

BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS
MINUTES – September 3, 2014

MEMBERS PRESENT:

David Titcomb, Chair
Michael Sackett, Vice-Chair
Elwood Ellis, Complaint Officer
Roderick Craib
John Roberts
Deirdra Perry

MEMBERS ABSENT:

None

STAFF PRESENT:

Karen Bivins, Administrator
Robert Perkins, Assistant Attorney General
Kim Baker, Office Specialist I
Deborah Fales, Office Specialist I

CALL TO ORDER

The meeting was called to order at 8:40 a.m. by Chairman David Titcomb.

AGENDA MODIFICATIONS

OLD BUSINESS

Action on Minutes of May 7, 2014 Meeting

A motion was made by Perry to approve the minutes of the May 7, 2014 meeting as amended; seconded by Sackett. Unanimous.

NEW BUSINESS

Adjudicatory Hearing – 9:00 a.m. John Mathieson

The hearing was opened at 9:19 a.m. by Hearing Officer Rebekah Smith. Mathieson was present, but was not represented by an attorney. Assistant Attorney General Robert Perkins represented the State in this matter. Public deliberations were conducted at the close of the hearing.

A motion was made by Titcomb and seconded by Craib, to find a violation of Count I: 10 MRSA §8003(5-A)(A)(2) *Any gross negligence, incompetence, misconduct or violation of ..the standard of practice while engaged in the occupation or profession.* When you entered the shed, shown on your various surveys in the area of the southwest corner of the Nelson lot, in March, 2009 without the consent of the owner of that shed and directly, or through the participation of Mr. Nelson, removed floor boards of that shed to search for monumentation in violation of the standards of practice including, but not limited to 32 MRS §13913 (3)(1)(3). Perry, Titcomb, Craib, Roberts voted in favor; Sackett opposed. Motion carried.

A motion was made by Craib and seconded by Roberts to find a violation of Count II: 10MRSA §8003(5-A)(A)(2) by violating Board Rules Chapter 90, Part 1, Section 1(2) *prepare reports and testimony and make statements that are truthful.* When you testified on February 23, 2010 in the matter of Nelson v. Peterson, Knox County Superior Court Civil Action Docket No. RE-09-09 on pages 96 through 109 that there was a Sherriff's Department representative present at the shed at the time of the inspection referred to in count one, when that was not the truth. Unanimous.

A motion was made by Titcomb and seconded by Roberts to dismiss Count III: 10 MRSA §8003(5-A)(A)(2) by violating Board Rules Chapter 90, Part 1, Section 1(3) *Express professional opinions only when founded upon a thorough knowledge of the facts and a careful evaluation of the subject.* When you showed varying locations for the southwest corner of the Nelson property on various surveys, specifically: the Norma Wallace survey, signed 9/8/02, and the Greg Nelson survey, signed 9/23/08, and the Greg Nelson survey, signed 3/9/09, all delineate the Nelson southwest corner inside the confines of the shed shown on the plan; whereas, the Greg Nelson survey, signed 6/11/09, and the Greg Nelson plan, signed 1/13/10, delineate that southwest corner of Nelson further to the west and outside of the shed along the same generally northerly/southerly boundary as between Peterson and Nelson. Perry opposed; Titcomb, Roberts, Craib and Sackett voted in favor. Motion carried.

A motion was made by Roberts and seconded by Craib to find a violation of Count IV: 10 MRSA§8003(5-A)(A)(2) by violating Board Rules Chapter 90, Part 2, Section 6(2)(C) *A written report or a plan shall include... any matter a licensee should reasonably expect to be relevant to a client's needs or is necessary given the circumstances of the situation at the time of the survey and is within the scope of professional practice.* The plans of the Greg Nelson property signed on 6/11/09 and 1/13/10 moved the location of the southwest corner of Nelson as noted in count three above without providing an explanation for why your previously reflected opinions on the other surveys concerning that corner were being changed on those later plans. Unanimous.

A motion was made by Roberts and seconded by Perry to dismiss Count V: 10 MRSA §8003(5-A)(A)(2) by violating Board Rules Chapter 90, Part 1, Section 1(2) *Prepare reports and testimony and make statements that are ... based upon independent professional judgment.* When in the course of your work for Mr. Nelson you issued the reports based upon Mr. Nelson's desires concerning the southwest corner of the Nelson lot shown on the above referenced plans for Gregory Nelson, signed on 6/11/09 and 1/13/10. Unanimous.

A motion was made by Titcomb and seconded by Roberts to attach a letter of guidance to the licensee's license record for a period of two years, that if preliminary findings are being reported to a client; it should be noted on the plan. Additionally, sufficient documentation should also be included to clarify/limit scope of its use. Unanimous.

A motion was made by Roberts and seconded by Sackett to issue a warning in Count I. Unanimous.

A motion was made by Titcomb and seconded by Craib to issue a reprimand and a civil penalty of \$500.00 in Count 2. Unanimous.

A motion was made by Perry and seconded by Craib to issue a reprimand and a civil penalty of \$500.00 in Count 4. Unanimous.

A motion was made by Perry and seconded by Craib that the time period to pay the fine be six months from signature date of the decision and order. Unanimous.

Administrator's Report

The Board briefly discussed the proposed essay/multiple choice exam and decided to review further at the next exam subcommittee meeting which will be in early December.

Review and Action on Applications

John Roberts recused and left the room.

A motion was made by Sackett and seconded by Perry to grant an LSIT license to Benjamin Bolduc. Unanimous.

John Roberts returned to the room.

A motion was made by Ellis and seconded by Sackett to approve the following applications as recommended by staff:

PLS Exam via Reciprocity With NH: Ryan McCarthy and Paul Dobberstein;

PLS Exam - LSIT With Two Additional Years Of Experience: Sterling Hooke, John Parkin, Nathan Hart;

LSIT License Via Path 1: Devin Pike, Glenn Robers, Benjamin Bartlett, Jeremy Leicy, Nicholas Plumer;

Reinstatement Request PLS: Ronald Coler

Reinstatement Request LSIT: Tyler Rigazio, Mark Provo, John Parkin

Unanimous.

Correspondence and Communications

Ellis reported on the recent NCEES meeting he attended in Seattle, WA.

MSLS Report

Keith Morse reported on recent activities of the MSLS.

Next Scheduled Meeting Date

October 28, 2014

ADJOURN

Being no further business, the meeting adjourned at 3:41 p.m.

Respectfully submitted,
Kim Baker, Office Specialist I