

MINUTES
South Carolina Board for Registration of Professional Engineer and Surveyors
9:30 a.m., March 13, 2014
Synergy Business Park, Kingstree Building
110 Centerview Drive, Room 108
Columbia, SC

Call To Order

Chairperson Rickborn called the meeting to order at 9:34 a.m.

Statement of Public Notice

Chairperson Rickborn read that the public notice of this meeting was properly posted at the South Carolina Board of Registration for Professional Engineers and Surveyors, Synergy Business Park, Kingstree Building, and provided to all requesting person, organizations and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act.

Introduction of Board Members and Other Persons Attending

Board members present included Timothy Rickborn, PE, Chairperson; John P. Johnson, PE, PLS, Secretary; Gene L. Dinkins, PE, PLS; Miller L. Love, Jr., PE; Theresa Hodge, PE; Jeffrey Mulliken, Ph.D, PE; and Nancy W. Cottingham. Chairperson Rickborn noted Dr. Fallon was absent due to personal reasons.

Staff members present included Lenora Addison-Miles, Administrator; Britton Jenkins, Program Assistant; Darra Coleman Esq., Advice Counsel; Sara McCartha Esq., Advice Counsel; Erin Baldwin, Esq., Office of General Counsel; and Sharon Wolfe, Office of Investigations and Enforcement.

Others present included Husein Hammoud, PE; Marguerite McClam; Kent Hudson; Joe Jones; Chuck Black; Adam B. Jones; Michael Horton; and Mary H. Occhipinti (Creel Court Reporting).

Approval of Meeting Minutes March 13, 2014

MOTION: Page 3, correction on motion of reconsideration for Mr. Gary Bee Bradley by adding the words "16-hour structural exam." Written as, "grant a PE license to Mr. Bradley upon passing the Vertical and Lateral Examinations within one year of today." Should be written, "grant a PE license to Mr. Bradley upon passing the Vertical and Lateral components of the 16-Hour Structural Examination within one year of today." Page 6, correct the sentence regarding Mrs. McCartha drafting a letter to Lewis Gossett and LCI. Written as, "Mrs. McCartha responded in a letter back to Lewis Gossett and LCI to express disagreement with proposed language." Should be written as, "Mrs. McCartha responded that she could draft a letter back to Lewis Gossett and LCI to express disagreement with the proposed language with board authorization." Page 6, change the word "hire" to "utilize" additional staff to assist with conference. Approve minutes with correction. Hodge/Love/approved.

Review of Agenda

Chairperson Rickborn asked if there were any proposed changes to the agenda for the March 13, 2014 meeting. Mr. Love requested that a discussion of the status of the practice act be added to the unfinished business topic. Mrs. Coleman advised that the topic could not be taken up as an added item, but they could address particular questions to their advice attorney.

MOTION: To approve agenda for the March 13, 2014 meeting. Hodge/Johnson/approved

Reports

- a. Office of Investigations and Enforcement Report – Ms. Wolfe reported that between January 1, 2014 and March 3, 2014, four complaints have been opened as active. There are a total of ten active cases. One case has been closed since January 1, 2014. Mrs. Hodge suggested another column be added to the report to include how long the cases have been open and how they are classified. Ms. Wolfe reported that the oldest active case is 222 days and it is pending expert review. Mr. Dinkins inquired about the IRC logic taken on the Letter of Caution items on the Investigative Review Committee Report. Ms. Wolfe explained that Letters of Caution are issued if there is not enough evidence to fine or issue citations and serve as a warning. Erin Baldwin, of the Office of General Counsel, explained that if a specific case rises to the statutory level of a violation it should go forward as discipline. Mr. Dinkins suggested that the IRC logic be more detailed. Ms. Baldwin explained that the board is entitled to reject the entire report, certain cases, or certain sections of the report. Mrs. Coleman advised that if the board votes to reject them, staff will go back and try to provide an explanation that is satisfactory and that no other action will be taken until sanctioned by the full board. Ms. Baldwin explained that if the case is listed under the dismissal category, there was no practice violation and if the category is listed under cease and desist, there was practice involved.

MOTION: To accept the Investigative Committee Report with exception of the Letter of Caution items. Dinkins/Love/approved.

