

MINUTES OF THE MEETING OF THE BOARD

DATE: 11 September 2012

**PLACE: 1511 Pontiac Avenue, Building 68-1 Conference Room,
Cranston, RI**

MEMBERS PRESENT: Chair John Mensinger, Vice-Chair Louis Federici, (Present 12:30 p.m. to 3:50 p.m.), Secretary Richard S. Lipsitz, Members Daniel R. Cotta (Present 1:11 p.m. to 3.50 p.m.), and Michael J. McCormick

MEMBERS ABSENT: None

**OTHERS PRESENT: Mrs. Dawne Broadfield, Board Administrator
Attorney Neena Sinha Savage, DBR Chief of Legal Services
(Present 12:18 p.m. to 2:28 p.m.)**

Michael Manning, DBR Legal Intern (Present 12:18 p.m. to 2:28 p.m.)

**OTHERS ABSENT: Louis A. DeQuattro, Jr., Esq., CPA, DBR Deputy
Director & Executive Counsel**

Mr. Brian J. Riggs, DBR Administrator, Financial Management

**CALLED TO ORDER: Chairman Mensinger called the meeting to order
at 12:18 p.m.**

AGENDA ITEM #1 Chair Mensinger commended Mrs. Broadfield on the preparation of the Approval of Minutes minutes being thorough and complete. The minutes enable the Board to get

back to where it left off in a way that saves time at future meetings

Chair Mensinger made a motion to approve the Regular Meeting Minutes of 14

August 2012 as published. Member McCormick seconded. Motion passed;

three (3) in favor, two (2) absent. Voting in favor were Chair John Mensinger,

Secretary Richard S. Lipsitz, and Member Michael J. McCormick. Members

Daniel R. Cotta and Vice-Chair Louis Federici were absent from the vote.

AGENDA ITEM #2 Because of the nature of the following items, Member McCormick moved Executive Session to convene into Executive Session at 1:45 p.m. pursuant to RI General Laws,

§42-46-5(a)(2), for sessions or work sessions pertaining to collective bargaining

or litigation and §42-46-5(a)(4) for investigative proceedings regarding allegations

of civil or criminal misconduct. Secretary Lipsitz seconded. Motion passed; five

(5) in favor and zero (0) absent. Voting in favor were Chair John Mensinger,

Vice-Chair Louis Federici, Secretary Richard S. Lipsitz, Members Daniel R. Cotta

and Michael J. McCormick.

Adjournment Member McCormick moved to adjourn from Executive Session and to reconvene to an open meeting at 3:28 p.m. pursuant to RI General Laws §42-46-4. Member Cotta seconded. Motion passed; five (5) in favor, zero (0) absent. Voting in favor were Chair John Mensinger, Vice-Chair Louis Federici, Secretary Richard S. Lipsitz and Members Daniel R. Cotta and Michael J. McCormick.

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Member McCormick moved to seal the minutes of the executive session and record the votes taken in executive session pursuant to RI General Laws §42-46-4 and §42-46-5. Member Cotta seconded. Motion passed; five (5) in favor, zero (0) absent. Voting in favor were Chair John Mensinger, Vice-Chair Louis Federici, Secretary Richard S. Lipsitz and Members Daniel R. Cotta and Michael J. McCormick.

Member McCormick moved to record the votes taken in executive session in accordance with RI General Laws §42-46-4 as follows: Motions were made to close the following agenda item 2d1. Motions were made to continue the following agenda items 2b1a, 2b1b, 2b2, 2b3, 2c1, 2c2, 2d2 and 2d3. Member Cotta seconded. Motion passed; five (5) in favor, zero (0) absent. Voting in favor were Chair John Mensinger, Vice-Chair Louis Federici, Secretary Richard S. Lipsitz

and Members Daniel R. Cotta and Michael J. McCormick.

Member McCormick moved pursuant to RI General Law §42-46-4 that the Board defer disclosure of all votes in executive session until such time as such disclosure would not jeopardize any strategy, negotiation, or investigation undertaken concerning RI General Law §42-46-5(a). Member Cotta seconded. Motion passed; five (5) in favor, zero (0) absent. Voting in favor were Chair John Mensinger, Vice-Chair Louis Federici, Secretary Richard S. Lipsitz and Members Daniel R. Cotta and Michael J. McCormick.

In Executive Session closed matters, the vote was five (5) to zero (0), to close one (1) matter. Each vote was unanimous at the time that it was taken with no Board members recused and zero (0) Board member absent.

In Executive Session pending matters, there are eight (8) pending matters, comprised of four (4) investigative matters and four (4) registration matters with zero (0) recusal.

AGENDA ITEM #3 Secretary Lipsitz moved to approve the Executive Session Meeting Minutes of

Approval of Executive 12 June and 14 August 2012 meetings as published. Member McCormick

Session Minutes seconded. Motion passed; five (5) in favor, zero (0) absent. Voting in favor were

**Chair John Mensinger, Vice-Chair Louis Federici, Secretary Richard S. Lipsitz
and Members Daniel R. Cotta and Michael J. McCormick.**

**AGENDA ITEM #4 1. Coastal Resource Management Council (CRMC)
Notices**

Correspondence So noted.

