

**MINUTES**  
**SOUTH CAROLINA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS**  
**9:30 A.M., MARCH 26, 2013**  
**SYNERGY BUSINESS PARK, KINGSTREE BUILDING**  
**110 CENTERVIEW DRIVE, ROOM 108**  
**COLUMBIA, SC**

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**Call to Order**

Chairperson Hodge called the meeting to order at 9:36 a.m.

**Statement of Public Notice**

Chairperson Hodge stated that public notice of this meeting was properly posted at the South Carolina Board of Registration for Professional Engineers and Surveyors office, Synergy Business Park, Kingstree Building, and provided to all requesting persons, 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 Theresa Hodge, PE, Chairperson; Timothy W. Rickborn, PE, Vice-Chairman; Dennis J. Fallon, Ph.D, PE, Secretary; Gene L. Dinkins, PE, PLS; John P. Johnson, PE, PLS; Miller L. Love, Jr., PE; and Nancy W. Cottingham.

Staff members present included Jan B. Simpson, Administrator; Sherri Moorer, Program Assistant; Debbie Granger, Program Assistant; Alice DeBorde, Administrative Assistant; Connie Huffstetler, Administrative Assistant; Tiffany Conelly, Administrative Assistant; Sara McCartha, Esq, Advice Counsel; Darra Coleman, Esq., Advice Council; Sharon Wolfe, Office of Investigations and Enforcement; and Stella Hammond, Investigator, Office of Investigation and Enforcement.

Others present included Nadine Garrett, Creel Court Reporting; Thurl Amick; Daniel Skinner, Kent Hudson; Ronnie Tyler; Richard Garcia; Chris Butts; Kim Long; Will Fairey; George McCall; Jeff Mulliken; Joe Jones; and Henry Dingle.

**Approval of January 29, 2013, Meeting Minutes**

**MOTION:** To approve the minutes of the January 29, 2013, meeting. Fallon/Love/approved.

**Review of Agenda**

Chairperson Hodge requested that comments on the Executive Order be discussed when called for on agenda item 9. Comments regarding the proposed statutes should be discussed under public comments, agenda item 15.

**Reports**

- a. Investigations – Sharon Wolfe reported that seventeen cases have been received in 2013. There are currently twenty active cases. Nine cases have been closed this year, one is a “do not open,” and one is pending further information. The oldest case is 231 days old. The IRC met on March 20, 2013.

**MOTION:** To accept the March 20, 2013, IRC Report. Dinkins/Fallon/approved.

- b. Office of General Counsel Report - Christa Bell was not available due to a schedule conflict. Ms. Simpson told the Board that two cases have been closed in 2013 and there are currently three cases in OGC.
- c. Administrative Report – Ms. Simpson reported that online applications for the FE were expanded to include senior students at Clemson University, the University of South Carolina, and Bob Jones University. Of the 469 applications received for the FE, 339 were submitted through the online system. Firm renewals are in progress. The recognition luncheon for former Board members has been postponed until a later date. There were 27 applicants for the administrator position and four of those candidates will be interviewed. A NCEES Speakers Kit is available to administrators and will be available to Board members at a later date. The proposed statute changes have been filed as S497 in the Senate and H3932 in the House. Ms. Simpson asked Board members to be available to attend subcommittee meetings on the proposed statutes. Meetings are typically posted by 3:00 p.m. on Friday's for the following week.

Licensure statistics, the Cease and Desist Log, the Consent Agreement Log, and financial reports were included in the meeting packets. There are currently 26,727 active licenses. As of February 28, 2013, the Board has a cash balance of \$2,073,505.25 and the Research and Education Fund has a balance of \$335,027.00.

#### **Office of General Counsel Hearings**

There were no hearings for the Office of General Counsel.

#### **Application Hearings**

- a. Chris Butts appeared before the Board for an application hearing for comity licensure as a Professional Engineer. Mr. Butts does not meet the educational requirement in the law and requested to exercise his right to an application hearing. This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

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

**MOTION:** To exit executive session. Love/Fallon/approved.

Mrs. Hodge said no votes were taken during executive session

**MOTION:** To not grant a license to Mr. Butts because he does not meet the education requirements in §40-22-220 and §40-22-222. Dinkins/Fallon/approved.

