

Vermont Board of Land Surveyors
Secretary of State, Office of Professional Regulation
National Life Building, North, Floor 2, Montpelier, VT 05620-3402
Approved Minutes
Meeting of Tuesday, July 21, 2009

1. The meeting was called to order at 9:03 A.M.

Members present: Larry Walter, L.S., Chairman; Shane B. Clark, L.S., Vice-Chairman; Timothy J. Ruggles, P.E., Secretary; Albert (Terry) Harris, L.S.; Jonathan R. Abts, L.S.; Charles Rockwell, L.S.; and Dorothy Hayden.

OPR Personnel present: Larry S. Novins, Board Counsel, Gregg Meyer, State Prosecuting Attorney, Carla Preston, Unit Administrator, and Kara Shangraw, Administrative Assistant.

Others present: Margaret Shields, VLSL, Carl Lisman, Esq., John Boylan, Esq. and Richard Whitham.

2. The Chair called for approval of the Minutes of the May 19th meeting. On page 2, number 5 (a) will be amended to reflect that Malcolm Moore is a former Board member. Mr. Harris made a motion, seconded by Ms. Hayden, to approve the Minutes of the May 19, 2009 meeting as amended. The question was called and the motion passed unanimously.

3. Legislation/Rulemaking

The Board discussed the format and wording of various criteria on the portfolio checklist, which was tabled from the March 17, 2009 meeting. A revised draft will be provided to the Board.

Chairman Walter and Attorney Novins plan to meet before the next meeting to discuss proposed rule changes and draft language to present to the Board for consideration.

4. Reports

5. Hearings/Stipulations and Consent Orders

- a. The Board considered a *Stipulation and Consent Order* (Order) in the matter of Warren A. Robenstien, Docket Number 2007-259 (LS01-0807). The Respondent was not present. The Respondent's Attorney, Carl Lisman, Esq., was present. Attorney Novins presided for the Board. Attorney Meyer was present for the State. Attorney Meyer explained the Order upon which the parties had agreed which included a warning, redoing the survey that caused the complaint and submittal of three additional plats on a quarterly basis. The Order stated that the Board's review and acceptance of the plans is only for technical standard review, not for verification of the survey itself. He explained that once the conditions were met, the charges would be dismissed. Attorney Lisman said his client has not signed the order as they could not reach him last night. The Board was asked to review the Order to ensure it was otherwise acceptable. Mr. Harris made a motion, seconded by Mr. Abts, to accept the State's version of the Stipulation and Consent Order. The matter was discussed further.

The Board then voted to go into deliberative session at 9:31 A.M. and out at 10:19 A.M. The Board voted to NOT accept the Order as presented. The reasons included the provision for dismissal after issuing a warning which was believed to be inappropriate. Other recommendations were made re the language in the Order. The matter will be set for a hearing at the September 15th meeting. If a revised Stipulation and Consent Order is to be submitted, it must arrive at least 10 days prior to the meeting to allow the hearing panel time to review the proposed order. The Board does not want the charges dismissed, a permanent record is more appropriate. Malcolm Moore, former Board member served as the Investigating Member on this case.

- b. The Board held a *Sanctions* hearing in the matter of Richard S. Whitham, Docket Numbers 2007-354 (LS02-1007) and 2008-260 (LS01-0708). The Respondent and his Attorney, John Boylan, were present. Attorney Novins presided for the Board. Attorney Meyer was present for the State. Attorney Meyer said the parties agree to the facts which are that the Respondent worked without a valid license. Attorney Boylan said the Respondent is working for another surveyor. He said they do not dispute the factual allegations set forth in the charges. They agree with the exception of one issue which concerns reinstatement requiring Mr. Whitham to take all three exams. The Respondent's license lapsed in September of 2002 and he has worked since that time. He applied to the Board for reinstatement in January of 2008 and was denied because he needed to retake the exams. He had 30 days to appeal the preliminary decision but did not request a hearing or file an appeal within that 30-day period. The question is what sanction does the Board feel is appropriate? Attorney Meyer indicated what the State wanted for sanctions to resolve the case, which included that the Respondent must meet all requirements to reinstatement his license if he plans to continue to work, provide a list of all surveys and related real estate transactions he has been involved with since 2002, notify all interested parties that his license was not current during that period, provide a copy of those notices to the Board, submit updated surveys under a currently licensed person and provide evidence of that to the Board, as well as pay an Administrative penalty.

