

**S.C. Department of Labor, Licensing and Regulation**

**Contractors' Licensing Board Quarterly Meeting  
110 Centerview Drive, Room 108, Columbia, S.C.**

Minutes of the April 20, 2006, Quarterly Board Meeting

BOARD MEMBERS PRESENT

Joe Chandler, Chairman  
Frank Walker  
Daniel B. Lehman  
Wendi Nance  
Doug Greer  
Mark Plyler  
Bill Neely  
Kim Lineberger

ABSENT MEMBERS:

Lewis Caswell

OTHERS PRESENT:

Marsella A. Sumter  
Doug Cummings, JAAAT Technical Services  
Eddie Cummings, JAAAT Technical Services  
Leslie Bomar, Association of General Contractors

OTHERS PRESENT:

Richard Wilson, Esq., Board Advice Attorney  
Kent Lesesne, Esq., Staff Attorney  
Shirley Robinson, Esq., Hearing Advice Attorney

BOARD STAFF PRESENT

Ron Galloway, Administrator  
Joyce Thurber, Program Coordinator  
Richard Wilson, Esquire  
Chas Nicholson, Investigator  
Gerald Wingard, Investigator  
Richard Simmons, Esquire  
Rion Alvey, Office of Investigation & Enforcement

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:**

Chairman Joe Chandler called the meeting to order at 10:02 A.M with a quorum of members present.

Mr. Chandler 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, 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 Kingstree Building where the board office is located.

**Vote on Absent Board Members:**

Mr. Caswell had asked to be excused due to some medical tests he had scheduled.

**Motion:** Ms. Lineberger moved to approve the absence of Louis Caswell due to his having some medical tests scheduled. The motion was seconded and passed.

**Approval of Agenda:**

Mr. Chandler asked if there were any changes to the Agenda. Dan Lehman asked to add a discussion of the investigation process to the agenda under New Business.

**Motion:** Mr. Neely moved to approve the addition to the agenda. The motion was seconded and passed.

**Approval of Board Minutes for January 19, 2006:**

The minutes of January 19, 2006, were reviewed and the following motion was made.

**Motion: A motion was made by Mr. Neely to approve the Minutes of January 19, 2006, board meeting as written. The motion was seconded and passed.**

**Public Comment:**

None

**Chairman's Remarks:**

**Mr. Chandler announced that Kim Lineberger, Concrete/Asphalt Paving member of the board, had been re-appointed to a new board term expiring 12/31/2010.**

**Administrator's Remarks:**

- 1) Mr. Galloway reported on the legislation sponsored by Senator Thomas dealing with contractors taking money and walking off the job and changing some definitions in the General and Mechanical Contractors Act. He commented that no one is pushing it, so it won't probably pass this year being the second year of the legislative session.
- 2) Kent Lesesne, Esquire, has been appointed by LLR's General Counsel, Lynn Rogers, Esquire, to serve as the board's prosecuting attorney to replace Geoffrey Bonham, who is on medical leave. He will begin when finished with his caseload for the Residential Builders Commission. Outside Counsel, Richard Simmons, will continue until Mr. Lesesne is able to take on the board's caseload.

**Unfinished Business:**

None

**New Business:**

- (1) Appeal of citation for Case # 2005-42 for roofing work performed by Mike Riley, Specialty Contractor under the Residential Builders Commission.

Mr. Riley had performed commercial work on a roofing job and was fined \$500.00 . Mr. Simmons stated that there had been a service error on the address where the notice was mailed. However, Ms. Thurber was called to testify as to her contact by phone with Mr. Riley on or about March 18 or 19, 2006. Mr. Riley was told when and where the board meeting was scheduled for him to appear, and he was adamant about appearing. Ms. Thurber also called Mr. Riley's residence prior to the meeting on April 20, 2006, to confirm he was coming to the meeting and spoke with a woman. Ms. Thurber testified that Mr. Riley could be heard speaking to the woman in the background and stated that he was not coming to appear before the board. Upon advice from the board's legal counsel, Rick Wilson, a motion was made.

