

South Carolina Department of Labor, Licensing and Regulation

Contractors' Licensing Board

110 Centerview Drive, Room 201-03, Columbia, S.C.

10:00 A.M.

Minutes of October 19, 2006, Quarterly Board Meeting

BOARD MEMBERS PRESENT:

Kim Lineberger, Vice Chairman
Lewis Caswell
Frank Walker
Mark Plyler
Wendi Nance
Bill Neely
Douglas Greer

ABSENT MEMBERS:

Daniel Lehman

BOARD STAFF PRESENT:

Shirley Robinson, Esq., Hearing Advice Counsel
Richard Wilson, Esq., Board Advice Counsel
Richard Simmons, Esq., Board Counsel
Mike Anderson, Chief Investigator, OIE
Kent Lesesne, Esq., Board Counsel
Gary Wiggins, Program Manager, CHACS Section
Joyce Thurber, Program Coordinator
Eric Gore, Court Reporter

OTHERS PRESENT:

Michael Chambers, Esq.
Mr. and Mrs. Billy Cribb, Respondent
Mr. and Mrs. Parrish, Complainants
Bruce Royal, P.E. of Royal Engineering
Laurens County Building Official
Raymond Johnson, Respondent
Larry Walker, Columbia, S.C.
Jimmy Ayers, Building Official, City of Bennettsville, S.C.
Bill E. Laney, Consultant, Lancaster, S.C.
Rosa McRae, Complainant, Bennettsville, S.C.
Lindsey McRae, Bennettsville, S.C.
Douglas Turbeville, Turbeville Electric
Jack Strickland, Turbeville Electric

Where action is recorded below, it is taken in each case on a motion duly made, seconded and carried unanimously unless indicated otherwise.

Call to Order:

Vice Chairman Kim Lineberger called the meeting to order at 10:05 A.M. with a quorum of members present.

Ms. Lineberger announced that the meeting was being held in accordance with the Freedom of Information Act by notice sent to The State, The Charleston Post & Courier, The Greenville News, and The Myrtle Beach Sun newspapers, and all other requesting persons, organizations or news media. In addition, notice was posted on the bulletin boards located at both of the main entrances of the Kingtree Building where the board office is located.

Announcement of Resignation:

Ms. Lineberger announced that Chairman Joe Chandler had resigned from the Board effective August 28, 2006, to take a board position with the Greenwood Hospital. A resolution, thanking Mr. Chandler for his years of service to the board, will be prepared and signed by the members and will be read into the minutes at the next board meeting.

Election of Officers.

(3) Gary Wiggins, Program Manager, opened the floor for nominations to elect the 2007 board officers. Nominations were received for board chairman. Lewis Caswell was nominated by Douglas Greer, and there being no further nominations, they were closed. By unanimous vote, Mr. Caswell was elected as Board Chairman for 2007, effective at the January 18, 2007 meeting. Nominations were opened for Vice Chairman. Kim Lineberger was nominated. There being no further nominations, they were closed. By a unanimous vote, Ms. Lineberger was again elected as Vice Chairman for 2007, effective at the January 18, 2007 meeting.

Vote of Absent Board Members:

Dan Lehman was absent and on vacation at this time.

Motion: Mr. Caswell moved to approve the absence of Dan Lehman because he is be out-of-town on vacation. The motion was seconded and passed.

Approval of Agenda:

(1) The agenda was reviewed. Ms. Lineberger stated that under Unfinished Business, the IRC Recommendation Corrections for February 2, 2006, had already been made at the last meeting and are presented for information only. **Motion: Mr. Greer moved that the agenda be approved as amended. The motion was seconded and carried.**

Approval of the July 19, 2006, S.C. Contractors' Licensing Board Quarterly Board Meeting Minutes:

After a review of the minutes, **Ms. Nance made a motion to approve the minutes with the spelling correction of Lewis Caswell's name. The motion was seconded and passed.**

Public Comment: None

Chairman's Remarks: Ms. Lineberger asked for feedback regarding the meeting documentation being sent to you by e-mail. Board members commented favorably on the documents being sent by e-mail. Mr. Walker asked that his documentation be mailed or faxed.

Administrator's Remarks:

Ron Galloway, Administrator of the Board, is retiring at the end of the year. Mr. Galloway has served in various positions and finally as Administrator with the South Carolina Contractors' Licensing Board from September 16, 1990 to December 31, 2006. His last workday will be November 30, 2006 and then he is taking annual leave. Following a discussion, the Board asked Ms. Thurber to organize an evening dinner in Ron's honor, preferably Thursday, December 7, 2006 at a time and place to be announced later. Ms. Thurber commented that the staff will also be honoring him at a luncheon where his State retirement plaque can be presented to him. Mr. Wiggins commented that a replacement for the board administrator would be rehired as soon as possible.

