

MINUTES
South Carolina Board for Registration of Professional Engineer and Surveyors
9:30 a.m., January 21, 2014
Synergy Business Park, Kingstree Building
110 Centerview Drive, Room 108
Columbia, SC

Call To Order

Chairperson Rickborn called the meeting to order at 9:31 a.m.

Statement of Public Notice

Chairperson Rickborn stated that 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; Dennis J. Fallon, Ph.D, PE, Vice-Chairman; John P. Johnson, PE, PLS, Secretary; Gene L. Dinkins, PE, PLS; Miller L. Love, Jr., PE; Theresa Hodge, PE; and Nancy W. Cottingham. Jeffrey Mulliken, Ph.D, PE, was introduced as new board member.

Staff members present included Lenora Addison-Miles, Administrator; Britton Jenkins, Program Assistant; Sherri Moorer, Program Assistant; Sara McCartha Esq., Advice Counsel; Lauren Kearney, Esq., Office of General Counsel; and Sharon Wolfe, Office of Investigations and Enforcement.

Others present included Frank Smith, Esq.; Linwood Jones, PLS; Diane Jones; Chuck Black; Kim Long; Kent Hudson; Adam Jones; Jesse S. Burke; and Sara Quattlebaum (Creel Court Reporting).

Approval of Meeting Minutes November 18th and 19th, 2013

MOTION: November 19, 2013 minutes, page 5, correction on motion to instruct administrator to allow early entry. Written as Dinkins/Fallon/Hodge and Rickborn opposed motion. Correction to minutes: Hodge, Rickborn, Love opposed motion. Approve minutes with correction. Hodge/Fallon/ approved.

Review of Agenda

Chairperson Rickborn asked if there were any proposed changes to the agenda for the January 21, 2014, meeting. There were none.

MOTION: To approve the agenda for the January 21, 2014, meeting. Hodge/Johnson/approved

Reports

- a. Office of Investigations and Enforcement – Ms. Wolfe reported that two complaints have been opened as active. An overview of 2013: there are 19 active investigations; 15 closed cases; four “do not open” cases; three cases pending expert review. The oldest active case is 248 days old. There were 42 cases, in addition to the four “do not open” cases closed in

2013. There has not been an IRC report since October 10, 2013. The next IRC meeting is scheduled for February.

- b. Office of General Counsel – Lauren Kearney reported there are six open cases in the Office of General Counsel. Five cases are pending, and one case is pending a Consent Agreement or a Memorandum of Agreement. Seventeen cases have been closed.
- c. Administrative Reports – Lenora Addison-Miles reported that the 2013 travel reimbursement reports were emailed to all members on January 13, 2014. Licensure statistics, financial reports for November and December 2013, the Cease and Desist log, and Consent Agreement log were included in the meeting packets. There were 27,842 active licenses with the Board as of January 13, 2014. The Board had a cash balance of \$1,838,316.21 as of December 31, 2013. The Research and Education fund had a cash balance of \$274,472 as of December 31, 2013. During the November 19, 2013 meeting, the Board discussed appointing a Task Force to work with the Architectural Examiners Board and Building Codes Council regarding overlap of practice. Representatives for the Engineers and Surveyors board will be Timothy Rickborn, Jeff Mulliken, and Jim Justice. Stephen Russell, Brad Smith, Anthony Lawrence, and Charles Muldrow will represent the Architectural board. The Building Codes Council will meet on February 26th and select representatives. We anticipate scheduling a meeting in March. There are 164 candidates approved for the April PE exam as of January 16, 2013, and five land surveyor candidates approved. Fifteen FE applications have been received online. Eleven candidates have been scheduled and approved for the FE exam through the NCEES database. The first CBT exam results should be received by January 17, 2014. The administrator is working with IT to develop a program to generate reports for FE and FS candidates. The previous reports have been pulled by examination date and since that option is no longer available, another option must be created. The board received a notice from Dr. Collins of Clemson University regarding accreditation of the BS in Environmental Engineering. This program is a new degree. The program's initial ABET review was in September 2013 and will be effective in October 2014. The name of BS in Ceramic and Materials Engineering will be replaced with BS in Materials Science and Engineering. Mrs. Miles is currently waiting on a response from Clemson and South Carolina State University regarding an update of Surveyor courses. The Early PE application has been posted on the website. There has been one applicant, but staff has received several inquiries about the process.

