

682nd Session
Board of Examiners for Professional Engineers and Land Surveyors
November 14, 2006

The scheduled meeting of November 14, 2006 was held at the Board Office, 165 Capitol Avenue, Room 117 in the State Office Building, Hartford, Connecticut.

Anthony L D'Andrea, Chairman called the meeting to order at 9:45 am.

Attending the meeting were John DeWolf (1) PE, John Hallisey (2) PE, Anthony L D'Andrea (4) PELS, Robert L Doane (5) PELS, Rocco V Laraia (8) PM, William O Giel (10) LS and Curtiss B Smith (11) LS and Robert W Grossenbacher (12).

Absent was: Terry McCarthy (3) PE (medical).

There are three vacancies on the Board.

Also present were Steven Schwane, attorney for the Department of Consumer Protection, Peter Huntsman, Asst. Attorney General and Barbara Syp-Maziarz, Board Administrator.

Guests Present: Charles Warren from CSPE

Mr. Grossenbacher was excused at 1:20 pm.

Mr. Smith was excused at 1:20 pm

Legal Division

Update of public member vacancies of the Board: Atty. Schwane advised the Board that the Department's Deputy Commissioner, Jerry Farrell wrote the governor's office regarding the public member vacancies. The Department received a letter from Marianne Boord, who is the director of Boards and Commissions of the governor's office acknowledging Deputy Commissioner Farrell's letter and advising the Department that it is often difficult to find public members willing to serve on certain boards, but stated that she will keep the request in mind and be watchful of qualified candidates.

Chairman D'Andrea stated that maybe the associations such as CALS or CSPE may put out some feelers to their members who may know individuals who may want to serve on the Board.

Charles Warren from CSPE, asked if former licensed retired engineers would be acceptable to serve as public members to the Board, or would that be too close a connection. Attorney Schwane will check if this would be acceptable and advise the Board.

A-Correspondence Received

A-1- Memorandum from Betsy Browne dated November 1, 2006. Re: ECEI-Decision of the ABET Board of Directors to suspend the activities of ECEI. (Dist.4)

For information only, no action required.

C-Old Business

C-1- Docket No. 06-929- Hearing (Dist. 3) –Deliberations.

First count was that the two land surveys varied by approximately two (2) feet along the common boundary of the two properties where the respondent in the preparation of the survey failed to properly research the land records in determining the boundary location between the two properties.

Second count was that the respondent failed to set monumentation at all applicable corners of the property for which the respondent performed the survey.

The Board's deliberations resulted in the following actions regarding the two counts of the complaint:

Second Count- Motion made by (10) seconded by (12) to dismiss the 2nd count because primarily the land surveyor was not obligated under the circumstances, since the owner did not want the property staked at that time. Motion carried.

First count- Mr. D'Andrea lead the discussion that in the end the boundary was subject to some disagreement and ultimate agreement, where the complainant ultimately under the claim, surrendered some land. On the other hand, since the division was relatively new, as it turns out one more deed may have indicated something different. If they had filed the original deed, they would not have been consistent with the ultimate resolution.

Mr. Grossenbacher stated that he had a problem with the surveyor who prepared the second map, knew that there was a discrepancy and never contacted the first surveyor. The second surveyor proved the overlap, brought the problem to light but never brought it to the attention of the first surveyor.

The Board reviewed the map exhibits in regards to paragraph five under the first count stating that in the preparation of the survey referred to in Paragraph Two, failed to properly research the land records in determining the boundary location between the two properties. The Board determined that the surveyor did not fail to research the records, just that he didn't go far enough back.

Motion made by (12) seconded by (10) to send a letter, advising that in the future the land surveyor should thoroughly research all records as far back as the trail ends. One abstention (11) Motion carried.

D-New Business

D-1 –Discussion of digital signatures (Dist. 4)

Bill Giel stated that what the Board may have to address in the near future is that a digital signature on an electronic document maybe something that the Board should recommend that they would require. The statutes require that live signatures and seals are required on hard copies, but the Board has no specifications for digital signatures. The digital signature is something that can protect the public as well as the profession.

Chairman D’Andrea stated that the licensee is ultimately responsible for his/her work one way or the other and how the licensee protects him or herself is another issue, and the digital signature is one way to protect the licensee.

Chairman D’Andrea will daft a response.

DD-1 List of Board meeting dates for the year 2007 (Dist. 4)

- January 23, 2007**
- February 20, 2007**
- April 10, 2007**
- June 12, 2007**
- July 17, 2007**
- August 7, 2007**
- October 16, 2007**
- November 13, 2007**

DD-2 Letter from Building Official regarding decks. (Dist. 2)

This letter was directed to Home Depot and is not requesting the Board to further investigate this matter. For information only, no action required.

E-Applications

The following applications were approved by 1, 2, 4, 5, 8, 10, 11, & 12 except as noted.

