

MINUTES

BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS

General Business Meeting

Renaissance Resort
500 South Legacy Trail
St. Augustine, Florida 32092

October 13, 2004

Call to Order / Roll Call

Pamela Nobles, Chair, called the meeting to order October 13, 2004 at 10:03 a.m.

Members Present

Pamela Nobles, Chair
Lou Bush
Louis Lebron
Jeffrey Cooner
Beverly Sutphin
Fran Poppell
Sidney Greer
Omar Armenteros

Members Not Present

Dennis Blankenship, Vice Chair

Others Present

Brian Stabley, Board Counsel
Brian Higgins, Prosecuting Attorney
John Knap, Executive Director
Christa Patterson, Government Analyst
Henry Echezabal
Sherman Frier
Harley Gilmore
David Melvin
Ralph Swerdloff
Thomas Bon
Nicholas Franklin
John Herrick
Tom Wallace
Stephen Calder
William Hayhurst
Ed Dudley
W. Lanier Mathews, II
Allen Nobles
James Almond
Russell Daly

PLEDGE OF ALLEGIANCE

REVIEW AND APPROVAL OF GENERAL BUSINESS MEETING MINUTES

July 14-15, 2004

MOTION: Ms. Nobles made a motion to approve the July 14-15, 2004 general business meeting minutes with corrections.

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

September 2, 2004

MOTION: Ms. Nobles made a motion to approve the September 2, 2004 general business meeting minutes.

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

REVIEW OF TASK FUNCTION FORM

Ms. Nobles asked Ms. Patterson to include the task function form on future agendas after the disciplinary proceedings.

DISCIPLINARY PROCEEDINGS – Brian Higgins

Motion for Default and Final Order

George C. Panos
Case # 2003-051935

Mr. Panos was not present at the meeting and was not represented by counsel.

Ms. Nobles reported that Mr. Panos was still very ill and was in a nursing home. Mr. Greer stated that he had heard the same.

MOTION: Mr. Greer made a motion to table consideration of Mr. Panos' case for another six months.

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

Settlement Stipulation

Environmental Land Services, Inc.
Case # 99-04179

Ms. Nobles advised the board that the case was tabled to the January 2005 meeting.

James Richard Almond
Case # 2003-063200

Mr. Almond was present at the meeting and was not represented by counsel.

Mr. Higgins reviewed the settlement stipulation with the board and after discussion the following motion was made.

MOTION: Mr. Bush made a motion to reject the settlement stipulation.
SECOND: Mr. Armenteros seconded the motion and it passed unanimously.

MOTION: Mr. Bush made a motion to offer a counter stipulation, changing the probation review language to read; "if the 6 surveys submitted by respondent substantially meet minimum level of competency and the respondent is in compliance with all terms of the final order then the respondent's term of probation shall be terminated."
SECOND: Mr. Lebron seconded the motion and it passed unanimously.

Ms. Nobles asked Mr. Almond if he would accept the counter settlement stipulation. Mr. Almond stated he would consider the counter stipulation but would like to have it in writing so he could review.

MOTION: Ms. Sutphin made a motion to allow Mr. Almond 30 days to either reject or accept the counter stipulation.
SECOND: Mr. Cooner seconded the motion and it passed unanimously.

Nicholas H. Franklin
Case # 2003-0044515

Mr. Franklin was present at the meeting and was not represented by counsel.

Mr. Higgins reviewed the settlement stipulation with the board and advised the board that Mr. Franklin had signed and accepted the settlement stipulation. After discussion by the board the following motions were made.

MOTION: Mr. Bush made a motion to reject the settlement stipulation.
SECOND: Mr. Cooner seconded the motion and it passed unanimously.

MOTION: Mr. Bush made a motion to offer a counter settlement stipulation, changing the probation review language to read; "if the 6 surveys submitted by respondent substantially meet minimum level of competency and the respondent is in compliance with all terms of the final order then the respondent's term of probation shall be terminated."
SECOND: Mr. Cooner seconded the motion and it passed unanimously.

Mr. Stabley asked Mr. Franklin if he would accept the counter stipulation. Mr. Franklin stated he would accept.

Mr. Armenteros asked Mr. Franklin if he had been on probation before. Mr. Franklin advised the board that he was on probation in 2001.