Unfinished Business:

The members reviewed the corrected IRC Reports and Recommendations and made the following motions:

Motion: Mr. Walker moved that the April 13, 2006, IRC Report and Recommendations be approved. The motion was seconded and passed.

Motion: Mr. Caswell moved that the May 4, 2006, IRC Report and Recommendations be approved. The motion was seconded and passed.

Motion: Mr. Walker moved that the June 7, 2006, IRC Report and Recommendations be approved. The motion was seconded and passed.

New Business:

(1) Review of Investigator Investigation Summaries:

The Board reviewed the Investigation Summary Reports listing number of cases opened and closed per investigator for the period from 01/01-2005 through 09/30/06 (cases opened 230 and closed 324). The third report list the number of complaints for each investigator as 63 complaints received since the beginning of the fiscal year through 9/30/06.

Michael Anderson, Chief Investigator for the Board and other programs, discussed the progress the Office of Investigation and Enforcement (OIE) has made since its inception in 2004. One of the Board's investigators resigned, and all of his cases had to be reassigned to other investigators. Mr. Anderson mentioned that another temporary investigative position is being considered for the Contractors' program to help alleviate some of the case backlog. The goal is to have cases closed within 180 days.

Mr. Walker asked if the Board had stopped giving fines for not signing fire sprinkler plans. Mr. Anderson stated that now for the first offense, a Letter of Caution is issued, and if a second offense occurs, then a penalty is issued.

(2) Approval of IRC Recommendations for August 3, 2006 and September 7, 2006:

The IRC Report and for August 3, 2006 was reviewed by the Board.

Motion: Mr. Caswell moved to approve the IRC Report and Recommendations for August 3, 2006. The motion was seconded and passed.

The IRC Report and Recommendations for September 7, 2006 was reviewed and discussed:

Motion: Ms. Nance moved to approve the IRC Report and Recommendations for September 7, 2006. The motion was seconded and passed.

Mr. Walker asked staff to list who the board representative was on each report and provide the members with a new 2007 list of board representatives to be present at each IRC meeting held the first Thursday of each month.

(3) Request for Approval of Experience to Qualify for a License Classification from Reggie McBeth: Mr. McBeth did not appear and did not notify the Board he was not coming. Ms. Lineberger stated that anyone seeking advice or approval from the Board should send in their resume or other documentation prior to appearing before the Board.

Motion: Mr. Caswell moved to require anyone requesting to appear before the Board to submit a written request with supporting documentation prior to the Board meeting for the members' review. The motion was seconded and passed.

(4) Request for Consideration of Accepting Background Arrests for Registration under an Alarm License for Jeffrey Clark. Mr. Clark was not present; however, upon review by the board of his numerous convictions noted on his criminal background check, a motion was made.

Motion: Mr. Caswell moved to deny Jeffrey Clark's application as a Registered Employee for an alarm business. The motion was seconded and passed.

(5) NASCLA Annual Conference Discussion/Frank Walker:

Mr. Walker reported on the NASCLA Conference held during August 2006. He commented on several issues presented: (1) Quicker violation procedures of other states; (2) Alert to new bidding procedures in Oklahoma. Check laws before bidding there; (3) The motivational speaker, who is running a School of Construction at University of Arizona, trains contractors and conducts surveys from the general public on what characteristics they want to see in contractors. The highest scoring characteristic being "the willingness to pay more for less hassle from contractors"; (4) Reconstruction of New Orleans, Louisiana, where a cloud of depression seems to have set in because contracting companies are owed millions of dollars. Contractors have worked very hard to reconstruct the area, but problems still persist with payment issues for work performed and with FEMA. Many want FEMA out of the area and feel that private business groups can get more accomplished alone.

Mr. Walker encouraged as many board members as possible to go to the NASCLA meetings because of the wealth of information given. The 2007 meeting will be in Arkansas.

Ms. Lineberger asked Mr. Anderson about who sets priorities for board violations and complaints? Mr. Anderson explained that he reviews all complaints. About 25% of the complaints received are contractual or out of our jurisdiction. Critical fire and life safety issues are handled within (15) fifteen days. The Building Officials in each jurisdiction are asked to help at the local level on building code issues and issues up to two years old on new construction. Mr. Anderson further stated that the Office of Investigation and Enforcement (OIE) has put new procedures in place for the issuance of Cease and Desist (C & D) Orders. Cease & Desist Orders are issued immediately within one to two days. Now on unlicensed practice violations, each board administrator signs the Cease and Desist and delivers it to OIE for issuance of the citation.

(6) Request to Accept Work Experience of Tony Langley for the Electrical Classification:

Mr. Langley was not present to explain his experience prior to the five year requirement for licensure. Upon a review of Mr. Langley's experience and resume previously sent in, it was the consensus of the Board that his electrical experience as required under the Electrical classification in the South Carolina Code of Laws Ann. Section 40-11-410(5)(d) (1976), as amended, did not meet the requirement of the statute. Therefore, the experience was not approved. A letter will be written to Mr. Langley to state the decision of the Board.