**Motion: Mr. Walker moved to dispose of the matter since Mike Riley did not appear to protest the Citation (2005-0042) issued to him for unlicensed practice. The motion was seconded and passed.**

- (2) Review of experience for licensure for a building license classification from Marcella A. Sumter. Ms. Sumter submitted her work experience dating back to 1993. Mr. Neely had reviewed the experience and presented it to the Board. Ms. Sumter was on active duty in the U.S. Air Force from 1992 – 1996 at McEntire ANG Base and constructed facilities such as an Air Traffic Control Tower,

main gate visitors center, dining and medical facilities. She also received her Civil Engineering degree at the University of South Carolina in 1998 and worked for the S.C. Air National Guard , Civil Engineering Squadron as a construction manager and is currently working for Gregory Electric Company, Inc. Most of her work has been on Federal government property which is exempted from licensure in South Carolina pursuant to 40-11-360(A)(3).

Following a few questions from the board members, a motion was made.

**Motion: Mr. Neely made a recommendation that the board accept the experience of Marcella A. Sumter as meeting the two year requirement toward licensure. The motion was seconded and passed.**

(3) Review of the financial statement for JAAAT Technical Services, LLC, Chester, Virginia. Rick Wilson presented a letter of request from Rick Barnhill, Financial Administrator, JAAAT Technical Services, LLC. Mr. Eddie Cummings, Operations Manager, appeared before the board to request a review of the entity's financial statement to get into compliance with the South Carolina licensing laws group limitation. Mr. Cummings explained that they had entered into a time and materials contract that included taking over an electrical job where the previous electrical contractor had been kicked off the job. When originally applying for the license March 23, 2006, as an unlimited electrical contractor, a reviewed financial statement was sent instead of an audited financial statement. It went unnoticed that a Group 4 (\$125,000 project limit) was given until they entered into a contract with League Academy in Greenville, South Carolina, where because of unforeseen circumstances on the job, the project would exceed the Group 4 limitation. Mr. Cummings said that it would take about six weeks to get an audited financial from their CPA. So in the essence of time, they asked the board to accept another method of approving their financial statement as provided in the statute per Section 40-11-260 (C).

The company submitted a letter from Gregory Associates, PLLC, Certified Public Accountants, stating that they had analyzed the financial information as of December 31, 2005 and concluded that the company's net worth was in excess of \$100,000. The last audited statement was completed three years ago, and it would take at least 6 weeks to get another. JAAAT Technical Services, LLC, also submitted a balance sheet as of December 31, 2005 showing a net worth of \$897,982.52. They asked for the consideration of the board in this matter to raise their group limitation to an unlimited Group 5. Following a discussion and questions from the members, a motion was made.

**Motion: Dan Lehman made a motion to allow JAAAT Technical Services, LLC, to complete the current project with the school and approve an upgrade to a Group 5 (unlimited), contingent upon receipt of an audited financial statement to be received within twelve (12) weeks. If an audited financial statement is not received within that stipulated time, it will be a violation and appropriate disciplinary action will be pursued. The motion was seconded and passed.**

(4) Request for licensure by Bernard Fripp.

Mr. Galloway stated that Mr. Fripp had called and requested that he be allowed to appear before the board at the next board meeting in July, due to a family emergency that had arisen.

**Motion: Ms. Lineberger moved to postpone review of Bernard Fripp's request for licensure until the July 20, 2006, board meeting. The motion was seconded and passed.**

(5) Request for licensure by William DeTorre.

Mr. Galloway reported that Mr. DeTorre had called and requested that he be allowed to appear before the board at the next board meeting due to his daughter is getting married.

**Motion: Mr. Walker moved to postpone review of William DeTorre's request for licensure until the July 20, 2006, board meeting. The motion was seconded and passed.**

(6) Approval of IRC recommendations for the January 12, February 2, and March 2, 2006.