Ralph Swerdloff
Case # 2003-067148

Mr. Swerdloff was present at the meeting and was represented by James O. Birr, III, Esquire.

MOTION: Mr. Bush made a motion to reject the settlement stipulation.
SECOND: Mr. Cooner seconded the motion and it passed unanimously.

MOTION: Mr. Bush made a motion to offer a counter stipulation, changing the probation review language to read "if the 6 surveys submitted by respondent substantially meet minimum level of competency and the respondent is in compliance with all terms of the final order then the respondents term of probation shall be terminated", and to include a requirement that a boundary control course be completed and both courses be completed within 120 days of the entry of the final order.

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

Mr. Stabley asked Mr. Swerdloff if he would accept the counter stipulation. Mr. Swerdloff stated he would accept.

INFORMAL HEARING OF APPLICATION DENIALS

Thomas Bon

Mr. Bon was present at the meeting and was not represented by counsel.

Mr. Stabley reviewed the notice of intent to deny with the board.

Mr. Bon addressed the board and stated he felt that he had completed the educational requirements for licensure. Mr. Bon advised the board that he received his Political Science degree from Florida State University and then enrolled in the Geomatic Program at the University of Florida and completed surveying and mapping courses.

Ms. Nobles stated that she felt that Mr. Bon's education history should be considered since he held a 4 year degree from Florida State University and additional surveying and mapping courses where taken in the Geomatic Program at the University of Florida.

Ms. Nobles stated that Mr. Bon completed 33 hours of course work at the junior and senior level at the University of Florida in the Geomatics Program and has a 4 -year degree from Florida State University.

Mr. Stabley stated Mr. Bon was enrolled in the Geomatics program at the University of Florida and felt Mr. Bon made a good faith effort to comply with the licensure requirements.

Mr. Myers, Mr. Bon's supervisor, was present at the meeting and asked the board to reconsider their decision to deny Mr. Bon's application.

Mr. Bush advised the board that in order to approve Mr. Bon's application, Chapter 472, F.S. would have to be changed. Mr. Bush reminded members that proposed changes to the statute were under consideration and Mr. Bon would be a very good example of why the changes need to be considered.

Mr. Stabley stated for the record, that he encourages the board to interpret the statute as the board sees fit.

MOTION: Mr. Bush made a motion to uphold the notice of intent to deny.
SECOND: Ms. Sutphin seconded the motion.

The motion failed due to a split vote. Ms. Nobles, Mr. Cooner, Ms. Poppell, Mr. Lebron and Mr. Greer opposed the motion.

Ms. Nobles reminded the board that each application is reviewed on a case by case basis. Mr. Stabley stated the board has the authority to interpret their statutes.

Mr. Knap stated that in the past the board interpreted the statute to read that the applicant's 25 hours was required to be included in the 4-year degree program and he was aware that the board in the past denied candidates for not meeting this requirement. Mr. Knap reminded the board their actions regarding this case would set a precedent to future applicants.

Ms. Nobles and Mr. Cooner stated that Mr. Bon's education credentials were different.

MOTION: Mr. Cooner made a motion to vacate the notice of intent to deny and to approve Mr. Bon's application to take the examination.

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

Ms. Sutphin, Mr. Armenteros, and Mr. Bush opposed the motion.

Stephen Calder

Mr. Calder was present at the meeting and was not represented by counsel.

Mr. Stabley reviewed the notice of intent to deny with the board and Mr. Calder addressed the board and stated that he completed a 4-year course of study and that he had completed the required 25 hours.

Mr. Cooner stated he remembered reviewing Mr. Calder's application. Mr. Cooner stated that the board never received an official transcript from Georgia State University. Ms. Sutphin advised the board that a copy of Mr. Calder's diploma was in the file.

Ms. Nobles stated that the official transcript would have to be received directly from the University and that a copy of the diploma was not acceptable.

Mr. Stabley asked Ms. Patterson if the board office ever received a copy of Mr. Calder's transcript from Georgia State University. Ms. Patterson advised the board that the official transcript was never submitted.

MOTION: Mr. Cooner made a motion to uphold the notice of intent to deny.