(7) Discussion of the Requirement for Licensure of Coax Cable Work over 50 volts (60 up to 90 volts)/Frank Walker.

Mr. Walker stated that the classification of public electrical utility addressed electrical work under 50 volts. Cable TV voltage goes up to 90 volts. In order to be licensed for cable TV, the statute would need to be changed to include work up to 90 volts. Mr. Walker asked that this issue be placed on the January meeting agenda so he could further research this topic.

(8) Request for Approval of Experience for Lightning Protection Classification/Douglas Turbeville.

Douglas Turbeville was present and was sworn in by Rick Wilson, Assistant Deputy General Counsel. He explained that he was currently owner of Turbeville Electric Company as a Mechanical Contractor with an electrical classification, Group 3, License # M-3217, and had been performing electrical construction for the past five years. He explained that he had already passed the PSI examination in Lightning Protection, but needed the Board to approve his experience. Since Mr. Turbeville had not submitted a resume or other documentation, he explained his experience in Lightning Protection Systems going back beyond the five year experience requirement, to 1986 and 1999, where he performed lightning protection work at a restaurant and at the Spartanburg Medical Center.

After discussion and consideration of the experience, **a motion was made by Mr. Walker to approve the experience. The motion was seconded and passed.** The Board approved Mr. Turbeville's Lightning Protection experience to allow him to add this classification to his Mechanical License # M-3217 by Revision Form Document #180 requirements and copy of the approval letter to be sent.

Old Business:

(1) Follow-up for Approval of the NASCLA National Building Examination:
Board Building member, Bill Neely, had reviewed the format and content of the National Building Examination produced by the National Association of State Contracting Licensing Agencies (NASCLA). As a state licensing agency, South Carolina has the option to approve or opt out of accepting the national building examination to fulfill the State examination requirement for the building classification.

Motion: Mr. Neely moved to approve and accept the National Building Examination as a additional examination toward licensure for the general contractor building classification. The motion was seconded and passed.

(2) Approval of New Policy Requirements for Submitting Bids.
The policy, Requirements for Submitting Bids, was reviewed. A change was requested in the third paragraph, second sentence of the policy adding, 'A licensed general contractor' and deleting '~~holding a major or sub-general contractor license classification~~'.

Motion: Mr. Greer moved to accept the amended policy. The motion was seconded and passed. Vice Chairman, Kim Lineberger, will sign the policy for it to be distributed to Licensing and OIE Sections.

Vote on Administrative Hearing Officer Recommendation:

2005-190 Abstract Pool & Spa, Inc., Respondent, and William Cribb, Qualifying Party vs CLB.

Richard W, Simmons, II, Esquire, presented the Hearing Officer's Report and Recommendations from the April 27, 2006, Administrative Hearing. The Respondent appeared and was represented by Michael S. Chambers, Esquire. The Respondent was charged with negligence, performing substandard work and incompetence, pursuant S.C. Code Ann. Section 40-11-110(A)(2) (1976), as amended.

The Respondent was a licensed general contractor with a swimming pool classification (SP3), License # G-15611. On or about June 6, 2005, the Respondent entered into a contract with Kimberly L. Parrish (homeowner) to install a shotcrete swimming pool at her residence in Gray Court, South Carolina. As the construction began, the homeowner noticed problems with the quality of the work being done. The homeowner was told by the Respondent that the problems would be corrected as the construction progressed, and when this did not occur, the homeowners complained to the Laurens County Building Official and filed a complaint with the S.C. Department of Labor, Licensing and Regulation (LLR).

On September 6, 2005, an investigator from LLR inspected the pool and found numerous code violations and found the work to be substandard. Some of these violations were: use of improper concrete forms; forms having excessive gaps at the bottom, which allowed mortar seepage; forms not properly braced; metal rods placed in forms incorrectly; numerous cracks and voids in the shotcrete; and shotcrete had high and low points and excessive buildup on pool bottom.

The pool was also inspected by an independent engineering consultant hired by the homeowner. The Respondent also hired an engineering consultant to submit a report. A copy of both engineers' reports were placed into evidence and both testified during the hearing as to their findings. Both engineering consultants discussed possible solutions to fixing the pool. The Laurens County Building Official also testified as to the deficiencies observed upon inspection of the pool construction.