Education and Research Funding Requests

- a. Adam Jones presented a funding request in the amount of \$6,000 for the ACEC-SC and SCSPE winter meeting.

MOTION: To approve the \$6,000 funding request for the ACEC-SC and SCSPE winter meeting. Hodge/ Love/approved.

Motion for Reconsideration

- a. Gary Bee Bradley has requested a motion for reconsideration of PE licensure. Mr. Bradley was represented by Frank Smith, Esq. Fallon/Johnson recused themselves. 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/Cottingham/approved.

MOTION: Whereas the South Carolina Board does not have a qualifying exam, and would take too long to prepare a special exam for Mr. Bradley, whereas Bradley's attorney has requested an exam, and whereas his work per the application per his title is 90% structural, and whereas the NCEES prepares the national exam that is used by the South Carolina board, 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. Also, allow Mr. Bradley to take the exam in April 2014 if the NCEES deadline has not passed. Dinkins/Hodge/approved.

- b. Linwood Jones appeared before the board for reconsideration of disciplinary actions set forth by the board as a result of the November 18, 2013 hearing. Mr. Jones was not represented by counsel. Lauren Kearney, Esq. represented the state. 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/Fallon/approved.

MOTION: To exit executive session. Hodge/Love/approved.

Chairperson Rickborn moved on the request to reconsider, but cautioned Mr. Jones that the sanction could be less or more severe than it was in the past. Chairperson Rickborn advised Mr. Jones to make his presentation as thorough as necessary, but limit it to information not presented at the previous hearing.

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

MOTION: To exit executive session. Fallon/Cottingham/approved.

MOTION: Mr. Linwood's previous order imposing a \$1,000 fine and public reprimand be vacated. Johnson/Dinkins/approved.

Application Hearings

- a. Greg Qi Liu appeared before the board for an application hearing for a Professional Engineering licensure in South Carolina by comity. Mr. Liu was not represented by counsel.

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

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

MOTION: To grant Mr. Liu a Professional Engineering licensure in the state of South Carolina. Dinkins/Fallon/approved.

The board recessed for lunch from 11:55 a.m. until 12:45 p.m.

Application Reviews

- a. Lynwood Hines (FE Waiver) – The board reviewed an application for an FE waiver for Mr. Hines. Mr. Hines was in attendance and not represented by counsel.

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

The application would still need review by a board member to grant permission to take PE exam. The Board requested that, in the future, applications for FE waivers be reviewed by a board member prior to the board meeting to approve the waiver.

- b. John Trogdon (FE Waiver Reconsideration) – Mr. Trogdon requested reconsideration in an email distributed to the board regarding his denied waiver request in November. Mr. Trogdon was not in attendance.

MOTION: To not reconsider the issue. Dinkins/Hodge/approved.

There was insufficient information required for reconsideration.

- c. Mark Goodson (FE Waiver) - The board reviewed an application for an FE waiver for Mr. Goodson. Mr. Goodson is licensed in several states, but has not taken the FE exam. Mr. Goodson was in attendance and not represented by counsel.

MOTION: To grant FE waiver with licensure pending approval of experience by a board member. Fallon/Hodge/approved.

Unfinished Business

MOTION: To move agenda item c (Alternate IRC Members and Expert Reviewers) before item a (Review of Action Items from November 18-19, 2013). Fallon/Love /approved.

- c. Alternate IRC Members and Expert Reviewers - Christa Bell, Office Investigations and Enforcement, spoke to the board regarding Alternate IRC members and expert reviewers. They are having difficulty getting expert reviewers in various areas, specifically in Fire protection and ethics. Ms. Bell suggested getting each geographical area of the state represented to avoid a conflict of interest. Ms. Bell asked the board members for names of engineers and surveyors in specialty areas and in various parts of the state. Dinkins said there would be an opportunity to speak with colleagues at the legislative reception that evening. Mr. Love suggested G. Robert George of Charleston, South Carolina as a prospective expert reviewer in Civil/Environmental Engineering.

MOTION: To delegate authority to Board Chair to appoint IRC members and expert reviewers. Dinkins/Fallon/ approved.