#### **Review of Statutes, Regulations, Policies, and Proposed Statutes Pursuant to Governor Hailey's Executive Order**

Mrs. McCartha addressed the Board regarding the February 2013 Governor's Executive Order and Regulatory Review Task Force requesting all Cabinet Agencies review their laws, regulations, and policies for regulatory burdens on businesses in S.C. Comments from Stakeholders were requested by April 15, 2013. The report goes to the Statewide Task Force on May 15, 2013. The Board reviewed the SC Code of Laws, §40-22 et seq; the SC Code of Regulations, Chapter 49; the proposed statutes; and Board policies.

Mrs. McCartha asked Ms. Simpson about complaints received by the staff. Ms. Simpson said the issue staff received the most complaints about is confusion caused by the requirement to have a licensed PE or surveyor in each office to provide services for that office. The most common reason callers protest is that they believe electronic supervision is sufficient. Tying branch offices with firms slows down the issuance of many licenses, creates confusion, and is difficult to administer. Staff also receives complaints regarding surveying because the public doesn't understand the role surveyors have in recording plats and deeds.

Mrs. Hodge asked for comments on the current statute.

Mr. Love said he hears questions regarding resident professionals in each office, ethics issues and Qualifications Based Selection.

Mr. Dinkins said having a resident professional in each office offering services in the State is important to protect the health, safety and welfare of the public. It might slow down the process administratively, but it's the best way to protect the public by ensuring that a qualified person is physically present in each office to deal with questions from the public.

Mrs. Hodge asked for comments on the proposed statutes. She said she feels that the waiver for licensing during emergency situations, allowing temporary licenses, and licensure through comity are accommodating to commerce.

Mrs. Hodge asked for comments on the current regulations.

Mr. Dinkins said it's important to note that our current statute and regulations and our proposed statute closely follow the NCEES Model Law and Model Rules. This ensures that laws and regulations are based on accepted norms in the profession and not on deviations that arise at a local level.

Mrs. Hodge asked for comments on the current policies.

Mr. Love said that policies are useful in giving a historical thought pattern of the intention of the statutes and regulations.

Mrs. Hodge asked for the policies to be compiled in one document with similar formatting. Mr. Johnson will be a contact for surveyor issues and Mrs. McCartha offered to assist staff in producing this document.

Mrs. Hodge asked for public comments on the laws, regulations and policies.

Mr. Skinner said that the Building Official's Manual has been guidance in knowing when to source out for a design professional. Ms. Simpson said there have been several requests for it.

Mr. Fairey said that he would like to propose that the Board explore the idea of allowing a small portion of the PDH to be counted toward professional development courses that would help individuals be better professionals outside the areas of health, safety and welfare. Mr. Love said there are two schools of thought on the PDH requirement. One is the business of engineering and one is the practice of engineering. The Board is concerned with the individual increasing their professional competence, and running a business has nothing to do with professional licensure.

Ms. Simpson said she would like the task force to be aware of recent legislative requests to remove the range of fees from regulations. All Boards were instructed to remove the “not to exceed” language, however, that language allowed Boards to lower their fees and provide licensees some temporary financial relief if the budget allowed. That option is now closed. Mrs. McCarthy said that could be addressed when the Board drafts their new regulations.

#### **Licensure Recommendations – Engineering Technology Review Committee**

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

**MOTION:** To exit executive session. Cottingham/Dinkins/approved.

Mrs. Hodge stated that no votes were taken during executive session.

Mrs. Moorer presented licensure recommendations from the Civil Engineering Portfolio Review Committee.

**MOTION:** To approve Emily Elizabeth Perry for licensure. Fallon/Rickborn/approved.

**MOTION:** To defer a decision on Gary Bee Bradley pending review by another portfolio review committee. Fallon/Dinkins/approved.

The Board broke for lunch from 12:19 p.m. – 1:04 p.m.

**MOTION:** To move public comments before “New Business” on the agenda. Johnson/Love/approve.

#### **Public Comments**

Daniel Skinner of the State Fire Marshal’s Office addressed the Board with a concern about §40-22-280 in the proposed statute referencing exemptions in the International Code Series as adopted by the state. The Building Codes Council is prohibited from adopting Chapter 1, the Administrative Section of the code series, and Skinner is concerned that local entities can create their own codes, leading to inconsistency in requirements for when a licensed design professional is required for work to be done. If the current language moves forward, an engineer will no longer be required to review plans in an institutional or educational setting.