Based upon the Findings of Fact and Conclusions of Law, the Hearing Officer recommended the following sanctions to be imposed:

- 1) That the Respondent's license be suspended with an immediate stay of suspension provided that the Respondent complete construction on the Parrish pool within 60 days of the date of the Final Order. This includes making the necessary corrections to the work already done, and completing all other work necessary to satisfy the terms of the contract. Repairs or correction of the deficiencies shall be made in accordance with recommendations of and under the supervision of Bruce Royal, P.E. of Royal Engineering, Inc. The Respondent shall be solely responsible for payment of all fees and costs generated by Royal engineering, Inc. for supervising work on the Parrish pool and shall have the engineer provide a letter attesting that the work has been satisfactorily completed;
- 2) That the Respondent be assessed a civil penalty of \$5,000.00 to be paid within six months;
- 3) That the costs of the investigation and prosecution of the case be added to the penalty; and
- 4) That failure to abide by any of the aforementioned conditions with the time specified shall warrant immediate indefinite suspension of the Respondent's license to practice as

general contractor in the State of South Carolina, pending hearing and further order of the Board.

Mr. Chambers presented his comments and took issue with the severity of the suspension, even though stayed, and the large fine. He had no issue with the completion of the work, but reiterated that the Respondent had agreed to fix the needed corrections as construction progressed. He requested that Aabstract Pools not be punished, as most of the work had already been corrected at the time of the hearing, and an engineers report had been issued.

A motion was made to go into Executive Session by Louis Caswell, seconded by Wendi Nance.

A motion was made to come out of Executive Session by Mr. Caswell. The motion was seconded and passed.

Motion: Mr. Neely made a motion to accept the Hearing Officer's Recommendation Findings of Fact and Conclusions of Law but that the license be immediately suspended and that Recommendations 1-4 be complied with as stated, including a \$5,000 fine plus the cost of the investigation and hearing costs to be determined.

Mr. Walker asked to amend the motion to add that an LLR investigator and engineer inspect the pool before reinstatement. Failure to comply with these conditions would result in an indefinite suspension of the Respondent's license. The amended motion was seconded and passed.

Mr. Anderson responded that he would send an investigator within one week in coordination with the attendance of the homeowner, contractor, engineer and the Respondent's attorney.

The hearing was adjourned.

Board Hearing in the Matter of :

2005-134 Johnson Construction Co. and Respondent, Raymond Johnson, Qualifying Party vs CLB

Kent Lesesne, Esquire, was the prosecuting attorney for the Board. Mr. Johnson was present and represented himself. Witnesses present were Jimmy Ayers, Building Official for the City of Bennettsville; Bill E. Laney, a Construction Consultant; Larry Walker, an associate of Mr. Johnson, of Columbia; Rosa McRae, Trustee Chairperson representing St. Michael's Methodist Church, Bennettsville, S.C.; and her sister Lindsey McRae also of Bennettsville.

Mr. Johnson was a general contractor with grandfather classifications in Specialty Roofing and Wood Frame Structures, License # 102298, at the time the contract was signed. He had signed a contract with St. Michaels Methodist Church in Bennettsville, South Carolina to perform repairs to their roof with a steeple and also agreed to perform interior renovations on some plastered walls where leaks had occurred, for which he was not licensed to do. There continued to be some problems with leaking on the roof which brought about this complaint. Proper permits for the full scope of the work had also not been obtained. The church had paid for the work and could not hire someone else to complete the project for monetary reasons.

Therefore, Mr. Lesesne, in the interest of the public, negotiated an agreement between the Complainant, St. Michael's Methodist Church and the Respondent, Raymond Johnson. The agreement called for Jimmy Ayres, City of Bennettsville Building Official, to allow permits to be pulled for the remainder of the work in Interior Renovation for which Mr. Johnson was not licensed, after he submitted the proper renewal and revision form to add the Interior Renovation classification to his license, #CLB 102298. Corrections for other substandard could then be completed.

Mr. Lesesne proposed that Mr. Johnson be allowed to correct the substandard work he had performed within 45 days of becoming properly licensed. Mr. Ayers and a LLR investigator would inspect the work when completed to be certain all problems were corrected and other items of the contract had been completed. If the contractor failed to comply with the agreement, his license would be suspended.

Raymond Johnson was sworn in by Shirley Robinson, Esquire, Advice Counsel, to have Mr. Johnson confirm the conditions of the agreement, since nothing had been committed to writing. Rosa McRae, Trustee for the Church, and Jimmy Ayres, Building Official, were also sworn in to confirm that the agreement met with their approval.

Motion: Mr. Caswell moved to approve the agreement between the Complainant and Respondent as stated by Mr. Lesesne. The motion was seconded and passed.

The Consent Agreement will be put in writing and signed by the Respondent and Board Vice Chairman, Kim Lineberger. The hearing was adjourned.

The next regularly scheduled quarterly meeting will be held on Thursday, January 18, 2007 at the Kingstree Building, 110 Centerview Drive, Columbia, South Carolina.

There being no further business, the meeting was adjourned at 1:20 P.M.

Respectively submitted,

Joyce Thurber, Program Coordinator