Dr. Fallon requested a written description of the duties of IRC members and expert reviewers. Christa Bell said they would come up with that for the Board. Mr. Dinkins suggested that the board give PDH hours for service on IRC.

MOTION: To give PDH hours, mileage, and per diem for service as expert reviewers. Dinkins/Johnson/approved.

Dinkins would also like mileage and per diem paid to expert reviewers.

- a. Review of Action Items from November 18-19, 2013 meeting –Hodge - The board reviewed Action Items from November 18-19 meeting. Mrs. Miles informed the Board that updates to the website are in progress. The person that usually does work on the website has left the agency. Mrs. Miles is currently working with IT, and while that department is currently working on agency wide issues, they will deal with individual issues as soon as they can. Mrs. McCartha is following up on the legislative list and said that one issue is capitalization. It was done on code commissioner level and they do not recommend changing that. Mrs. Hodge asked that the follow up list be maintained to keep track of tasks that need to be followed up by the Board.
- b. Portfolio Review June 30, 2020 Expiration – McCartha - Mrs. McCartha said that there are four to five years left to take action legislatively before it expires. She is requesting feedback on whether it's worth taking action on before the expiration date and if so, how to get the feedback. Mr. Love explained that the issue is that the Board spent untold hours trying to broker an agreement with the University of South Carolina and South Carolina State University so graduates wouldn't be in the condition to not become licensed. The Board worked out an agreement with the University of South Carolina and briefed to South Carolina State University and nothing happened as a result. Mr. Tibshrary (former board member) pushed for many years to work the agreement out. Several House members were also involved in negotiations. The President of South Carolina State University said that they would not do a degree in conjunction with the University of South Carolina. Mr. Dinkins noted that it goes back to the previous version of statutes. The 2020 date was carefully selected because it gave the existing graduates of a TAC program the opportunity to transition to a full program. It also gave everyone in the pipeline enough time to go through school, have required experience, and come before the Board to get upgrades to Category A licensure. Mr. Dinkins feels that unless anyone can give a reason to extend it, there is no reason it should be. He says that individuals had more than enough time, the Board has gone above and beyond to accommodate them, and it was never intended to be a permanent measure. Mrs. Hodge agreed, but also said that she would be interested in getting information from the portfolio groups on whether it works. She is more interested in finding the value of the program instead of extending it. Mr. Dinkins added that the danger in extension is that the Board would be outlining an avenue for someone to get licensed without an EAC degree and that is not encouraged. Mrs. Miles explained that she reached out to active members in December and only received three responses, all of which were in favor of the process. Mrs. McCartha will work with Mrs. Miles to draft a letter to committee members and try to get written feedback by the summer. The Board suggested inviting Mr. Tibshrary to a board meeting to discuss the portfolio process.
- c. Industrial Exemption Update - Fallon - Mr. Dinkins explained that he and the Manufacturer's Alliance drafted proposed language for the statute. Mr. Dinkins' version required licensure and created a special temporary permit for manufacturing. The Manufacturer's Alliance wanted everything exempt. Mr. Dinkins requested modified language on January 9, 2014, and the Manufacturer's Alliance responded with the same proposal with very little modification. Dr. Fallon noted that the BP Alliance was not at the last meeting, but they had no problems with the language proposed by Mr. Dinkins. Dr. Fallon explained that BP is code