Mr. Rickborn said the original intent was to remove the exemption for buildings that are 5,000 square feet or less that the Board believes should have a design professional involved.

Mrs. McCarthy suggested revising the language to address concerns and still reflect the Board’s intent. Mr. Rickborn will work with Mrs. McCarthy to get this issue resolved.

#### **New Business**

- a. NCEES Emeritus Members – Charles Joye, II and Thurl Amick.

**MOTION:** To nominate Charles Joye, II, and Thurl Amick as NCEES Emeritus Members. Johnson/Dinkins/approved.

- b. Computer Based Testing (CBT) – Procedures for Approval. Ms. Simpson asked the Board how they would like to proceed with processing applications for the FE once it switches to computer-based testing (CBT) in 2014. Direct registration allows candidates to sign up directly with NCEES. Candidates contact the Board after they pass the FE to obtain their EIT certification. NCEES will implement registration for CBT in November 2013 but each Board must determine if they want to participate in this process or continue to pre-approve FE and FS candidates. The Board will take it under consideration and vote on the registration process for CBT at the July 10 Board meeting.
- c. Issues for Consideration – Ms. Simpson asked if a licensee with a sole proprietorship may remain as PE in responsible charge of his firm if he also takes a full-time job with a county government as a PE. His firm would operate outside of business hours for the county job. The Board discussed the issue and determined that it is not illegal for the licensee to maintain his sole proprietorship, but he must be aware of the conflict of interest provisions in the SC Code of Ethics, Chapter 49-304.

Ms. Simpson asked the Board if an engineer licensed in another state can provide in-house services for an employer at a plant in SC. The Board determined that the individual would need to be licensed to provide these services.

- d. Title Insurance Companies – Mr. Amick told the Board there is a company offering a service called Express Map. The company is taking aerial photography, superimposing a current legal description, and listing the description on a plat or a map. It's being presented as an alternative to a survey and is misleading to the public. Mrs. McCartha suggested that Mr. Amick file a complaint so the issue can be addressed through the Investigative Review Committee.
- e. Requirements for PE in Responsible Charge – Mrs. Moorer asked the Board if one individual can serve as the responsible PE for subsidiary companies if the companies reside in the same office space and share staff. Staff has had three inquiries of this nature during firm renewals. The Board discussed the issue and determined that each company is legally a separate firm and therefore would need a different PE for each firm.
- f. Delegation of Authority to Issue Cease and Desist Orders – Due to Mrs. Simpson's impending retirement, LLR advice counsel has requested that the Board take a current vote on authority delegated to the Administrator to issue Cease and Desist Orders. The Board determined that they would like for the new Administrator to consult with the Chair, Vice-Chair, or Secretary of the Board prior to issuing Cease and Desist Orders.
- g. Delegation of Authority to Issue Temporary Suspension Orders – Mrs. McCartha said that Temporary Suspension Orders require the signature of the Board Chair.

**Other Business**

Mrs. Hodge said that she and Mr. Rickborn met with Holly Pizarik to discuss Ms. Simpson's replacement, changing advice counsel, travel within the group, and overall responsiveness to questions. Mrs. Pizarik assured them that work is underway to provide a replacement for Ms. Simpson and for consistent legal counsel. They also discussed the Board being more proactive in creating their budget. Mrs. Pizarik will provide Mrs. Hodge with the format for creating a new budget. A telephone meeting may be necessary when this information is available. Mrs. Hodge would like to establish a committee on addressing the budget after the Southern Zone Meeting. Mr. Rickborn said they also discussed the importance of South Carolina hosting the Southern Zone Meeting in Charleston, SC, in 2014.

Mrs. Simpson reminded the Board that the Southern Zone meeting will be held on April 4-6, 2013, in Biloxi, MS. The Annual Meeting will be held on August 21-24, 2013, in San Antonio, TX.

**Notice of Next Meeting**

The next meeting of the SC Board of Registration for Professional Engineers and Surveyors will be held on Tuesday, July 10, 2013, at the SC Department of Labor, Licensing and Regulation, Synergy Business Park, Kingstree Building, 110 Centerview Drive, Room 204, Columbia, SC and will begin at 9:30 a.m.

There being no further business:

**MOTION:** To adjourn. Johnson/Cottingham/approved.

The meeting adjourned at 2:07 p.m.

Respectfully Submitted,



Sherri F. Moorer, Program Assistant