John Boylan said they are willing to comply with most all of the requirements but explained that notification to all persons may not be possible in that they would only know who his client was, not who else was involved. They were willing to pay an Administrative penalty not greater than \$3000. He said the only item on which they totally disagreed with was the requirement to retake the exams, national and state. The Respondent has been licensed since 1969, and the only complaints filed are the recent complaints submitted. The complaints do not raise issues regarding his ability to do surveys or his competency. He did not receive a renewal form in 2002 so his license lapsed. He did not get any letter from the board stating that it had lapsed and continued to work. He did do all the CE requirements during that period. He said the Board has the ability to waive that reinstatement requirement and they are asking the Board to do so. They are asking to waive the reinstatement requirement to retake the exams. The Board noted that Rule 3.3 (7), mentions the hardship section. What is the hardship or extenuating circumstances on which to request a waiver? Attorney Boylan said some information was provided to investigators but not to the Board. The Respondent did not do this intentionally; it was simply a mistake. He suggested adding a sanction to take continuing education on the topic of efficiently managing an office, i.e., recordkeeping or something similar.

The Board voted to deliberate at 10:55 A.M. and out at 11:50 A.M. An Order will be prepared and sent to the Respondent and his Attorney. Messrs. Abts and Clark, Investigating Members, did not participate in the hearing.

6. Exam Question Databank Review

The Board reviewed Chairman Walter's proposed 10 point question for the examination databank and made a few suggestions for changes. Once the question has been finalized it will be added to the databank of questions.

7. Reports of Concluded Investigations/Complaint Status/Follow-up cases:

- a. **LS05-0108** – The Board reviewed the *revised* Report of Concluded Investigation. Ms. Hayden made a motion, seconded by Chairman Walter, to accept the Investigative Team's recommendation to conclude this case without formal prosecution. The question was called and the motion passed. Mr. Harris, Investigating Member, did not participate in the vote.
- b. The Board reviewed the Survey report from Norman Smith regarding compliance with the conditions stated in his Order. The Board found that the Plat is not acceptable as it does not meet the standards. He will be referred to the statute and rules (26 V.S.A. § 2596 (a) and 27 V.S.A. § 1403 (b) 1-8, and Board Rule, Section 5.5) regarding property and the filing of land plats. The Board found that certain symbols within his legend are inconsistent and cannot be differentiated. The Title abstract is incomplete as not all chains are complete and some key deeds were missing. Ms. Preston will draft a letter of response.

8. Applications. Board Members reported on the status of the applications to which they are assigned as indicated below (See Appendix A). Members noted that some applicants have not reported hours in one or more years. Ms. Preston and Ms. Shangraw will review the pending applications and note the number of hours of experience submitted to date and the date of the last activity. Notices will be sent to all applicants to verify their continued interest in becoming licensed as a Land Surveyor in the State of Vermont and advising them of what is needed to continue the process. All applicants will be encouraged to submit hours every six months as stated in Board Rule 2.7 (a) but at the very least once a year.

Board members will also review their list of applicants and report the date of the last activity. Letters will be mailed to all applicants but particularly to those who have had no activity in years to determine whether they are still interested in pursuing licensure. The letters will be copied to their last known supervisor. Ms. Preston will prepare a draft letter to the applicants before the next meeting for the Board to review.

Mr. Harris noted that he had no action to report regarding his group of applicants. Mr. Rockwell met with Malcolm Moore to discuss the group of applicants now assigned to him but had no activity to report.