driven and they feel all their work is a code issue and the Board does not need to worry about it. Mr. Jones said that he spoke with Sara Hazzard yesterday (January 20, 2014). The definition they proposed was a standard definition used in state government. Dr. Fallon feels that manufacturing alliance will move forward with or without the Board's blessing. Mr. Jones suspects that Representatives Tom Alexander and Bill Sandifer will get the proposed language from the Manufacturer's Alliance and the consensus in the engineering community is that they do not have the firepower to push the language proposed by Mr. Dinkins. Mr. Jones added that the proposed language presented by the Manufacturer's Alliance maintains the status quo in South Carolina. Dr. Fallon said that was brought up many times in the committee. Mr. Love suggested that the best the Board can do is express their reservations with the proposed language because it does not address the health, safety, and welfare of the public. He added that the only way the Board has a chance, is if they explain that their definition is the minimal essential requirement that should be included. What happened in West Virginia is an example of the issue of concern. Mr. Dinkins said that the Board should reject the language and go to the legislature with their proposed amendments and let them read both versions. Mr. Love added that they need to give the legislators insight that there is a potential problem and create doubt in their mind to prevent a knee-jerk reaction. The legislature charged the Board with protecting the health, safety, and welfare of South Carolina citizens. Mr. Jones reminded the board that over 50% of states have this exemption. Mrs. McCartha said that some concerns from the General Assembly are smaller factory constituents and that it might not be a bad idea to combine both Mr. Love and Mr. Dinkins' suggestions. The Board should reject the Manufacturer's Alliance proposal based on the lack of health, safety, and welfare and offer their own definition. Mr. Jones said that he would speak with Larry Martin at the legislative reception. Mr. Dinkins said that he would speak to John Coreson. Mrs. Hodge asked if the Board could draft a letter to Representative Graham and Senator Alexander expressing the Board's opinion. Mrs. McCartha said that she could draft a letter back to Lewis Gossett and LCI to express disagreement with proposed language with board authorization. The Board authorized Mrs. McCartha to draft letter.

- d. Southern Zone Meeting - Hodge - Mrs. Hodge announced that registration is now open. As of today, there are 22 registrants with 11 guests. The closing dates to register are March 20, 2014 for attendees and February 28, 2014 for funded delegates. Mrs. Hodge and Mr. Johnson are working out details on the buses. Mr. Mulliken will be funded as a new member.

MOTION: To send all board members to NCEES Southern Zone Conference. To send administrator, Lenora Addison-Miles and staff Britton Jenkins to the NCEES Southern Zone Conference. To send Sara McCartha and Sharon Cook to the NCEES Southern Zone Conference. All members and staff to arrive at conference one day early and stay one day late at the Doubletree Hotel. To utilize additional staff to assist with conference. To fund members and staff registration fees, in advance, to attend the conference. Hodge/Fallon/approved.

- d. Follow Up On Alternate IRC Members and Expert Reviewers – Christa Bell- Ms. Bell noted that all members on the current list have some type of conflict. She is requesting a structural engineer in any area except Charleston, fire protection engineer not in the Columbia area, structural engineer not located in the Pawley's Island, Georgetown, and Hollywood area, and an ethics expert reviewer outside of the Midlands and Greenwood area. She added that

George McCall, in fire protection, from the upstate has not been contacted. Bob George is strong in ethics. Ted Padgett and Bill Knowles are good for the list in structural, but may have conflicts in current cases. Expert witnesses must be licensed in the state. Ms. Bell mentioned that many of the IRC members are in Columbia, and it would be beneficial to have them located in different areas of the state. Mr. Rickborn said that he would work on getting more structural engineers to serve as IRC members.

New Business

- a. Proposed Chapter 10: Fee Placement Options – Advice Counsel – Mrs. McCarthy explained that this is a big fee schedule regulation for all boards at LLR. Currently, the Board’s schedule is in regulation. However, there are additional options. Director Pisarik’s preference is to put a reference in regulation to Chapter 10 and a reference on the website. The rationale is that the director is supposed to review regulations every two years, and this would allow her to do so without opening up the statute and regulations every time to adjust fees.

MOTION: To recommend using option “C” on fee adjustment proposal. Hodge/Johnson/approved.

The approval of option “C” means the fees would appear in Chapter 10 with a reference in the Board’s regulations to Chapter 10 and LLR’s website.

