

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 May 19, 2009

1. The meeting was called to order at 9:00 A.M.

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

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

Others present: William Robenstein, Pat Rainville, Eric Parker, Esq., and Dan Hewitt.

The Board welcomed Charlie Rockwell as its newest member of the Board.

2. The Chair called for approval of the Minutes of the March 17th meeting. On page 1, the last paragraph was corrected to reflect the FLS. On page 2, the first paragraph was amended to read: Currently, candidates are approved to sit for all three examinations, the National Council of Examiners for Engineering and Surveying (NCEES) exams, (Fundamentals and Principles and Practice), and the State specific examination On page 3, item 7 (d) was amended to also indicate that additional information was needed to determine the number of carryover credits that could be applied to the next biennium. On page 4, the 2nd sentence under 7 (e) was amended to read: The courses she took pertained to contract law and liability insurance which are not acceptable based on Board Rule and Policy. On page 5, the first sentence under item number 12 was amended to read: David Hudson, L.S. attended the meeting to request A few typographical corrections were made. Mr. Harris made a motion, seconded by Mr. Abts, to approve the Minutes of the March 17, 2009 meeting as corrected. The question was called and the motion passed unanimously.

3. Legislation/Rulemaking

The Board tabled its discussion regarding the format and wording of various criteria on the portfolio checklist. The latest draft (March 17, 2009) was provided to members. Before the next meeting Chairman Walter and Attorney Novins will meet 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 was asked to consider two versions of a *Stipulation and Consent Order* (Order), (the Respondent's and the State's) in the matter of William A. Robenstein, Docket Number 2008-36 (LS04-0108). The Respondent and his Attorney, Eric Parker, were present. Pat Rainville, Complainant, was also present. Attorney Novins presided for the Board. Attorney Meyer was present for the State. The Orders were presented and differences between them explained. Ms. Rainville said she supports the State's version of the Order. Mr. Harris made a motion, seconded by Mr. Abts, to accept the State's version of the Stipulation and Consent Order. The State's original version was denied. The parties agreed to some changes to the State's version of the Order.

The Board then voted to go into deliberative session at 9:44 A.M. and out at 10:20 A.M. Ms. Hayden made a motion, seconded by Mr. Rockwell, to accept the State's amended version of the Stipulation and Consent Order. The question was called and the motion passed unanimously. Malcolm Moore, Investigating Member, was not present.

- b. The Board considered a **revised Stipulation and Consent Order** (Order) in the matter of Norman Smith, Docket Number 2007-372 (LS03-1007). The Respondent was not present. Dan Hewitt, Complainant, was present. Attorney Novins presided for the Board. Attorney Meyer was present for the State. The Order was revised as discussed at the March meeting. Mr. Abts made a motion, seconded by Mr. Rockwell, to accept the Stipulation and Consent Order. The matter was discussed further. Dan Hewitt, the Complainant in this case, said he has reviewed the revised Order and asked the Board to not accept it. He mentioned some of the problems that had occurred as a result of the Respondent's error(s), steps he has taken to correct the errors, and was concerned about the legal aspects surrounding the statement that the Board "may" find unprofessional conduct..." Attorney Novins explained that the Board cannot endorse a sanction without a finding of unprofessional conduct.

The Board voted to go into deliberative session at approximately 10:50 A.M. and out at 10:56 A.M. The question was called and the Board voted to accept the Order as presented. The Board does find that the conduct described in paragraphs five through 10 of the Order constitutes unprofessional conduct. Mr. Harris, Investigating Member, did not participate in the vote.

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

Ms. Preston reported on the status of complaints.

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.

Mr. Harris noted that he had no action to report regarding his group of applicants. Mr. Rockwell noted that he would be meeting with Malcolm Moore in the near future to discuss the group of applicants now assigned to him. Mr. Clark's report was tabled.

- a. **Kittredge, Seth W.** – Mr. Abts reported that Mr. Kittredge was applying on the basis of Experience and Examination. He reviewed the work experience submitted for March and April 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 3158.5.

- b. **Wilson, Terry** – Mr. Abts reported that Mr. Wilson was applying on the basis of Experience and Examination. He reviewed the work experience submitted for the months of June through November (none reported for September) under the supervision of licensed Land Surveyor Richard Bell and recommended approval. The Board approved the hours bringing Mr. Wilson's total hours to date to 623.
- c. **Greineder, Paul D.** – Chairman Walter reported that Mr. Greineder was applying on the basis of Experience and Examination and was approved to sit for the examinations. The Board graded the Vermont Statutes and Rules examination. The results have not yet been received from the National Council of Examiners for Engineering and Surveying.
- d. **Beal, Alger R.** – Mr. Ruggles reported that Mr. Beal was applying on the basis of Experience and Examination. He reviewed the work experience submitted for the period of September 2007 through April 2008 under the supervision of licensed Land Surveyor David Manse and recommended approval. Mr. Beal's total hours to date are 1122.5.
- e. The Board reviewed the results of the Vermont Statutes and Rules Examination. Four candidates passed, one failed. Candidates will be notified.