- a. **Seth W. Kittredge** – Mr. Abts reported that Mr. Kittredge was applying on the basis of Experience and Examination. He reviewed the work experience submitted through June 2009 under the supervision of licensed Land Surveyor Ronald LaRose and recommended approval. The Board approved the hours bringing Mr. Kittredge's total hours to date to 3490.5.
- b. **Andrew Nadeau** - The Board reviewed the application by endorsement from Andrew Nadeau. Mr. Nadeau must sit for the Vermont Land Surveying Exam. The Board found Mr. Nadeau's application incomplete as it was missing the verification from the state(s) in which he is licensed. Once received it will be forwarded to Chairman Walter for approval so that Mr. Nadeau may register with the National Council of Examiners for Engineering and Surveying to sit for the examination by the September 4th deadline.

- c. **Eric Pospesil** - The Board reviewed the application by endorsement from Mr. Pospesil. He must sit for the Vermont Land Surveying Exam. The Board found Mr. Pospesil's application incomplete. Once the missing documents arrive they will be forwarded to Chairman Walter so that the applicant may register with the National Council of Examiners for Engineering and Surveying to sit for the examination by the September 4th deadline.
- d. **Brad Ruderman** – Mr. Clark reported that Mr. Ruderman was applying on the basis of Experience and Examination. He reviewed the work experience submitted (623 hours) for the period of 2003 through 2006 under the supervision of licensed Land Surveyor John Thetford and recommended approval. The Board approved the hours bringing Mr. Ruderman's total hours to date 3415.75
- d. **Alex Smith** – Mr. Clark reported that Mr. Smith was applying on the basis of Experience and Examination. He reviewed the work experience submitted for the period of December of 2007 through March of 2009 under the supervision of licensed Land Surveyor Doug Henson and recommended approval. Mr. Smith's total hours to date are 2361.
- e. **Paul D. Gredier** submitted his final hours for approval and now has 7691 hours under the supervision of Charlie Rockwell. Based on Mr. Gredier's total hours of work experience and his successful completion of the three examinations, the Board approved him for licensure.
- f. **Michael Warrington** – Mr. Ruggles reported that Mr. Warrington withdrew his application in December of 2006. His name will be removed from the list.

Mr. Ruggles said Alger Beal needs a letter from the Board stating approval of the hours he previously submitted which were approved at the May meeting. Mr. Ruggles said Mr. Beal is considering attending school in Washington State. He asked if he could work in Washington State and have those hours count his experience requirement. The law does not require that the supervisor be licensed in Vermont, only that the supervisor is licensed. The Board had no objection to his earning hours in Washington under the supervision of a licensed land surveyor in that state, but recommended that he check with the authorities in that state as well. The Board will need verification from Washington that his supervising land surveyor is licensed and he or she would need to submit evidence of the hours Mr. Beal earned.

9. **Audit of Continuing Education/Renewals**

Since no additional information was provided, the Board tabled this matter.

8. Continuing Education Approval Requests

The Continuing Education Committee, consisting of Terry Harris, Dorothy Hayden, and Larry Walter, reviewed the CE requests listed below. The Board took action as indicated.

- a. **"Fences, Acceptance or Rejection,"** submitted by Patricia Kules, requested approval for 7 Professional Development Hours, sponsored by the University of New Hampshire. The program was offered on May 6, 2009. Based on the information provided, the Board approved this program for 7 PDH and issued approval number CE004-0709.