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

Mr. Calder asked the board if they would keep his application on file in the board office. Mr. Stabley advised Mr. Calder that he would have to re-apply for licensure. Ms. Patterson advised Mr. Calder that she would keep his denied file in the office for 6 months, however, he would have to submit a new application.

Edward Dudley

Mr. Dudley was present at the meeting and was not represented by counsel.

Mr. Stabley reviewed the notice of intent to deny with the board. Mr. Stabley stated that Mr. Dudley did not provide supporting documents to verify that Mr. Dudley completed the required experience for licensure by endorsement.

Mr. Dudley addressed the board and stated that he had provided additional documentation to verify his work experience. The board reviewed the information and after discussion the following motion was made.

MOTION: Mr. Armenteros made a motion to vacate the notice of intent to deny and approve Mr. Dudley's application for licensure by endorsement.

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

Jose Perez

Mr. Perez was not present at the meeting and was not represented by counsel.

Mr. Stabley reviewed the notice of intent to deny with the board. Ms. Patterson advised the board that Mr. Perez's informal hearing was tabled from the July 2004 meeting to allow Mr. Perez time to submit additional information regarding his work experience. Ms. Patterson advised the board that the additional information was included in their meeting materials.

Mr. Stabley asked Ms. Patterson if Mr. Perez received proper notice of the October 2004 informal hearing. Ms. Patterson advised the board that proper notice was mailed and Mr. Perez received the notice.

The board reviewed the additional information provided by Mr. Perez and after review the following motion was made.

MOTION: Ms. Sutphin made a motion that Mr. Perez was properly noticed to appear at the meeting.

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

MOTION: Ms. Sutphin made a motion to vacate the notice of intent to deny.

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

Margaret Washko

Ms. Washko was not present at the meeting and was not represented by counsel.

Mr. Stabley reviewed the notice of intent to deny with the board. Mr. Stabley asked Ms. Patterson if Ms. Washko was properly noticed for the October 2004 meeting. Ms. Patterson advised the board that Ms. Washko was properly noticed to appear at the meeting.

Ms. Patterson advised the board that Ms. Washko's informal hearing was tabled at the July 2004 meeting to allow Ms. Washko time to submit additional information regarding her work experience. Ms. Nobles advised the board that she received a letter from Ms. Washko and Ms. Nobles read the letter. The letter documented work experience.

Mr. Stabley asked Ms. Patterson if Ms. Washko was properly noticed to appear at the October 2004 informal hearing. Ms. Patterson stated Ms. Washko was properly noticed and Ms. Washko received the notice.

The board considered the letter and after discussion the following motion was made.

MOTION: Ms. Sutphin made a motion that Ms. Washko was properly noticed to appear at the meeting.

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

MOTION: Ms. Sutphin made a motion to vacate the notice of intent to deny and approve Ms. Washko's application for licensure by endorsement.

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

APPEARANCE BY APPROVED CONTINUING EDUCATION PROVIDERS

Mr. Knap advised the board that notices to appear at the October 2004 meeting were mailed to three continuing education providers that use RedVector online services. Ms. Nobles advised the board that Dave Gibson provided written notice that he would not be attending the meeting.

Mr. Tom Wallace, the CEO of RedVector was present at the meeting and stated he would be representing Dr. Gibson and Chestister in their absence. Mr. John Herrick, approved continuing education provider, was present at the meeting.

Ms. Sutphin advised Mr. Wallace that the board had expressed concern that the course provided on the RedVector web page was misleading to the public. Ms. Sutphin stated that the RedVector advertisements would lead the public to believe RedVector was an approved provider by the Florida Board of Professional Surveyors and Mappers. Ms. Sutphin stated that the continuing education providers using RedVector online services were not complying with the board rules.

Ms. Sutphin stated that when a course is offered online, or through correspondence, the licensee is required to sign and seal the examination and the provider is required to issue the certificate of completion and these two requirements are not being met.

Ms. Sutphin stated that the board wanted to make the providers aware of the problems. Mr. Wallace advised the board that RedVector has made application to the board to become continuing education providers and that it was their intent to follow the laws and rules of the board.

Mr. Armenteros advised the board and Mr. Wallace that this is not the first time the board has discussed these issues with RedVector and stated that he felt RedVector had been warned by the board in the past of non-compliance. Mr. Wallace advised the board that he was not employed with RedVector at that time.

