



CANNON BUILDING
861 SILVER LAKE BLVD., SUITE 203
DOVER, DELAWARE 19904-2467

STATE OF DELAWARE
DEPARTMENT OF STATE

TELEPHONE: (302) 744-4500
FAX: (302) 739-2711
WEBSITE: WWW.DPR.DELAWARE.GOV

DIVISION OF PROFESSIONAL REGULATION

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| MEETING MINUTES: | BOARD OF PROFESSIONAL LAND SURVEYORS |
| DATE AND TIME: | Thursday, June 16, 2011 at 8:30 a.m. |
| PLACE: | 861 Silver Lake Boulevard, Dover, Delaware Conference Room A , second floor of the Cannon Building |
| APPROVED: | August 18, 2011 |

MEMBERS PRESENT

Michael Szymanski, Professional Member, Chair
James Bielicki, Jr., Professional Member, Vice Chair
Mary Chvostal, Public Member, Secretary (entered at 8:41)
Thomas Plummer, Professional Member
Laurence McBride, Professional Member

DIVISION STAFF

Frederick Schranck, Deputy Attorney General
Barbara Gadbois, Deputy Attorney General
Sandra Wagner, Administrative Specialist III

MEMBERS ABSENT

Elizabeth Rowe, Public Member
Mark Rosenthal, Public Member

PUBLIC

Kristin Gibbons
Chief Turner
Donald Miller
James Collins
Allison Reardon
Bruce McKenna
Wayne Natale, Esq.
Frank Szczuka
Juli LaBadia, Wilcox & Fetzer

CALL TO ORDER

Mr. Szymanski called the meeting to order at 8:41 a.m.

Review and Approval of Minutes

Ms. Chvostal made a motion, seconded by Mr. McBride to approve the minutes. The motion was unanimously approved.

Unfinished Business

Re-review of PDH application for Kenneth O'Connell

Mr. Plummer re-reviewed the application from Kenneth J. O'Connell for PDHs and recommended that the request be approved. Mr. Plummer made a motion, seconded by Mr. McBride, to approve the Maryland Society of Surveyors-Statutory Laws of MD Relating to Land Surveyor "The Red Book" for 7 PDHs of which none have been approved for ethics. The motion was unanimously approved.

Mr. Szymanski asked Mr. Schranck if he prepared the proposed legislation regarding a survey required within 90 days of a property conveyance and the placement of all boundary corners prior to a regulatory agency issuing a certificate of occupancy for new construction. Mr. Schranck stated that he would have something prepared for the next Board meeting.

NEW BUSINESS

Disciplinary Hearing for Donald Miller

The hearing minutes follow the regular meeting minutes.

Limited Re-argument for Bruce McKenna

The hearing minutes follow the regular meeting minutes.

Executive Session

The Board entered into executive session pursuant to 29 Del. C. §10004(b)(4) to obtain legal advice in the matter of Donald Elrod, *et. al.* v. the Delaware Board of Professional Land Surveyors, a Complaint for Declaratory Judgment filed in the Superior Court. Ms. Chvostal made a motion; seconded by Mr. McBride, to go into executive session at 2:19 p.m. Mr. Plummer made a motion, seconded by Mr. McBride, to end the Board's executive session at 2:45 p.m.

Courses for Continuing Education Approval

Mr. Plummer reviewed the application from Brian Yorkiewicz for PDHs and recommended approval. Mr. Plummer made a motion, seconded by Mr. McBride, to approve Pennsylvania Society of Land Surveyors Buck Chapter – Boundary Locations, Stones, Barbwire, and Trees for 1 PDH. The motion was unanimously approved.

Mr. Plummer reviewed the applications from PLSSeminars (LSW, Inc.) for PDHs and recommended approval. Mr. Plummer made a motion, seconded by Mr. McBride, to approve PLSSeminars (LSW, Inc.) for the following: Ethics and the Professional Land Surveyor for 3 PDHs in ethics, The New ACSM-ALTA Standards Inside and Out for 6 PDHs, Boundary Dispute Mock Trial for 4.5 PDHs, Unlocking Boundary Disputes: "You Hold the Keys" for 6 PDHs, and Get A Leg Up On The Competition for 1.5 PDHs. The motion was unanimously carried.