Following a review of the January, February and March 2006, reports, Mr. Lehman commented that there are no contractors' names on the reports and based on the current format, not enough detail is given the board to be able to monitor individual industries and what violations are going on in them to make proper decisions and protect the public. He felt the Board members were being kept in the dark on many issues. Mr. Walker stated that Lynn Rogers, General Counsel, had agreed to allow the names of the contractors to be listed on the Consent Agreement and Citation sections of the reports. The reports reflected that information on the IRC reports for a month or two and then reverted back to the current format, which he felt was unsatisfactory.

Rion Alvey, Assistant Deputy Director of Legal Services, was present to comment. Mr. Alvey stated he had assumed his duties with Legal Services in July 2005, and was also the Administrator of the Dental Board. He had no knowledge of that previous decision. Board advice counsel, Rick Wilson, discussed the legal ramifications of giving too much information to the Board since they are the disciplinary body and such information might taint them in future deliberations. Mr. Alvey discussed the composition of the Investigative Review Committee (IRC) and recommended that a board member be appointed to the IRC Committee to report back to the full Board on the details of the allowed cases. Mr. Alvey agreed to instruct the staff to revise the format of the report to include names of the Respondents on the Consent Agreement and Citation sections. However, no names would be included on sections listing dismissed cases nor on cases recommended for hearings. He also stated that a new position, similar to a Clerk of Court, was being created to better handle monitoring of cases, deadlines, etc.

**Motion: Mr. Walker moved that no action will be taken on the IRC reports of January, February or March 2006, until the format is corrected and names are given on the Consent Agreements and Citations as promised. The motion was seconded by Mr. Lehman and passed.**

A telephone conference call could be scheduled to approve the reports following their reformatting and review. It was decided that a duty roster of board members would be prepared by the staff program coordinator and would be sent to all members for approval with a schedule of approved IRC meeting dates.

Other issues of concern regarding the procedures of the Office of Investigation and Enforcement (OIE) were discussed as follows:

1. request for monthly reports of investigations showing the number of complaints, backlog and status;
2. as OIE becomes more efficient, additional workload is being placed on the Office of General Counsel to prosecute cases, and they are struggling to handle it with the current caseload;
3. importance of prioritizing and acting on violations for unlicensed practice and issuing Cease and Desist Orders in a timely manner ahead of other complaints, not just as each is received; and
4. IRC and Hearing scheduling procedures.

Mr. Lehman also expressed concern regarding the service of the Notice of Hearing and Complaint to the Respondent in a more timely manner. Service errors are causing cases to be continued and even to be re-heard. He suggested closer attention be paid to the necessary time frames regarding these issues in order to avoid service errors in the future.

On the licensing side, there was a concern about renewals not being done in a timely manner and county permitting offices being told to accept the expired license for an additional period of time, if they have turned in their renewal. Some contractors may have not turned in their renewals but are continuing to work illegally. Counties nor contractors can check the renewal application status during this renewal time. Mr. Galloway commented that the Licensing Section is no longer under his supervision, and added that there is a shortage of staff to do the work during renewal periods.

(7) Discussion of licensure for asphalt paving of recreational surfaces/Kim Lineberger.

Ms. Lineberger presented an issue of concern regarding not requiring licensing of regulated areas involved in any recreational surface project. The Contractors' Board policy of 1976 has been to require no license when questions arise regarding the licensure of recreational surfaces. The problem is that recreational surfacing, which is a coating, may also include the new construction of other regulated areas of work such as grading, storm drainage and paving of asphalt athletic tracks and tennis courts, etc. Some of these projects are million dollar projects. Following a discussion, a motion was made.

**Motion: Ms. Lineberger moved to withdraw the previous policy that excluded recreational surfaces from the definition of asphalt paving . The motion was seconded and passed.**

Mr. Galloway was asked to work with Ms. Lineberger to draft a new policy and present it to the board for approval at the July meeting.

**Old Business: None**

The next regularly scheduled board meeting will be held on Thursday, July 20, 2006, at 10:00 A.M. in Room 201-03, Kingstree Building in the Synergy Office Park, 110 Centerview Drive, Columbia, South Carolina.

There being no further business, the meeting was adjourned at 12:43 P.M.

Respectfully submitted,

---

Ronald E. Galloway, Administrator