- b. Office of General Counsel Report - Mrs. Baldwin reported that there are six open cases in the Office of General Counsel. Five cases are pending, and one case is pending a Consent Agreement or Memorandum of Agreement. One case has been closed. Mrs. Baldwin thanked the board for the special disciplinary day that was granted for the November board meeting and does not see the need for a special disciplinary day in the near future. She anticipates that the board will see at least one disciplinary case at each meeting and that should be sufficient to keep them up to date.
- c. Administrative Reports – Lenora Addison- Miles – Mrs. Miles reminded the board to file their Statement of Economic Interest forms electronically with the State Ethics Commission by noon on March 30, 2014. She reported that the Industrial Exemption bill is on the agenda for the Senate LCI committee meeting on March 20, 2014 at 9:00 a.m. in the Gressett Building, room 407. She requested that the board inform her if they were interested in being an exam observer for the April 11th and 12th exams, so that she can notify NCEES. Mrs. Miles said that she attended the NCEES MBA forum in Scottsdale, Arizona on February 5, 2014. There were over 30 MBAs in attendance. Mrs. Miles reported that there are 28,029 active licensees as of March 12, 2014. The Board had a January cash balance of \$1,781,636.76. The Education and Research fund had a January cash balance of \$257,972.00. The February cash balance was \$1,736,068.77. During the January and February CBT exam window there were 16 FE exam candidates and 10 examinees passed. There are 78 scheduled for the April/May exam window. 155 PE exam candidates have been approved with NCEES for the April exam. Mrs. Miles distributed a copy of the proposed

changes to the NCEES Bylaws to each member for review. The changes will be voted on at the annual meeting in August.

Review of Licensure Recommendations

- a. Two candidates, Danny Watson (Civil) and Clay Marcel Dalon (Mechanical) were recommended for licensure by the Portfolio Review Committee. Mr. Love added that he was on the civil committee and recommended the approvals.

MOTION: To grant PE licensure to portfolio review candidates. Dinkins/Johnson/approved.

Education and Research Funding Requests

- a. Marguerite McClam, of the SC Society of Professional Engineers, presented a funding request in the amount of \$2,200 for a Disaster Assistance Program: Building Evaluator Training Course.

MOTION: To approve the \$2,200 funding request for the Disaster Assistance Program: Building Evaluator Training course. Dinkins/Hodge/approved.

Reports:

- b. Investigative Review Committee Report – Update - Christa Bell, Office of Investigations and Enforcement, spoke to the board regarding clarification on how many CEU hours expert reviewers will receive while reviewing a case. Mrs. Bell added when other boards compensate monetarily, expert reviewers submit the time they spend reviewing the case, preparing for hearing, and testifying for a hearing. Expert reviewers could testify before the board or court. Mr. Dinkins suggested the Board should give credit for everything except preparing for testimony. If they come before the board or court to testify, give one earned hour. Mr. Dinkins explained that the board already has a limit of carrying forward no more than 15 hours PDH per year.

Mrs. Coleman suggested that expert reviewers keep track of their own hours, submit them, and have staff send acknowledgement that the affidavit of hours was received. The acknowledgement can't be guaranteed that other states will accept it as continuing education hours. The hours will be earned by reviewing the case and time spent testifying.

Mrs. Coleman was excused from the meeting.

Application Hearings

- a. Husein Hammoud appeared before the board for an application hearing for Professional Engineering licensure in South Carolina by reinstatement. Mr. Hammoud was not represented by counsel. Hodge/Love recused.

MOTION: To reinstate Professional Engineering licensure in the state of South Carolina. Dinkins/Johnson/approved.

Application Reviews

- a. Meberu Bitew (FE Waiver) – The board reviewed an application for an FE waiver for Mr. Bitew. Mr. Bitew was not in attendance nor represented by counsel.

MOTION: To grant FE waiver. Dinkins/Hodge/approved.

Mr. Rickborn added that even though the FE waiver has been granted, Mr. Bitew would still need to obtain additional years of experience.