Permit CL 1 Exam

Cam-Spanos, Ilkay

Jucaite, Teisute- Tabled from 2/14/06 for PE exam subject to receipt of BS degree evaluation –**Deny-Lack of experience following foreign degree (Motion made by (2) seconded by (8). Motion carried**

Permit CL 1 Exam-Credit Part 1

Capacchione, David A-EIT from MA

Approve CL 4 License

Choat, Perry K
Creech, Kenneth P
Fuchs, Thomas E
Garner, John D
George, David M
Gershman, Mark R
Heausler, Thomas F
Herbst, Amy R
Hunter, Mark J
Lanaro, Joseph M – **subject to verification of current license**
Lonigro, Michael J
Lyons, Margaret J
Mahmutoglu, Serkan
McHale, Keith J
Milnes III, Robert G - **subject to verification of current license**
Mues, Richard C
Nickerson, Charles R
Olson, Larry L
Pearce, Joseph M
Picard, Mark D
Prince, Richard E
Queatham, Robert L
Reifsnyder, Norman E
Roberts, Bradford W
Schaumburg, Jeffrey W
Schober, Gregory G
Sidlo, Michael
Slack, Kevin L
Spada, Vincent W
Sposito, David P
Stivaros, Pericles C
Tahtakran, Onik M
Vermaas, Garry W
Washer, Michael G
Williams, Robert M
Wironen, Alan M

Approve CL 9 License

DiMarzo, Louis (Virginia Tech)
Doherty Jr., Stephen P (Trinity College)
Halvordson, Kyle A (UConn)
Nassar, Kristin E (Trinity College)
Samaha, Joseph (UConn)

Permit CL 13 Exam

Marshall, Ainsworth O- **Motion to approve subject to verification of completion of BS degree and update of experience record. Motion made by (11) seconded by (12). Motion carried.**

Approve Certificate of Authorization for the Corporate Practice of Engineering

Altair Engineering Services, LLC

6 Captains Lane (PE#17888- Paul L Jennings currently licensed 100% ownership)
Branford CT 06405

Applied Pavement Technology Inc.

115 W Main Street
Suite 400 (PE# 21639 Kathryn Zimmerman currently licensed)
Urbana IL 61801

Whitlock Dalrymple Poston & Associates Inc.

8832 Rixlew Lane (PE# 25413-Keith E Kesner currently licensed)
Manassas VA 20109

MWH Americas, Inc.

370 Interlocken Blvd
Suite 300 (PE# 21369 –William B Powers & PE#17855-Robert Schubach currently licensed)

Approve Certificate of Authorization for the Corporate Practice of Land Surveying

CPH Engineers, Inc.

500 West Fulton Street (LSX# 70272-Arthur A Mastronicola Jr.,-currently licensed)
Sanford FL 32771 – Tabled from 10/17/06 meeting for formal vote

Nutmeg Land Surveying Services, Inc.

66 Lantern Park Lane No (LSX# 70203-Tom Carpenter-currently licensed)
Southbury CT 06488- Tabled from 10/17/06 meeting for formal approval vote

Sydney A Rapp Land Surveying, P.C.
152 Greenwood Avenue (LS # 7400-currently licensed)
Bethel CT 06801

Hancock Survey Associates Inc.
185 Centre Street (LS# 70248- Wayne C Jalbert-currently licensed)
Danvers MA 01923

Approve Certificate of Authorization for the Joint Practice of Professional Engineering and Land Surveying

John Meyer Consulting Inc.
120 Bedford Rd (PE # 22895-Robert W Roth (128 shares), PE#17458 Richard J Pearson (12 shares) & LSX # 70195 Thomas Schmidt (60 shares) all currently licensed
Armonk NY 10504

Reinstatements

Concessi, Pasquale R-License lapsed 1/31/92-Completed new application, paid appropriate fees and did not sign or seal during lapsed period. (Dist. 2)

Motion made by (1) seconded by (5) to approve reinstatement. Motion carried.

Reconsiderations

Matyas, James P-Denied by Board at their August 8, 2006 meeting based on lack of engineering degree (Dist. 2)

Motion made by (1) seconded by (8) to deny request for reconsideration application and to reaffirm the Board's original decision of denying the application under class 4 based on lack of engineering degree. One abstention (5). Motion carried.

Stern, Richard J- Denied by Board at their November 4, 2005 and July 18, 2006 meetings. (Dist. 2)

The Board requested assistance from Asst. Attorney General Peter Huntsman in regards to their previous actions regarding Richard J Stern's application under reciprocity, whereas the Board denied his application on July 12, 2005 and July 18, 2006 based on that his education and experience was not consistent with CT's statutory requirements. Mr. D'Andrea summarized the Board's actions regarding this application and stated that in spite of his registrations in other jurisdictions, it is the opinion of the Board that following the Board's policy, he does not have the engineering background to support his request for reciprocity and reconsidered it and the Board supported their original decision.