Ms. Sutphin advised Mr. Wallace that it was his responsibility to be aware of each State's regulations. Mr. Wallace stated the board rules were hard to understand. Ms. Sutphin stated if there was a rule he did not understand then he could ask for clarification.

Mr. Wallace advised the board that David Chestister is one of the major stock holder's and he is an approved provider.

Mr. Knap advised the board that RedVector, on behalf of the approved providers is reporting the grades. Mr. Knap stated that the approved providers have given RedVector their code number to report in the Department's continuing education system. Mr. Knap stated this type of situation could be considered unlicensed activity.

Mr. Wallace stated he felt that the providers were only delegating the authority to report to RedVector.

Ms. Nobles asked the board to identify the issues and an action plan to resolve the issues regarding RedVector.

It was the consensus of the board that RedVector would need to apply for provider status, suspend offering of courses, stop advertisement of courses, and update their web site to assure the advertisement is not misleading and is revised to reflect correct information regarding board rules.

Mr. Herrick advised the board that he would comply with board rules.

Mr. Armenteros asked Mr. Wallace who was maintaining the records of the courses and attendance. Mr. Wallace stated RedVector maintains the files. Mr. Armenteros stated he would like to see someone inspect RedVector's attendance records.

Mr. Bush volunteered to check RedVector's records at the Tampa office. The board asked Mr. Bush to provide the board with a report of his findings at the next meeting.

Ms. Sutphin advised Mr. Wallace if RedVector was planning on still offering already approved courses offered by approved providers, then RedVector would need to request course approval.

Ms. Patterson advised the board that it was common for a provider application to have course applications attached for approval. Ms. Patterson stated that the committee in the past reviewed the provider application and, if approved, the committee reviewed the course applications.

PROSECUTING ATTORNEY REPORT – Brian Higgins

Mr. Higgins reviewed the prosecuting attorney's report with the board and stated currently there were 130 open surveying and mapping disciplinary cases. Mr. Higgins stated about 90% of the cases were in the process of being reviewed by an expert.

BOARD COUNSEL REPORT – Brian Stabley

Mr. Stabley reviewed the rules report with the board. Mr. Stabley advised the board that 61G17-1.010, F.A.C., 61G17-2.006, and 61G17-9.007, F.A.C., were noticed and Ms. Printy from the Joint Administrative Procedures Committee sent letter's commenting on each rules language.

Mr. Stabley reviewed rule 61G17-1.010, F.A.C. and asked the board for clarification. After discussion, it was the consensus of the board to request clarification regarding the

reason of the rule draft changes and the board suggested Mr. Stabley contact Mr. Martin for clarification. Mr. Stabley advised the board that he would contact Mr. Martin and bring possible draft changes to the next meeting.

Mr. Stabley reviewed rule 61G17-2.006, F.A.C., with the board and after discussion it was the consensus of the board that there was legal sufficiency. The board asked Mr. Stabley to respond to Ms. Printy's letter and provide a report at the next meeting.

Mr. Stabley reviewed 61G17-9.007 (1) (c), F.A.C., with the board and after discussion the board asked Mr. Stabley to continue to work on draft language and to bring the draft to the next meeting for consideration.

COMMITTEE REPORTS

Probation Committee – Omar Armenteros

Mr. Armenteros advised the board that the Probation Committee met.

Mr. Armenteros reported that the committee reviewed the 1st set of surveys submitted by James Frier and found the surveys not to be in compliance. Mr. Armenteros stated that the committee voted to require Mr. Frier to submit a 2nd set of surveys to be received by the board office December 3, 2004 and be reviewed at the January 2005 meeting.

Mr. Armenteros reported that the committee reviewed the 1st set of surveys submitted by Joseph Tucker and found the surveys not to be in compliance. Mr. Armenteros stated that the committee voted to require Mr. Tucker to submit a 2nd set of surveys to the board office by December 3, 2004, and his surveys would be reviewed at the January 2005 meeting.

Mr. Armenteros reported that the Probation Committee voted to release William Hayhurst from probation.

Mr. Armenteros reported that the Probation Committee recommended that when a licensee on probation was not in compliance with their final order, that the stay of suspension be lifted.