Unfinished Business

- a. Review of action items from January 21, 2014 Meeting – The board reviewed action items from the January 21, 2014 meeting. Mrs. Miles informed the board that the funding for ACEC-SC has been completed and they are waiting for the check to be issued. Mrs. McCartha said that she and Mrs. Miles are continuing to work together with getting responses from the Portfolio Review committee. Mrs. Miles reported that they have updated the changes to the PE and PS applications, but they have not yet been published. She informed the board that the agency is moving forward with implementing online applications.
- b. Southern Meeting Zone Update – Hodge – Mrs. Hodge updated the board on the 2014 NCEES Southern Zone Meeting, scheduled for April 24, 2014 through April 26, 2014 in Charleston, South Carolina. She reported that as of last Friday, there were 153 guests and members registered for the meeting. There were 154 budgeted for this event and Mrs. Hodge anticipates they will exceed the budget number. The deadline to register for the Southern Zone Meeting is March 20, 2014. Mrs. Hodge noted that she would like to recognize groups that have donated money by getting a board made up to display at the meeting. Mrs. Hodge suggested that the board invite Mary Law and Jan Simpson.
- c. Industrial Exemption – Dinkins - Mr. Dinkins reported that he and several others went to the subcommittee hearing about three weeks ago and made a presentation, opposing the proposed language of the industrial exemption. After testimony was given, the subcommittee unanimously recommended it go forward as submitted. Mr. Rickborn added that Lewis Gossett still wants to talk and asked if the board still wanted to proceed with discussions with him. Mrs. Cottingham said that if the proposed language goes through as it stands, then it does not protect the welfare, health, and safety of the public and that is a concern. Mr. Rickborn said that he would be happy to give Mr. Gossett a call.
- d. FE and FS CBT Approvals (Automatic/Manual)- Rickborn – Mrs. Miles updated the board on moving from manual to automatic FE and FS CBT approvals. She reported that initially, the board voted for manual approval, but after reconsideration voted to move to automatic approvals. There is a section in the regulations that states, “ an applicant who has failed the same topical examination two times shall provide evidence satisfactory to the board that steps have been taken in preparation for a third examination on the same topical subject.” If the board moves to automatic approval, they would have no way of knowing when the individual has taken the exam in order to provide evidence, until after the examination is taken. Mrs. Miles contacted NCEES and they do not have the capability to notify the Board of candidates who select South Carolina, and have failed the exam twice. Mr. Rickborn said he would be happy to talk to NCEES administration to get additional information. In the

meantime, the South Carolina board will continue with manual approvals until the issue is resolved.

New Business

- a. Building Commissioning – Rickborn- Mr. Rickborn spoke with the board about an email from asking if the board had made a determination on whether building commissioning requires a PE license. Mrs. Hodge added that she had an advertisement dated for January 16, 2014 concerning commissioning services by Coastal Carolina University. The deadline for the proposal was dated for February 6, 2014. She suggested the board send a letter to alert Coastal Carolina that commissioning services is considered engineering. Mr. Dinkins agreed and also added that a letter, as well as a copy of the policy should be sent affirming their position. Mr. Rickborn asked Mrs. Miles to send a response to the email, and Mrs. McCartha to follow up with Coastal Carolina University.
- b. Early Taking of PE Exam/16-hour Structural – Rickborn- Mr. Rickborn has become aware that there are several states that do not allow early taking of the 16-hour structural exam even though they will allow early taking of the PE exam. Mr. Rickborn asked if the board would allow people to request to take the 16-hour structural exam without the four years of experience, since it is the SE exam and not the PE exam. Mr. Rickborn explained how several other states handle this issue. Mr. Dinkins said that structural engineering is a much more specialized license; one would probably need years of experience prior to taking the exam. He is absolutely fine with the board adopting the policy that with the Structural Exam, one should have four years of experience.

Mr. Rickborn addressed the board about an email regarding concerns about early taking of the PE exam and the Portfolio Process. Mr. Dinkins noted that regarding the time frame of the Portfolio committee, the year 2020 was selected to give individuals ample opportunity to comply. Mrs. McCartha stated the remaining question is if the board would allow the same process of taking the PE exam prior to the years of experience for ET (engineering technology) graduates. The Board's previously passed motion indicated that ET graduates would not qualify and ABET graduates were only eligible. A reply should be sent stating the board's opinion, early taking of the PE exam does not apply to ET graduates and the board does not plan to change the 2020 date.

The board recessed for lunch at 12:02 p.m. and returned at 1:03 p.m.

- c. EIT Certification - Mr. Rickborn discussed an inquiry sent to the board regarding an individual who passed the FE exam in Georgia, but wants to obtain EIT certification in South Carolina. Mrs. Miles added that the South Carolina board does not certify individuals who have not applied and taken the exam in South Carolina and wanted the board to make a decision since examinees can take the CBT in other areas. Mrs. McCartha recommended the board take no action without the individual first submitting an application. EIT certification serves as proof to a perspective employer that an individual has passed the FE exam, though EIT certification is not a requirement. The board did not take action.
- d. Electronic submittal of plats for Approval/Recording - Dinkins- Mr. Dinkins received an inquiry from someone at the Richland County Planning and Development Office about allowing electronic reviewing of plats. According to the regulations, plats must have an

embossed or raised seal. If a statute or ordinance was passed in the county, the state laws would trump that in regards to embossed seals. Mr. Dinkins said that he was told that Horry County and Spartanburg had been doing something similar and asked Mrs. Miles to follow up. Mrs. Miles reported that the Horry County Planning and Zoning Commissioner said they have been accepting them since 2006. They have an electronic submittal process, but it is not required. If they get paper plans, then the county scans them in. Spartanburg County's GIS director said they have been receiving digital submissions for nine years. As long as the statutes and regulations say plats have to have a raised seal, the board can't waive that at the request of a county review agency. Mrs. McCartha said she would research the issue and report back at the next meeting.