Asst. Atty. Huntsman advised that the statute specifically states that; “in lieu of graduation as specified in this sub-division, the Board may accept as an alternative six (6) years or more of experience in engineering work which shall be of a character satisfactory to the Board in which shall indicate knowledge, skill and education, approximately that attained through graduation from an approved course in engineering”.

Atty. Huntsman advised that Mr. Stern’s letter raised other sections, other than reciprocity, which he applied specifically under reciprocity. Attorney noted that Pennsylvania allowed Mr. Stern to sit for the exam, which Connecticut would not have permitted him to sit under their qualifications and therefore not consistent with Connecticut’s statutory requirements.

Motion made by (1) seconded by (2) to deny request to reconsider. Motion carried.

F-Complaints

F-1 Complaint #2003-7004- Discussion lead by Atty. Steven Schwane regarding a LS member.

Atty. Schwane stated that he brought up this matter at the previous Board meeting, which there was no land surveyor quorum. Atty. Schwane stated that there is a proposed settlement agreement with the attorney for the land surveyor, which he is not sure whether the attorney will accept the agreement. Therefore, in order to move this complaint along, Atty. Schwane would like to have the Board proceed with a formal hearing in the event that the proposed settlement agreement is not accepted.

Motion made by (10) seconded by (12) to authorize Atty. Schwane to move toward a hearing in the event that the proposed settlement agreement is not acceptable to all parties. Motion carried.

F-2 Docket No. 06-1144 Hearing (Dist. 2)

The hearing in the matter of Robert L Doane, Jr., Docket No. 06-929 was held by the Board of Examiners for Professional Engineers and Land Surveyors at 165 Capitol Avenue, Hartford CT in Room 117 and began at 10:00.

Present were:

Anthony L D’Andrea, P.E. & L.S., Hearing officer

John Hallisey, PE

John DeWolf, PE

Robert Grossenbacher, LS

William Giel, LS

**Curt Smith, LS
Rocco Laraia, PM
Atty. Steven Schwane, Attorney for the Department,
Gregory Carver, Special Investigator
Charles Warren, PE, witness for the Department,
Asst. Atty. General Peter Huntsman, legal counsel to the Board,
Robert L Doane Jr., P.E. & L.S. respondent,
Atty. Thomas Cloutier, Attorney for the respondent
Gabriel Ferrara, Son of complainant.**

The Board's deliberations resulted in the following actions regarding the three counts of the complaint:

First count was that the respondent caused a septic system to be installed within 75 feet of a well.

Second count was relative to percolation tests taken above the actual installation depth.

Third count was that there was only one ground water reading.

Chairman Anthony D'Andrea entertained a motion to dismiss the second and third counts because these are not germane to the issue. Mr. D'Andrea stated that this is a design parameter, which is at the discretion of the engineer to determine the slope conditions in conjunction with the Health Department Sanitarians to decide on the parameters that are appropriate for those sites. The effort made by the respondent was consistent with regulations.

Motion made by (1) seconded by (8) to dismiss the second and third counts. Motion carried. (5) not present for the deliberations or vote.

Chairman D'Andrea stated that the first count is a little more difficult, where it was admitted that the system was installed within 75 feet of the well. Mr. D'Andrea stated that there was also a misconception that the entire neighborhood was on public water, yet the respondent agreed that there was no effort to contact the adjacent owner just to confirm and no effort to confirm with the water company. There was in fact a record in the building department that said it was on a private well.

The Board looked at paragraph four of the first count, which states that the respondent was negligent in the design and installation of the septic system. The Board must determine whether or not the engineer was negligent and did he act as a reasonable engineer would have acted under the circumstances. The opinion from the expert witness for the state stated that what the engineer did was reasonable.

Motion made by (1) seconded by (2) to dismiss the first count that he was negligent. Motion carried. (5) was not present for the deliberations or vote.

Asst. Attorney General Peter Huntsman will draft the Board's final decision to dismiss all three counts and forward it to the Board for their approval.

Mr. D'Andrea stated that in these kinds of cases when an error is discovered, that moving toward a resolution immediately even though it seems slow to the aggrieved, it is an administrative process that has to be followed.

FF-1 Master Case No 2006-268 (Dist. 2)

Attorney Schwane stated that the Department received a complaint by a land developer against an engineer who designed a subdivision road plan, and against the Town Engineer involved in the Town's approval of this road. The complaint alleged that the road failed to meet town and state standards. The department was assisted by John Thompson, PE in the investigation of this complaint.

Attorney Schwane provided the Board with a copy of Mr. Thompson's letter of recommendation.

Motion made by (8) seconded by (2) to dismiss the complaint. Motion carried.

Motion made by (8) and seconded by (5) to adjourn the meeting. Motion carried. Meeting adjourned at 2:05 pm

The next meeting is scheduled for January 23, 2007.

Respectfully reviewed by:

Respectfully submitted by:

Anthony L D'Andrea, P.E. & L.S.
Chairman

Barbara Syp-Maziarz
Licensing & Applications Specialist

