

BOARD OF PROFESSIONAL ENGINEERS
AND PROFESSIONAL LAND SURVEYORS

Minutes of Meeting

The Board of Professional Engineers and Professional Land Surveyors held a special meeting on Wednesday, May 2, 2012 and Thursday, May 3, 2012 to discuss docket number FY10.28. The meeting convened at 8:15 a.m. on May 2, 2012 with the following Board members present: David Bennion, John Howe, George Wagner, John Elle and Jim Milligan. Also present were James L. Szatkowski, Deputy Director, and Mike Kane, Board Attorney.

Are there any new agenda items? Staff requested that the Board revisit FY10.09 for reconsideration due to information provided by Attorney Naylor. This item will be added to the agenda for discussion.

CONSIDERATION OF DISCIPLINARY MATTERS

FY10.09 Lund, Michael, Rules of Professional Responsibility. On advice of Counsel, this investigation was halted pending the outcome of an investigation by the Office of the Attorney General. An ORDER extending the time until 6 months after the end of litigation was signed and a preliminary investigation was conducted.

Moved by Mr. Milligan, seconded by Mr. Howe to reconsider the previous dismissal of this docket. Motion passed unanimously.

Moved by Mr. Wagner, seconded by Mr. Howe to enter into executive session to consider records that are exempt from disclosure as provided for by Idaho Code 67-2345(1)(d). Roll call vote results; Mr. Wagner, yes; Mr. Milligan, yes; Mr. Howe, yes; Mr. Bennion, yes; and Mr. Elle, yes. After meeting in executive session, the Chairman directed the Board to return to regular session.

Moved by Mr. Howe, seconded by Mr. Wagner to authorize staff to negotiate a Stipulation and Consent Order in this matter. Motion passed unanimously.

FY10.28 Allen, Brian J., Surveying Practices Standard of Care. An Administrative Hearing was conducted on this matter on March 5 & 6, 2012.

Moved by Mr. Milligan, seconded by Mr. Elle to enter into executive session to consider records that are exempt from disclosure as provided for by Idaho Code 67-2345(1)(d). Roll call vote results; Mr. Wagner, yes; Mr. Milligan, yes; Mr. Howe, yes; Mr. Bennion, yes; and Mr. Elle, yes. After meeting in executive session, the Chairman directed the Board to return to regular session.

Moved by Mr. Elle, seconded by Mr. Howe to sustain Mr. Allen's objection to admitting the augmentation. The information was untimely, it did not appear to be pertinent to the matter, and the Board members did not have the ability to review it before the meeting. Motion passed unanimously.

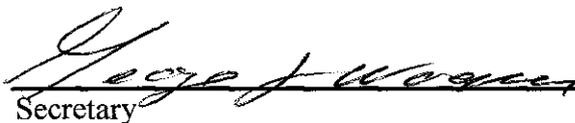
Moved by Mr. Milligan, seconded by Mr. Elle to enter into executive session to consider records that are exempt from disclosure as provided for by Idaho Code 67-2345(1)(d). Roll call vote results; Mr. Wagner, yes; Mr. Milligan, yes; Mr. Howe, yes; Mr. Bennion, yes; and Mr. Elle, yes. After meeting in executive session, the Chairman directed the Board to return to regular session.

Moved by Mr. Elle, seconded by Mr. Howe, that in the matter of Brian Allen, FY10.28, the Board tentatively finds that there is clear and convincing evidence of a violation of the standard of care (IDAPA 10.01.02.005.02) in counts #1, 3, 10, 11 of the complaint as to section 6-11 of the 1973 BLM Manual and tentatively dismisses all other counts and any other charge of violation of the BLM Manual or Idaho Code subject to draft findings of fact and conclusions of law consistent with the above tentative finding and deliberations of the Board. The Board will reserve final ruling on this issue until there is an opportunity to review and confer on counsel's draft findings of fact and conclusions of law. Motion passed unanimously.

Moved by Mr. Wagner, seconded by Mr. Howe to direct staff to draft a letter to Barb Kane thanking her for the preparations she provided. Motion passed unanimously.

The meeting adjourned at approximately 5:30 p.m. on Thursday, May 3, 2012.


Chair


Secretary