Mr. Plummer reviewed the application from American Congress on Surveying and Mapping for PDHs and recommended approval. Mr. Plummer made a motion, seconded Mr. McBride, to approve Esri/ACSM Summit-San Diego, CA July 8, 2011 – July 10, 2011 for 98 PDHs for the following: The Public Land Survey System (The Big Picture) for 4 PDHs, Geodetic and Tidal Vertical Datums for 6 PDHs, Local Vertical Datum Conversion, NAVD vs. NGVD for 4 PDHs, Ok, I have My License, Now What? for 6 PDHs, A Field Guide for Real Time GNSS Positioning for 4 PDHs, The 4 P's of Running a Successful Business for 4 PDHs, An Introduction to the New 2011 ALTA/ACSM Survey Standards for 6 PDHs, Business Self Defense: Documenting the File for 4 PDHs, The Art and Science of Real Property Descriptions: Situational Awareness for 4 PDHs, Ethics for the Land Surveyor for 4 PDHs in ethics, Applications of RS and GIS as Decision Support System for 4 PDHs, Orthometric Heighting with GPS for 6 PDHs, Civil Integrated Management (CIM), 3D MC and PLS for 4 PDHs, Workshop: Unmanned Aircraft Systems in Surveying and Mapping for 4 PDHs, Pricing Professional Services for 4 PDHs, Map Projections Short Course for 6 PDHs, From RTK to Mobile: High Accuracy Municipal Infrastructure Data Collection for 4 PDHs, How to model GIS with Lidar for 4 PDHs, The Surveyors Role in Boundary Conflict Resolution for 4 PDHs, The Surveyor as Expert Witness Disclosure Reports for 4 PDHs, Role of the Surveyor in the Digital Age for 4 PDHs, and Perspectives on the Future of the Surveying Profession for 4 PDHs. The motion was unanimously approved.

Review of Applications for Examination

There were no applications for Examination for review.

Review of Application for Reciprocity

There were no applications for Reciprocity for review.

Ratification of Issuance of Land Surveying Certificates of Authorization

Mr. Bielicki made a motion, seconded by Mr. McBride, to ratify the application of certificate of authorization for J.M. Hunt Associates, Inc. The motion was unanimously approved.

Complaint Assignments

There were no new complaint assignments.

Complaint Status

No changes to the complaint status at this time.

Hearings/Consent Agreements/Board Orders

Closed Complaints

None

Wall Certificates

Mr. Szymanski and Ms. Chvostal signed the wall certificates for Mr. Shaheed Smith and Mr. Jeffrey Dodd.

Audit Compliance Update

There were no updates on the Audit Compliance. Mr. Szymanski asked Mr. Schranck if the licensees that failed the audit of 2009 would have to be audited in 2011. Mr. Schranck read from Rule 10.9 and 10.10 and it does not say that the Board will re-review audits from audits

performed in 2009 that failed. The Board then discussed what percentage they would like to audit for this up coming audit. Ms. Chvostal made a motion, seconded by Mr. Plummer, to randomly audit 20% of the Professional Land Surveyors for the 2011 audit. The motion was unanimously approved.

Review Letter from Thomas Orisich

The Board discussed the email sent in by Mr. Orisich. The Board made note that they have not received any formal PDH applications from Mr. Orisich to determine if they can approve his request for "Engineering and Surveying Ethics: The Basics" presented by NCEES's annual meeting held in Louisville, KY or to the 80 direct contact hours in preparing written survey tests in the pass 2 years. The Board would need to see formal PDH applications in order to determine the request sent in by Mr. Orisich to either approve or decline. Ms. Wagner will be sending Mr. Orisich an email telling him the Board's decision that he will need to submit formal PDH applications in order for the Board to say if he meets the requirement on ethics.

OTHER BUSINESS BEFORE THE BOARD (FOR DISCUSSION ONLY)

Mr. Szymanski discussed the upcoming 2011 NCEES Annual Meeting and stated that NCEES does fund for a first-time attendee. The Board members appointment could be no more than 18 months prior to the start of the meeting. Mr. Szymanski has been assigned as the voting delegate for this Board and will be attending in August in Providence, RI.

Ms. Warren brought the Board copies showing that HB 139 has pass. This bill corrects an internal inconsistency in the number of professional board members that can be appointed to the Board of Professional Land Surveyors from any 1 county.

PUBLIC COMMENT

Mr. Frank Szczuka asked a question to and requested a response from the Board's Deputy Attorney General Mr. Schranck, as to why Mr. Bielicki can be involved in the New Rule and Regulation changes for MIPs. Mr. Szczuka read aloud from correspondence prepared by Mr. Bielicki where in he stated that "Our company and a group of other surveyors are committed to making sure this rule change does not pass." Mr. Szczuka believes this is a conflict of interest which should preclude Mr. Bielicki's Board participation in the matter.