AGENDA ITEM #5 a. Joint Professional Engineers/Professional Land Surveyors (PE/PLS)

Old Business Committee regarding “Tasks” – (Legislation - H5470 – Engineering surveys bill)

Member McCormick indicated nothing new to report.

b. PDH Approval Requests

No requests received this month.

c. NCEES (National Council of Examiners for Engineers and Surveyors)

1. NCEES Computer-Based Testing (CBT) – (Written and Length of Time) -

Statutory Amendment required.

Computer-Based Testing (CBT) will be required for all states in January 2014 with the first administration of the fundamentals of surveying (FS). Mrs. Broadfield will forward the statutory change

request to the DBR, Division of Regulatory Standards, Compliance and Enforcement for introduction in the next legislative session. Without passage of the amended language, the Board cannot administer the national test.

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2. Rhode Island Society of Professional Land Surveyors (RISPLS) Correspondence regarding National Council of Examiners for Engineering and Surveying (NCEES) Annual Meeting and the striking of “Engineering Surveys” language in the so-called NCEES Model Law.

The Board proposed and submitted a motion to strike the “Engineering Surveys” language from the so-called NCEES Model Law. Because of the efforts by L. Robert Smith, PE, RI and Daniel R. Cotta, PE, PLS, RI PLS Board Member, the motion was withdrawn and assigned to a “Task Force” Committee by President-Elect Gene Dinkins, PE, PLS for study to evaluate the options. The National Society of Professional Surveyors (NSPS) was invited to part of the discussions by NCEES. In light of the ongoing national discussion of the issue, the Board will not take any further action until the outcome of the NCEES “Task Force.”

3. NCEES Professional Surveying (PS) will become a closed-book exam in April 2013.

So noted.

4. NCEES 2012 Annual Meeting.

The results of the meeting far exceeded the Board's expectations. The striking of the "Engineering Surveys" language in the so-called NCEES Model Law is in discussions. See update in item #5-C-2 above.

d. Rules and Regulations (Review/Discuss/Take Action)

Chair Mensinger indicated that the Board had agreed to make the "Technical Standards" part of the revised "Rules and Regulations" that were revised in conformance with the Department's protocol on the "Rules and Regulations" Secretary Lipsitz rewrote the "Rules and Regulations" approximately two (2) years ago in the format of the other Boards and the Department of Business Regulation (DBR). Since that time, the Board incorporated the "Technical Standards" in as Section 12 of the "Rules and Regulations" leaving eleven (11) other sections for "housekeeping." Currently there are several items that the Board said that they wanted to revisit as follows:

(1) Ethics Section – Chair Mensinger indicated after re-reading the NCEES Model Law, no changes will be made in the interest of moving forward.

(2) Disciplinary Guidelines Section – The Board added this section as adopted by the "Board of Examination and Registration of Architects." Secretary Lipsitz will review to change the law

references as it relates to “Professional Land Surveyors.”

(3) Practice Section – Chair Mensinger and Vice-Chair Federici met on drafting “national brokers” language for the Certificate of Authorization (COA) language of this section. The draft language would cover “brokers” and require them to have COAs. The new language in the Rules and Regulations, Section 5.2.1 – is as follows: Definitions. As stated in Rule 2 the terms “Certificate of Authorization” means the certificate issued by the Board which indicates that the sole proprietor, partnership, limited liability partnership, corporation or Limited Liability Company named in the certificate is permitted to practice land surveying to offer to practice land surveying, and to solicit land surveying services in the State of Rhode Island. The language change will incorporate those soliciting services to require a COA and also to require COA certification on the plan.

Chair Mensinger will work with Mrs. Broadfield to put a “final” draft together.

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(4) Examination Section – Mrs. Broadfield will review language as it relates to the new NCEES CBT change.

e. PLS Examination (Review/Discuss/Take Action)

1. Exam Database –

Vice-Chair Federici will send the question categories to each Board

member along with last year's exam. Each Board member will contribute one (1) question for the exam database and send it Vice-Chair Federici for preparation and the assembly of the exam.

2. Preparation of the RI Portion Exam

The RI Portion Examination is scheduled to be held on Thursday, October 25, 2012 from 9:00 a.m. to 11:00 a.m. The Board is working on the development of the RI Portion Exam.

f. Proposed Informational Bulletins (Review/Discuss/Take Action)

1. Guidelines regarding Professional Land Surveyors (PLS) procedures with regard to joint ventures with firms not holding Certificates of Authorization (COAs) both local and out-of-state, including plan requirements; brokers.

The Board tabled the development of this Informational Bulletin, because the Board thought that it might be clarified in its Rules and Regulations rather than an Informational Bulletin. The purpose of the Informational Bulletin is to make people aware that when they are in a joint venture with out-of-state firms that they have their name, address and certificate of authorization (COA) number on the plans.

