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DIVISION OF PROFESSIONAL REGULATION

PUBLIC MEETING MINUTES: Board of Geologists

MEETING DATE AND TIME: Friday, September 11, 2009 at 10:00 a.m.

**PLACE: 861 Silver Lake Boulevard, Dover, Delaware
Conference Room B, Cannon Building**

MINUTES APPROVED:

MEMBERS PRESENT

Steven Smailer, President, Professional Member
William Schenck, Vice-President, Professional Member
Lorene Athey, Public Member
Scott Blaier, Professional Member
Kimberly McKenna, Secretary, Professional Member
Patricia Ennis, Public Member

DIVISION STAFF/DEPUTY ATTORNEY GENERAL

Allison Reardon, Deputy Attorney General
Renee' Holt, Administrative Specialist II

MEMBERS ABSENT

Amos Aiken, Public Member

OTHERS PRESENT

Juli LaBadia, Wilcox and Fetzer, LTD, Court Reporter

PUBLIC PRESENT

Mr. Sameh Habib

CALL TO ORDER

Mr. Smailer called the meeting to order at 10:14 a.m.

PROPOSAL TO DENY HEARING

The hearing began at 10:15 a.m.

In the matter of Mr. Sameh Habib, Application for Licensure by Reciprocity:

Ms. Reardon introduced herself and invited Mr. Habib to sit at the table to address the Board. The Board greeted Mr. Habib. Ms. Reardon read the purpose of the hearing and verified that Mr. Habib was present without legal representation and that he understood he was entitled to be represented by legal council. Mr. Habib replied in the affirmative.

The Board was provided a packet of documentation supplied by Mr. Habib and various referees. The packet was marked and entered as Board Exhibit 1. Mr. Habib was provided a copy of the packet.

The Board introduce themselves.

Mr. Habib was sworn in by the court reporter. Mr. Habib addressed the Board and made the claim he believed he had met the requirement for licensure by reciprocity with bits and pieces of past work until the recent history.

Mr. Smailer addressed Mr. Habib regarding the intent of referees in jurisdiction of practice to show a sufficient level of competency. Mr. Smailer indicated that his opinion was that the intent of the practice time requirement was not day in day out, but active engagement over a specified period of time.

Ms. Reardon requested Mr. Habib review the references with the Board and expand or clarify on the time reported.

Mr. Habib explained that the references showed limited timeframes of work for specific projects and that there was additional time that was not reported by the referees due to the nature of Mr. Habib's involvement in the work performed. Mr. Habib indicated he brought electronic copies of reports he prepared that could help support his position.

Ms. Reardon suggested the Board recess to allow Mr. Habib to review the electronic media and produce any additional pertinent documentation for the Board to review.

Motion to Recess: Mr. Schenck made a motion to recess the hearing to allow Mr. Habib to gather additional information for the Board. Ms. McKenna seconded the motion. The motion was unanimously approved. The hearing went into recess at 10:29 a.m. The Board proceeded with regular Board business while the hearing was in recess.

Hearing called back into session: Mr. Smailer called the hearing back into session at 11:01 am.

Ms. Reardon asked Mr. Habib if he believed any of the documents he reviewed would help establish additional time in practice or if they supplemented time already reported.

After review of the documents, Mr. Habib did not feel they would support any additional time.

Mr. Smailer reviewed the references provided and Mr. Schenck created a chart to clarify the information provided by the referees.

Mr. Habib stated that he was currently working on projects in Pennsylvania and could get supporting documentation from current project managers to support that work.

Upon review of the references, and the completion of the chart, Mr. Schenck determined that Mr. Habib could account for 1 year and 10 months of work completed in Pennsylvania.

Ms. Reardon marked the chart written by Mr. Schenck as Board Exhibit 2. Mr. Habib agreed with the Board's

tabulation from the documentation of 1 year and 10 months experience.

Ms. Reardon advised that the Board could table it's deliberations and allow Mr. Habib to supplement his documentation at a later time or deny the application for licensure. Ms. Reardon asked Mr. Habib what his preference would be.

Mr. Habib agreed to wait for two months to accumulate the necessary work experience to meet the 2 year requirement.

Ms. Reardon recommended the Board close the testimony and table their deliberations until such time that Mr. Habib can provide either additional past work experience in Pennsylvania or proof of completion of a minimum of 2 additional months work experience in Pennsylvania.

Mr. Blaier moved to close the testimony, seconded by Ms. McKenna. The motion was unanimously approved.

Ms. Reardon recommended Board table their deliberations.

Ms. McKenna made a motion, seconded by Mr. Blaier to table the deliberations of this case. The motion was unanimously approved.

Mr. Habib thanked the Board.

The hearing closed at 11:20pm.

REVIEW OF MINUTES

The Board reviewed the minutes from the August 13, 2009 meeting. Ms. Athey made a motion, seconded by Ms. McKenna to approve the minutes as modified. The motion was unanimously carried.

UNFINISHED BUSINESS

Newsletter – The Board reviewed the recent draft of the newsletter. Ms. Holt added statistics to the last page of the newsletter. Mr. Smailer made a motion to release the newsletter. Mr. Schenck seconded the motion. The motion was unanimously approved.