- e. SCDOT Stream Restoration Plan – Rickborn - Hodge/recused. An attorney with SCDOT forwarded an email to Erin Baldwin, Office of General Counsel, with stream restoration plans on a project and questioned whether the plans needed to be signed and sealed by a licensed PE in South Carolina. They were asking for clarification, for future reference. Mrs. McCartha explained that SCDOT acknowledged the position that the board had taken in the past. They wanted to reconfirm the position and request it in writing from the board. The plan submitted by Carolina Wetland Services may not be within in their scope of duties being that there is a lot of drain and structural work involved on it and they are a landscape architectural firm. This comes very close to what civil engineers do. Based on the plans submitted by Carolina Wetland Services, Inc., a Cease and Desist order should be issued because they have prepared plans, are not licensed to perform that type of work, and do not fall under the board's jurisdiction. Mrs. Miles said that she would have the Cease and Desist order issued. The board confirmed that the stream restoration plan had to be signed and sealed by a licensed PE in South Carolina.
- f. Educating Engineers Website – Mrs. Miles presented the board with a request that was sent for the board's endorsement of the Educating Engineers website by adding a link on the board's website. The information on the Educating Engineers South Carolina page contains schools and programs that are not EAC/ABET accredited and would not meet the requirements for licensure. The board agreed that they are not in favor of endorsing the Educating Engineers Website.
- g. NCEES credential evaluation – Miles- Mrs. Miles presented a request for the board's endorsement to have an individual's educational credentials evaluated by NCEES. The applicant has a technology degree and a Master's degree from a foreign university in Fire Protection. The individual does not meet NCEES's requirements for an education evaluation, and as a result, must have the board's approval for NCEES to conduct the evaluation. The Board determined future requests of this nature will be handled on a case by case basis.

MOTION: Allow NCEES to do the education evaluation. Dinkins/Cottingham/approved.

- h. Use of the term Engineer and/or Surveyor

MOTION: To enter executive session for legal advice. Dinkins/Johnson/approved.

MOTION: To exit executive session. Dinkins/Johnson/approved.

14. Other Business

Mrs. Hodge addressed the board regarding an email she received from a member of the Portfolio Review Committee who did not realize they had the ability to vote against someone becoming licensed. She advised that prior to all portfolio meetings, members be advised that the decision does not have to be unanimous. Mrs. McCarthy said they have a script for the member chairing the committee, so that there would be less confusion and more streamlined.

Mr. Dinkins requested that the board have an opportunity to meet with the IRC from time to time to inform them of the board's expectations. Mr. Dinkins requested that the IRC be added to the agenda for the April 8th meeting.

15. Public Comments

Joe Jones of the SCSPE/ACEC presented a letter to the board that was distributed to South Carolina House members and Senators on March 12, 2014 about the Practice Act. Mr. Jones said a similar letter will be distributed to the legislators from the land surveyors on Tuesday, March 18, 2014, and another letter from the ASCE by the end of the following week. Mr. Jones added that they plan to put out an alert to the members of the ACEC and ASPCE to contact their legislators and request that they take action by the end of the year. The next phase will be targeting the Labor Commerce and Industry Committees of both the House and the Senate. Mr. Love inquired about LLR's plan to get the Practice Act moving. If it is not acted upon, the board would have to start all over again next year. Mrs. McCarthy said that bills are different from regulations and the agency has less involvement.

16. Notice of Next Meeting

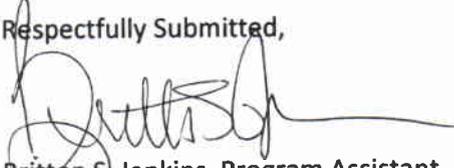
The next meeting of the SC Board of Registration for Professional Engineers and Surveyors will be held on Tuesday, April 8, 2014 at the SC Department of Labor, Licensing, and Regulation, Synergy Business Park, Kingstree Building, 110 Centerview Drive, Room 108 Columbia, SC and will begin at 9:30 a.m.

There being no further business:

MOTION: To adjourn. Love/Cottingham/approved.

The meeting adjourned at 1:57 p.m.

Respectfully Submitted,



Britton S. Jenkins, Program Assistant