NEXT MEETING

The next scheduled meeting of the board is August 18, 2011 at 8:30 a.m. in Conference Room A, second floor of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware.

ADJOURNMENT

There being no further business before the Board, Ms. Chvostal made a motion, seconded by Mr. McBride, to adjourn the meeting at 3:22 p.m. The motion was unanimously approved.

Respectfully Submitted,



Sandra Wagner
Administrative Specialist III

HEARING MINUTES

HEARING – Donald Miller

The Delaware Board of Professional Land Surveyors held a hearing on June 16, 2011, at 10:00 a.m. in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Suite 203, Dover, Delaware.

PRESENT: James Bielicki, Mary Chvostal, Thomas Plummer, and Larry McBride

RECUSED:

EXCUSED: Michael Szymanski

PURPOSE: Disciplinary Hearing

PRESIDING: James Bielicki, Vice President

BOARD STAFF: Sandra Wagner, Administrative Specialist III

DEPUTY ATTORNEY GENERAL FOR THE BOARD: Frederick Schranck, Esq.

DEPUTY ATTORNEY GENERAL FOR THE STATE: Barbara Gadbois, Deputy Attorney General

RESPONDENT: Donald Miller

COUNSEL FOR THE RESPONDENT:

WITNESSES FOR THE STATE: Chief Turner, National Guardsman and Michael Szymanski

WITNESSES FOR THE RESPONDENT:

COURT REPORTER PRESENT: Juli LaBadia, Wilcox and Fetzer

TIME STARTED: 10:00 a.m.

The court reporter took verbatim testimony. Mr. Schranck described the reason for the hearing and confirmed Mr. Miller was present for the Hearing. Ms. Gadbois made her opening statement. Mr. Miller declined opening statements. Ms. Gadbois enter State's Exhibit 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11. Ms. Gadbois called for a recess with Mr. Miller and Mr. Schranck at 10:41 a.m. The Board went back on the record at 10:44 a.m. The Board took a 5 minute recess at 10:55 a.m. The Board went back on the record at 11:00 a.m. Ms. Gadbois asked that the record be made that Mr. Szymanski be marked as an expert witness. Mr. Miller entered Respondent's Exhibit A. The Board went off the record at 1:08 p.m. for deliberations. The Board stopped deliberations at 1:30 p.m. to hold another hearing. The Board resumed deliberations at 2:46 p.m. The Board went back on the record at 3:12 p.m. Ms. Chvostal made a motion to accept the State's recommendation and that the State proved the case against Mr. Miller,

no one seconded the motion. The motion failed. Mr. Plummer made a motion, seconded by Mr. McBride to find that the State did not prove the case against Mr. Miller. The motion failed with Mr. Bielicki abstaining and Ms. Chvostal opposing. The hearing concluded at 3:15 p.m.

HEARING MINUTES

HEARING – Bruce McKenna

The Delaware Board of Professional Land Surveyors held a hearing on June 16, 2011, at 1:30 p.m. in the Second Floor Conference Room A, Cannon Building, 861 Silver Lake Blvd., Suite 203, Dover, Delaware.

PRESENT: James Bielicki, Mary Chvostal, Thomas Plummer, and Michael Szymanski

RECUSED:

EXCUSED: Larry McBride

PURPOSE: Limited Re-argument Hearing

PRESIDING: Michael Szymanski, President

BOARD STAFF: Sandra Wagner, Administrative Specialist III

DEPUTY ATTORNEY GENERAL FOR THE BOARD: Frederick Schranck, Esq.

DEPUTY ATTORNEY GENERAL FOR THE STATE: Barbara Gadbois, Deputy Attorney General

RESPONDENT: Bruce McKenna

COUNSEL FOR THE RESPONDENT: Wayne Natale, Esq.

WITNESSES FOR THE STATE:

WITNESSES FOR THE RESPONDENT:

COURT REPORTER PRESENT: Juli LaBadia, Wilcox and Fetzer

TIME STARTED: 1:32 p.m.

The court reporter took verbatim testimony. Mr. Schranck described the reason for the hearing and confirmed Mr. McKenna was present for the Hearing. Ms. Gadbois made her opening statement for the limited re-argument. Mr. Natale gave his argument for the Board to keep the current findings. The Board went off the record at 2:08 p.m. for deliberations. The Board went back on the record at 2:17 p.m. Mr. Plummer made a motion, seconded Mr. Bielicki, to deny the limited re-argument and leave the

Order as is for Mr. McKenna. The motion failed by Ms. Chvostal opposing. Having failed, the Order for Bruce McKenna will remain as it is written. The hearing concluded on 2:18 p.m.