MOTION: Mr. Greer made a motion that if a licensee is not in compliance with their final order then the stay of suspension will be lifted and the case will be referred back to the Department for disciplinary action.

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

MOTION: Mr. Greer made a motion to approve the Probation Committee report.

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

Mr. Armenteros asked Ms. Patterson to be sure to lift the stay of suspension on Bruce Klein's license.

Application Committee – Lou Bush

Mr. Bush reported that the Application Committee met and made the following recommendations.

Ferando Fernandez denied for licensure by examination. Mr. Fernandez does not meet the work experience requirements.

William Washington denied for licensure by examination. Mr. Washington does not have the required 25 semester hours in related courses. Mr. Bush stated the committee did not review his experience since Mr. Washington had not completed the required course work.

Philip Hippolyte approved for licensure by examination.

Robert Harold Tuck approved for licensure by endorsement.

Mr. Bush advised the committee that Rene Van Kersbergen submitted a faxed copy of the experience verification and due to the circumstance of the denial the committee would not accept a faxed copy of the experience verification.

Examination Committee – Pam Nobles

Ms. Nobles advised the board that the Exam Committee met and discussed the consideration of changing the Essay questions. After discussion Ms. Nobles advised the board that the Exam Committee would work on changes and she would update the board at the next meeting. Mr. Stabley stated that the board's rules would need to be revised when the board was comfortable with implementing changes.

NCEES – Pam Nobles and Lou Bush

Ms. Nobles advised the board that at the last meeting the NCEES voted against using a sole source for the exam administration.

Rules Committee – Jeff Cooner

Mr. Cooner thanked the board and Ms. Oliver for their participation during the MTS rules workshops. Mr. Cooner advised the board and the audience that the final version of the MTS rules had been handed out to them. The board reviewed the materials and then the following motion was made.

MOTION: Ms. Nobles made a motion to approve the changes to the MTS rule and to instruct board counsel to review the rule changes for grammar and formatting prior to submission for adoption. (See October 2004 workshop minutes for language)

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

Ms. Patterson asked Mr. Cooner if a rules workshop should be noticed for the January 2005 meeting. Mr. Cooner advised Ms. Patterson to notice a rules workshop for the January 2005 meeting.

ACSM – Beverly Sutphin

Ms. Sutphin advised the board that the next ACSM meeting would be held in March in Las Vegas. Ms. Patterson asked Ms. Sutphin to notify her when the ASCM March 2005 agenda was available.

Probable Cause Panel – Dennis Blankenship

Ms. Poppell reported that the probable cause panel is scheduled to meet October 14, 2004.

Continuing Education Committee – Beverly Sutphin

Ms. Sutphin reported that the Continuing Education committee met and the committee made the following recommendations.

The committee recommended that the course offered by the Florida Department of Transportation be approved.

- CERP Vertical Control for 2 hours of general continuing education credits

The committee recommend that the following courses offered by Land Pro Seminars be approved.

- Army Corps of Engineers Wetland Delineation Methods for 6 hours of general continuing education credits.
- Endangered, Threatened and Species of Special Concern for 6 hours of general continuing education credits.

The committee recommended that the course submitted by HalfMoon, LLC, be approved.

- Legal Issues for Florida Land Surveyors for 6 hours of general continuing education credits.

The committee recommended that the courses offered by Lorman Business Center, Inc. DBA, be approved.

- Zoning and Land Use, one being offered in Tampa and the other being offered in Orlando for 6 hours of general continuing education credits.

Ms. Sutphin reported that the committee suggested the board consider drafting a rule regarding what constitutes a laws and rules course. Mr. Stabley advised the board he would provide draft language at the next meeting.

The board asked Mr. Stabley to bring draft rule language to the next meeting and the committee asked Ms. Patterson to make revisions to the course application for committee review at the next meeting.

MOTION: Mr. Greer made a motion to approve the continuing education committee report.

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

Executive Director Report – John Knap

Mr. Knap reviewed the June 30, 2004 financial report with the board.

ELECTION OF OFFICERS

MOTION: Mr. Greer made a motion to nominate Ms. Nobles as Chair.

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

MOTION: Ms. Sutphin made a motion to nominate herself as Vice-Chair.

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

There being no other business the meeting adjourned at 3:40 p.m.