9. Continuing Education Courses - Education Committee to Report – Continued:

- b. “**Positional Tolerance & Accuracy**, submitted by John Doody at the Connecticut Association of Land Surveyors, requested approval for 6.25 Professional Development Hours, presented by Michael Scanlon. Based on the information provided, the Board approved this program for 6.25 PDH and issued approval number CE005-0709.
- c. “**Forensic Approaches to Evidence Discovery & Location**,” submitted by Donald Doolan with the University of New Hampshire, requested approval for 7 Professional Development Hours, sponsored by University of New Hampshire. Based on the information provided, the Board approved this program for 7 PDH and issued approval number CE006-0709.
- d. “**Current Issues in Storm Water Regulations**,” submitted by Kari Campbell at Lorman Education Services, requested approval for 6 Professional Development Hours, sponsored by Lorman Education Services. The Board voted to deny this request on the basis that the program is not relevant to the practice of land surveying as defined in Vermont. The Board noted that this program has been submitted in the past and was also previously denied.
- e. “**GPS Post Processing Hands on Workshop**,” submitted by John Doody with the Connecticut Association of Land Surveyors, requested approval for 6.25 Professional Development Hours, presented by John Doody. Based on the information provided, the Board approved this program for 6.25 PDH and issued approval number CE007-0709.
- f. “**45th Annual VLS Conference**,” submitted by Margaret A. Shields and sponsored by the Vermont Society of Land Surveyors, requested approval of 10 Professional Development Hours for this conference to be held on September 17-18, 2009. At the last meeting the Board preliminarily approved some of the courses. The Board reviewed the July 6, 2009 response from the Vermont Society of Land Surveyors and approved the Conference for 10 PDH and issued approval number CE008-0709.

To better track approved continuing education courses, Ms. Preston and Ms. Shangraw will create a spreadsheet listing approved programs. The list will include the name of the program, sponsor/vendor, number of PDH approved, CE number issued, and the date of activity. The list will include programs approved from October 1, 2008 to present.

9. National Council of Examiners for Engineering and Surveying (NCEES) Correspondence

- a. The Board reviewed and noted miscellaneous correspondence from the NCEES.

10. Miscellaneous Correspondence

11. Other Business Introduced by the Board

The Board asked that whenever possible documents for review at a meeting be sent to them in advance. This includes Orders to be considered, correspondence, continuing education requests, etc.

12. Public Comment

13. The next meeting is scheduled for **Tuesday, September 15, 2009** at 9:00 A.M. The last meeting in 2009 is scheduled for November 17, 2009.

14. There being no further business, the meeting was adjourned at 4:27 P.M.

Respectfully submitted,

Carla Preston, Unit Administrator
Office of Professional Regulation

Appendix A

Name of Board Member Assigned		Terry Harris	
Name of Applicant	Name of Supervising Land Surveyor	No. of Hours to date	
Swedick, David			
Diorio, James			
Quackenbush, Everette			
Noviello, Matthew			
Tommell, Jason			
Longmaid, Jacob			
Cox, Christopher			

Name of Board Member Assigned		Charles Rockwell	
Name of Applicant	Name of Supervising Land Surveyor	No. of Hours to date	
Baker, Aaron			
Barnaby, Luke			
Towne, Zebulon			
Lareau, John			
Paradee, Andrew			
Marcotte, Philo			
Barnes, Martin			
Porter, Shaine			
Ziobron, Fredd			

Name of Board Member Assigned		Larry Walter	
Name of Applicant	Name of Supervising Land Surveyor	No. of Hours to date	
Pahel, James			
Hudson, Michael	Approved for licensure May 19, 2009		
Herring, Brad			
Duquette, Jonathan			
Lackey, Bradley			
Annis, Mark			
Gervais, Gabriel			
Fortin, Edward			
Naaktgeboren, David			
Greineder, Paul	Approved for licensure July 21, 2009		

Appendix A

Name of Board Member Assigned		Timothy Ruggles	
Name of Applicant	Name of Supervising Land Surveyor	No. of Hours to date	
Warrington, Michael	Withdrew December of 2006		
Nadeau, Nathan	Approved for licensure in of Jan of 2009		
Cummings, Steven			
Hammond, Barton			
Falk, Michael			
Sargent, Scott			
Beal, Alger R.			

Name of Board Member Assigned		Shane Clark	
Name of Applicant	Name of Supervising Land Surveyor	No. of Hours to date	
Jones, Ryan	Approved for licensure May 19, 2009		
Reed, Mathew			
Holsteini, Jamey			
Whitehead, Chad			
Otis, Randall			
Walker, Mark			
Ruderman, Brad			
Smith, Alex			

Name of Board Member Assigned		Jonathan Abts	
Name of Applicant	Name of Supervising Land Surveyor	No. of Hours to date	
Kittredge, Seth W.			
Wilson, Terry			
Fuller, Aaron			
Peacock, Gregory			
Paire, Uriah			