Strategic Plan – The updated Strategic Plan was provided to the Board members with all changes incorporated from the last meeting. Mr. Smailer made a motion, seconded by Ms. McKenna to change the success indicator in item 2 to read “Successful annual publication of the Board’s newsletter.” The motion was unanimously approved.

Rules and Regulations – Changes were made as approved by the Board to Rule 2.0 *Procedures for Licensure* and Rule 6.0 *Continuing Education* and published in the Register of Regulations on September 1, 2009. The public hearing for this rule change will be on October 9, 2009 at 10:15 a.m.

Term Limit Modifications - As requested by the Governor’s Office, the Board discussed possible modifications of the statute to change the term limits for the Board members. Due to the limited number of licensed Geologists living in Delaware eligible to serve on the Board, the Governor’s office is requesting the Board modify their statute to change the term limits for professional members to “no limit to the number of consecutive terms served and extended the current term to unlimited from the current 3 year term limit.” In addition to the number of licensed Geologists, the challenge faced by the Governor’s office regarding appointment of professional members is that there are only 2 currently licensed Geologists in Sussex County. Mr. Smailer expressed he feels having a private consultant is more important than a representative from Sussex County. Mr. Schenck questioned why this was an issue. Ms. Reardon clarified that the issue is simply difficulty in filling the Board

member positions. Mr. Schenck expressed opposition to the Board removing the term limits. After discussion by the Board, Mr. Smailer proposed the Board prepare a proposal to the Governor's office. Mr. Smailer requested Ms. Holt add this to the next agenda and the Board will submit the proposal to Governor's office for review.

Ms. Reardon read Chapter 36 Subsection 3603 to the Board. Ms. Holt clarified that many boards require representation from all counties and that this is being assumed by the Governor's office as a requirement for the Board of Geologists.

Mr. Schenck volunteered to draft changes to Subsection 3603 with Ms. Reardon's assistance and present it at the next meeting.

NEW BUSINESS

Election of Officers

Mr. Smailer suggested that his name not be considered for election. The Board discussed candidates for officers. Mr. Schenck volunteered to be President, Ms. McKenna to be Secretary, and Mr. Blaier to be Vice President.

President: Mr. Smailer nominated Mr. Schenck for President. Mr. Blaier seconded the nomination. The Board voted unanimously to elect Mr. Schenck as President.

Secretary: Mr. Schenck nominates Ms. McKenna for Secretary. Mr. Smailer seconded the nomination. The Board voted unanimously to elect Ms. McKenna as Secretary.

Vice President: Ms. McKenna nominated Mr. Blaier for Vice-President. Mr. Smailer seconded the nomination. The Board voted unanimously to elect Mr. Blaier for Vice-President.

Review of Application for Licensure by Examination – None

Review of Application for Licensure by Reciprocity

James Arthur - Mr. Blaier reviewed the application of James Arthur. Mr. Blaier made a motion, seconded by Ms. McKenna to approve James Arthur for licensure. The motion was unanimously approved.

Lisa Carter - Mr. Schenck reviewed the application of Lisa Carter. Mr. Schenck asked the Board to discuss and agree on two items. First, the Board reviewed the educational experience submitted. Mr. Smailer made a motion, seconded by Ms. McKenna that Ms. Carter meets education requirements as outlined in Subsection 3608(a)(1). The motion was unanimously approved. Secondly, Mr. Schenck reviewed for the Board, the submitted referee statements and identified that the referees attest to work in Maryland. Mr. Schenck suggested the Board table the application and send a letter to Ms. Carter indicating that Ms. Carter must select one state from which she is applying by reciprocity, and provide two additional referees to attest to two years work experience in the state indicated. Currently the applicant has indicated application by reciprocity through multiple states. The motion was not seconded and failed due to a lack of a second. Ms. McKenna made a motion, seconded by Mr. Smailer, to send a letter indicating the applicant send two references attesting to work in the state selected for reciprocity and clearly identify which state is being used or the applicant can apply for new licensure and send two additional references and provide ASBOG scores verification. Mr. Smailer seconded the motion. Mr. Smailer amended motion to remove ASBOG verification as this is identified on state licensure verification. Ms. McKenna seconded the amended motion. The motion was unanimously approved.

Review of Continuing Education Applications -

Ms. McKenna reviewed the continuing education application of Steven Jakett for the course "American Society of Testing Materials (ASTM) Phase I ESA Standard Practices for Real Estate – Sept 29 -30, 2009" requesting 16 hours. Ms. McKenna indicated that per the course outline, the organization approved 14 hours. Ms. McKenna made a motion, seconded by Mr. Blaier to approve the course for 14 CEUs. The motion was unanimously approved.

OTHER BUSINESS BEFORE THE BOARD (for discussion only)

Mr. Smailer announced the exam in October has 11 examinees.

Mr. Schenck asked that the minutes reflect that this is the first time in 10 years that Delaware is not represented at ASBOG Annual meeting.

PUBLIC COMMENT -

No comment

NEXT SCHEDULED MEETING

The next meeting is scheduled for October 9, 2009 at 10:00 a.m. in Conference Room B, second floor of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware.

ADJOURNMENT

There being no further business, Mr. Smailer made a motion, seconded by Mr. Blaier to adjourn the meeting. The motion was unanimously approved. The meeting adjourned at 11:55 a.m.

Respectfully submitted,



Renee' M. Holt
Administrative Specialist II
DE Board of Geologists