The Board approved the following applicants for licensure on the basis of endorsement and their successful completion of the Vermont Statutes and Rules Examination.

Hudson, Michael J.

Jones, Ryan R.

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

The Board reviewed the responses from the following licensees as a result of the audit of continuing education credits and took action as indicated.

- a. Hans-Georg Mertsch – The Board reviewed April 2, 2009 letter from the University of New Hampshire clarifying the dates programs were offered. Based on the additional information provided, the Board found Mr. Mertsch to be in compliance with continuing education requirements. According to the Board's calculations, Mr. Mertsch has a total of 26 hours, which allows for 6 hours of carryover credits.
- b. Jennifer Marks – The Board reviewed the April 7, 2009 letter and supporting documentation from Ms. Marks concerning her plan to acquire the three additional credits needed. The Board reviewed the two certificates (one hour each) from the Missouri University of Science and Technology but was unable to determine if they were acceptable. Course descriptions or syllabi for these courses are needed (Rule 6.9). The Board approves Ms. Marks' plan to obtain the remaining one professional development hour by attending the Vermont Society of Land Surveyors May or September meeting. The Board also reviewed her appeal for approval of the XL Professional Liability Course she previously requested. The Board affirmed its original decision to deny PDH for that program.
- c. David E. Titcomb – The Board reviewed the April 4, 2009 letter from Mr. Titcomb clarifying which track he participated in at the Maine Society of Land Surveyors 2007 meeting however no specific information about the courses was provided. The Board concluded that at least 8.75 PDH would be acceptable but cannot make a final determination based on the information provided. A syllabus of the program he took is needed (Rule 6.9).

8. Continuing Education Courses approved and/or denied by the Education Committee

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

- a. **“The Surveyor in Court,”** submitted by David N. Rose and sponsored by the New Hampshire Land Surveyors Association and the University of New Hampshire, requested approval for 16 Professional Development Hours for the program offered on May 15 - 16, 2009. Based on the information provided, the Board approved this program for 14 PDH and issued approval number CE001-0509.
- b. **“Legal Descriptions,”** submitted by Bridget Schwab at 100% Education and sponsored by McKissock 100% Education, requested approval for 3 Professional Development Hours for this online course. Based on the information provided, the Board approved this program for 3 PDH and issued approval number CE002-0509.
- c. **“National Flood Insurance Program,”** submitted by Bridget Schwab at 100% Education and sponsored by McKissock 100% Education, requested approval for 4 Professional Development Hours for this online course. The Board voted to deny this request on the basis that the program is not relevant to the practice of land surveying.
- d. **“Boundaries and Monuments,”** submitted by Bridget Schwab at 100% Education and sponsored by McKissock 100% Education, requested approval for 3 Professional Development Hours for this online course. Based on the information provided, the Board approved this program for 3 PDH and issued approval number CE003-0509.
- e. **“45th Annual VSLs 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. The Board preliminarily approved “Instrument – Adjustments and Maintenance” for 3 PDH to be offered on September 17th. The Board reviewed the seven topics to be covered on September 18th and preliminarily approved Contracts, Communication and Insurance. Additional information is needed for further consideration of the remaining topics: Methods of Fee Collection, Form of Business, Employees vs. Subcontractors and Accounting. The Board needs a breakdown of time for each segment and how the topics specifically relate to land surveying. Ms. Shields will be notified of the Board’s preliminary findings.

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

- a. The Board reviewed the April 2, 2009 letter from the NCEES regarding the annual meeting scheduled for August 12-15, 2009 in Louisville, Kentucky. Chairman Walter said he could attend the annual meeting if other members were unable to do so. He will contact Shane Clark to see if he is interested in attending.
- b. The Board reviewed the May 5, 2009 letter from Susan Whitfield regarding the NCEES agreement between the Vermont Boards of Professional Engineering and Land Surveying concerning administration of the examinations. The Board approved the Agreement which will be executed by Christopher Winters, Director of the Office of Professional Regulation.
- c. The Board reviewed and noted miscellaneous correspondence from the NCEES.

10. Miscellaneous Correspondence

- a. Wall Certificates for persons approved for licensure at the last meeting were signed.

11. Other Business Introduced by the Board

The Board asked that whenever possible proposed Orders be sent to them in advance. In addition, the Board asked that the Investigating Member on a case be more involved in drafting/reviewing the language for charges and stipulations and consent orders. It was noted that some boards utilize a template which could be helpful to members.

12. Public Comment

13. The next meeting is scheduled for **Tuesday, July 21, 2009** at 9:00 A.M. Additional meetings in 2009 are scheduled for September 15th and November 17, 2009.

14. There being no further business, the meeting was adjourned at 3:55 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			

Appendix A

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			

Appendix A

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			

Appendix A

Name of Board Member Assigned		Timothy Ruggles	
Name of Applicant	Name of Supervising Land Surveyor	No. of Hours to date	
Warrington, Michael			
Nadeau, Nathan			
Cummings, Steven			
Hammond, Barton			
Falk, Michael			
Sargent, Scott			
Beal, Alger R.			

Appendix A

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			

Appendix A

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			