2. An Informational Bulletin was developed and posted on the Board's website entitled "Clarification Regarding Prohibited Activities." Chair Mensinger recommended changing the title to "Obligation to Report Unregistered Activity." Attorney Savage agreed and it will be changed.

g. Miscellaneous – (Review/Discuss/Take Action)

1. Board Member Re-Appointment

Vice-Chair Federici’s second term expired September 1, 2012. Vice-Chair Federici will continue to serve until he is replaced. Vice-Chair Federici served two (2) consecutive terms.

2. Any Other Old Business

AGENDA ITEM #6 a. Certificate(s) of Authorization (COA) Application(s)

New Business 1. Digital Geographic Technologies D/B/A DGT Survey Group with

(Review/Discuss/Take Action) with Michael A. Clifford and Robert Scott Engelhardt, Corporation

2. Cornerstone Energy Services, Inc. with John P. Macolini, Corporation

3. East Greenwich Surveyors LLC with George B. Dupont and Kirk D. Andrews, Limited Liability Company (LLC)

4. John A. Tzitzouris, Sole Proprietorship

5. ESE Consultants, Inc., Corporation

6. Richard M. Walton, Sole Proprietorship

Secretary Lipsitz moved to “conditionally approve” the above-mentioned Corporations and Limited Liability Companies pending receipt of the “Certificate of Good Standing from the Rhode Island Secretary of State’s office and “approve” the above-mentioned Sole Proprietorships. Member McCormick seconded. Motion passed;

four (4) in favor and one (1) absent. Voting in favor were Chair John Mensinger, Vice-Chair Louis Federici, Secretary Richard S. Lipsitz and Member Michael J. McCormick. Member Daniel R. Cotta was absent from this vote.

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7. Holden Engineering & Surveying, Inc. dba Holden Land Surveying
Secretary Lipsitz moved to “conditionally approve” subject to receipt of the “Certificate of Good Standing from the Rhode Island Secretary of State’s office and a new check for the application fee that is outdated. Member McCormick seconded. Motion passed; five (5) in favor and zero (0) absent. Voting in favor were Chair John Mensinger, Vice-Chair Louis Federici, Secretary Richard S. Lipsitz and Members Daniel R. Cotta and Michael J. McCormick.

8. Millman Surveying, Inc., Corporation

Secretary Lipsitz moved to deny the application based on the reason of the definition of the “responsible charge” §5-8.1-2(18). Vice-Chair Federici seconded. Motion passed; five (5) in favor, zero (0) absent. Voting in favor were Chair John Mensinger, Vice-Chair Louis Federici, Secretary Richard S. Lipsitz and Members Daniel R. Cotta and Michael J. McCormick.

b. Land Surveyor-in-Training/Professional Land Surveyor (LSIT/PLS)
Application(s)

1. Douglas Russell Faulds, Professional Land Surveyor (PLS), CT
Comity or Endorsement Applicant

Based on the information provided with the application and the Rhode Island requirements for licensure at the time of his initial registration in Connecticut, pursuant to the Board's current statute §5-8.1.9(x), Secretary Lipsitz moved to accept and approve the completed application for Douglas Russell Faulds to sit and take the October 2012 RI Portion examination. Member McCormick seconded. Motion passed; five (5) in favor, zero (0) absent. Voting in favor were Chair John Mensinger, Vice-Chair Louis Federici, Secretary Richard S. Lipsitz and Members Daniel R. Cotta and Michael J. McCormick.

c. Miscellaneous –

1. General Discussion – “Form Letters”

a. Individuals/firms that did not renew regarding language that includes notification to cease and desist the practice or offer to practice without holding a current registration or certificate of authorization (COA).

At the direction of the DBR, these letters cannot be sent out. Mrs. Broadfield will send the Board an updated list of the lapsed land surveyors and firms (COAs). Attorney Savage will confirm this practice with the DBR Deputy Director & Executive Counsel.

b. Notification to the firm of Registered Professional Land Surveyor(s) (PLS) no longer in responsible charge and not being able to practice or offer to practice until a Registered PLS is in responsible charge. This “form letter” was not discussed.

2. Any Other New Business

No new business at this time.

d. Comments from the General Public –

Member Cotta reported that Michael Darveau requested an update for the Rhode Island Society of Professional Land Surveyors' (RISPLS) newsletter. Suggested bullet points were how the Rhode Island Board took the lead in the striking the so-called "Engineering Surveys" from the NCEES Model Law, and changes in the NCEES exam format. Member McCormick will draft some items for the newsletter.

e. Next Meeting

The next Board meeting is scheduled for 16 October 2012 at 1:00 PM.

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AGENDA ITEM #7 Secretary Lipsitz moved to adjourn the meeting at 3:50 p.m. Vice-Chair Federici

Adjournment seconded. Motion passed; five (5) in favor, zero (0) absent. Voting in favor were

Chair John Mensinger, Vice-Chair Louis Federici, Secretary Richard S. Lipsitz

and Members Daniel R. Cotta and Michael J. McCormick.

Posted on 17 October 2012 electronically on Secretary of State's Office website; pursuant to the Open Meetings Law, R.I. Gen. Laws Sec. 42-46-6(b), business not included in this notice may be considered with the consent of the majority of the members, and/or may convene into Executive (closed) Session pursuant to R.I. Gen. Laws Sec. 42-46-5.

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