- b. Review of PE and PS applications- Miles – Mrs. Miles said at the November meeting, the Board requested to review these applications to determine if changes were needed. The following changes were suggested: Mr. Dinkins- item 6- change “state” to “jurisdiction.” Mr. Love – spacing pushes to new pages on some applications once printed out. Some things do not fall in the same place. Mr. Rickborn suggested IT may have to clean up the application and set cells in Microsoft Word to keep things in a specific place. Burke suggested the form be made a fillable PDF form. Mrs. Hodge- remove “state” from FE examination portion in section 4. Applicants can take the FE in any state now and not be associated with a state. Instead, ask for date of examination. Request documentation of passing FE scores. Mr. Dinkins noted that all of the questions should say “jurisdiction” instead of “state.” Mr. Rickborn suggested changing “FLS” to “FS” and “PLS” to “PS” on the surveyor applications. Mr. Dinkins was asked about adding a question, “Have you ever performed any engineering work under the supervision of a PE?” Mr. Dinkins said that question should be added under section 5, and to add another line in box C to ask for verifier of experience. Mr. Love asked if the Board can request details on experience in the past 10 years on comity applications. Mrs. Hodge said that in section 4 of the licensure exam on both PE and PS applications, there should not be a question of if they have a NCEES record. Applicants cannot get a record if they are not licensed elsewhere. Mr. Love will work on additional revisions.
- c. Licensure of Engineering Faculty – Cottingham- Mrs. Cottingham said that many professors whom are not licensed expressed that April and October are the busiest times with teaching duties. Several professors indicated that they would be willing to take the PE exam if it were offered during the summer, and apart from their students. To accommodate these professors, Ms. Cottingham contacted Jerry Carter with NCEES to find out the stipulations on that. According to Mrs. Cottingham, Mr. Carter said that a minor change is needed to the EPA2. This lays out the rules for taking exams and exam schedules. Jerry suggested that the Board make a motion at the Southern Zone meeting to offer the PE educators at ABET institutions to have the exam available at times outside of the standard schedule. Mr.

Rickborn said that he is concerned about security issues. Mrs. Cottingham suggested that an exam from several years ago could be offered. Mr. Dinkins explained that the exams are carefully monitored with psychometrics so using an older exam is not an option. The exam would have to be current. Mr. Dinkins said that the concept is a good idea, but it would be difficult to get this measure to pass in reality. His concerns are about the exposure of the exam and security. Mr. Dinkins adds that once the exam is CBT in two to three years, the problem goes away. Dr. Fallon noted that allowing early taking of the exam also helps with this issue. Mr. Dinkins says that he likes the idea, but Mrs. Cottingham's suggestion is not the right way to solve it.

- d. NCEES 2014 Award Nominations – Ms. Hodge expressed interest in nominating Jan Simpson for the Meritorious Service Award. The Board agrees. The nomination package from last year will be sent in Ms. Simpson's honor.
- e. Statement of Economic Interest Filings – Miles- Mrs. Miles stated she emailed travel statements from finance on January 13, 2014. Mr. Love said that he needed his resent as a PDF document. The Statement of Economic Interest forms are due by noon, Sunday, March 30, 2014. There will be no exceptions. Mr. Rickborn asked Mrs. Miles to follow up with board members as the due date approaches.
- f. FE & FS exams – Automatic and Manual Approvals – Hodge – Mrs. Hodge said that all the states around us have automatic approvals for FE applicants. She spoke with Donna at the University of South Carolina and they are only approving candidates within a 2-week slot. There are only 16 people approved so far in South Carolina. Mrs. Hodge is concerned students won't be able to get approval within the slot and that students will go somewhere with automatic registration. Mr. Dinkins said that manual approval seemed logical when voted in August because it is the status quo. Mr. Dinkins now supports going to automatic approvals and that the Board may be pushing people to test in other states.

MOTION: Automatic approval for CBT FE and FS exam candidates. Dinkins/Fallon/approved.

Other Business

- a. Mr. Love asked about reimbursement from the state for the Southern Zone meeting. Mrs. McCartha said that they are trying to pay registration fees by invoice for all board members and all others not funded by NCEES. There will be no pre-approval forms to fill out since it is in state travel, and all forms will be filled out afterwards. Mrs. Miles said no other approvals are needed.

Notice of Next Meeting

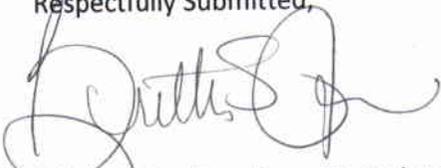
The next meeting of the SC Board of Registration for Professional Engineers and Surveyors will be held on Thursday, March 13, 2014 at the SC Department of Labor, Licensing, and Regulation, Synergy Business Park, Kingstree Building, 110 Centerview Drive, Room 108 Columbia, SC and will begin at 9:30 a.m.

There being no further business:

MOTION: To adjourn. Fallon/Hodge/approved.

The meeting adjourned at 4:09 p.m.

Respectfully Submitted,



Britton S. Jenkins, Program Assistant