

MINUTES OF MEETING #337
OF THE WEST VIRGINIA BOARD OF PROFESSIONAL SURVEYORS

February 15, 2024
Charleston, WV



Present: Sefton R. Stewart, Chairman
James T. Rayburn, *Secretary*
Gary D. Facemyer, *Member*
Lantz Rankin, *Member*
Douglas C. McElwee, Esq., *Public Member*
Carla Williams, *Executive Director*
Joanne M. Vella, *Assistant Attorney General*

Guest: Mr. John Green, P.S.

The Chairman, Mr. Sefton Stewart, called Meeting #337 to order at 10:02 a.m. on Thursday, February 15, 2024, and noted that the meeting was properly noticed by the West Virginia Secretary of State.

Delegations or Public Concerns: None; Mr. John Green informed the Board that Senate Bill #540 concerning Revisions of the Coordinate System which is being supported by WVSPS has passed, and is going to the House Governmental Committee for review.

Executive Session

Mr. Gary Facemyer made a motion, seconded by Mr. Lantz Rankin, to enter Executive Session at 10:31 a.m. Motion carried.

Complaints:

C18-03 & C18-05: Per Consent/Supervisory Agreement, P.S. is required to provide progress reports. Mr. Rankin and Mr. Rayburn will submit a timeline of events concerning the agreement to Ms. Vella and Mr. McElwee. No final comprehensive list of surveys has been provided by P.S. in six months. Mr. Rayburn found a map while searching online. A final list must be provided by P.S. He may then submit projects in batches for supervisors to review. Ms. Vella and Mr. McElwee may send a letter of non-compliance to lawyer representing P.S. giving him thirty days to respond.

C22-05, C22-06, C23-05: Findings of Fact received from Judge with recommendation to revoke license. A request for Reconsideration was also received from the attorney representing P.S. The Board has decided to accept recommendation of Judge, and revoke P.S.'s license. P.S. will be for reinstatement after a period of five years per the following legislative rules regarding **Standards For The Practice of Surveying in West Virginia:**

§23-5-9. Disciplinary Actions by the Board 9.1. The Board may at any time upon its own motion and shall upon the verified written complaint of any person conduct an investigation to determine whether there are any grounds for a disciplinary action relevant to a license issued under the provisions of WV Code §§ 30-1-1 et seq. or 30-13A-1 et seq. and the rules issued by the Board. 9.2. The Board may place on probation, suspend or revoke any license; may issue a letter of caution or reprimand, cease and desist order, settlement agreement, consent agreement and order, probable cause order, final or administrative order resulting from a formal hearing or other similar agreements and orders; may impose a fine not to exceed one thousand dollars (\$1,000.00) per infraction; may require additional education or training; or may impose any combination of these disciplinary actions, when it finds a licensee has: 9.2.a. Been convicted of a felony or a crime involving moral turpitude; 9.2.b. Obtained a license by means of fraud or deceit; 9.2.c. Been incompetent or guilty of fraud, deceit, professional negligence, willful departure from accepted standards of professional conduct or other misconduct in the practice of surveying; or 9.2.d. Failed or refused to comply with the provisions of WV Code §30-13A-1 et seq. or any reasonable rule promulgated by the Board or any order or final decision of the Board.

§23-5-9.4.b. - Revocation of a license shall not preclude application to reinstate his or her license and meeting all the licensing requirements in effect at the time of application. The Board shall process the application in the same 16 manner, approve or deny the application and issue or refuse the license on the same grounds as any other application for a license is processed, considered and determined, except that any previous suspension and the revocation may be given weight in deciding whether to approve or deny the application and issue or refuse to issue the license as is meet and proper under all the circumstances.

C22-13: Consent Agreement being offered; No response from PS. Ms. Vella will proceed with planning a hearing.

C23-07: Consent Agreement being offered; No response from PS, however green card accompanying document was received by Board Office.

C23-09: Investigator is in the process of gathering additional information. He will provide an update soon, he is constantly traveling with his job and was unable to make last Complaint Review meeting.

C23-16: PS Response received 9/27/23, question of reasonable attempt; Possibility of ethical violation, minimum standards violation as there is no report.

C24-02: Response received 11/6/23, four deficiencies in plat provided. The following violations have been observed: 23-5-6.1.a., 30-13A-21.c, 30-13A-21.a, 23-5-3.a.A, 23-5-3.1.B

C24-c: Complaint dismissed as surveyor is not licensed. The Board voted to open a board-initiated complaint against surveyor (signature on plat) and ask for response.

C24-e: Board voted to open complaint and ask for P.S. Response.

Motion out of Executive Session to vote made by Mr. Gary Facemyer, and seconded by Mr. Doug McElwee at 12:02 p.m.

Summary of the Executive Session was read aloud by the Executive Director. Mr. Tom Rayburn made a motion, seconded by Mr. Lantz Rankin at 12:07 p.m., to approve the items discussed in the Executive Session. Motion carried.

The Board reconvened in regular session at 1:00 p.m. after lunch.

Board Administration

Minutes

Mr. Gary Facemyer made a motion, seconded by Mr. Doug McElwee, to approve Minutes from Meeting #336 as written. Motion carried.

P-Card Purchases & Financial Report

The Executive Director provided the P-Card Purchases report.

The Executive Director provided the financial expenditure report with a Cash (Budget) balance as follows:

December 2023 - \$225,560.84

January 2024 - \$215,277.77

Mr. Tom Rayburn made a motion, seconded by Mr. Gary Facemyer, to approve the financial and expenditure reports and P-Card purchases. Motion carried.

WV State Specific Exam Discussion

WVBPS will host a Question-writing and Exam Review workshop at Jackson's Mill. The dates of March 15 – 16, 2024 have been proposed.

Legislative Update/Progress of Rule Change

HB4151 was introduced Wednesday, January 10, 2024.

On Monday, January 15, 2024 the bill was passed on to the House Judiciary Committee with a recommendation for approval. Mr. Rankin was in attendance on behalf of WVBPS.

Matter of Appeal

A candidate for the State Specific Exam made an appeal to be able to sit for the next State Specific Exam. The Board decided to meet with the candidate virtually, and was pleased with the discussion, therefore allowing approval of his application.

Consideration of Technical Matters

Thentia – Ms. Vella/Mr. McElwee will be working together on a letter to terminate the contract which Thentia may have already violated.

State Treasury Department – Mr. Rayburn spoke with the representatives on behalf of The Board. The Board would

like to speak with their representative to discuss their services in providing a database and website for WVBPS.

Request of SIC for two COA's

A P.S. has inquired about being Surveyor In Charge for two COA's. The Board has denied his request, stating that he must choose which company he would like to continue to work for and ensure that the COA is still active and in good standing.

NCEES Update

NCEES Northeast Zone interim meeting will be held May 2-4 in Washington, D.C. Mr. Gary Facemyer, and Carla Williams will attend on behalf of WVBPS. They are both currently registered.

Mr. Facemyer informs WVBPS that the PLLS portion of the NCEES Exam is being pulled for a separate exam effective as of 2025.

Schedule Next Board Meeting

The next Board meeting will tentatively be scheduled for Wednesday, April 10, 2024. Ms. Williams will send out correspondence to confirm.

There being no further business, Mr. Lantz Rankin made a motion, seconded by Mr. Doug McElwee, that the meeting be adjourned at 2:54 p.m. Motion carried.

Respectfully Submitted:



Sefton R. Stewart, P.S., Chairman



Tom Rayburn, P.S., Secretary

