded.

428 ACTION: The motion passed unanimously.

429
430 The meeting was adjourned at 1:10 pm.