

APPEARANCES:

Board Members:

Bill Neely
Lewis M. Caswell
Kimberly Lineberger, Chairperson
Mark G. Plyler
Frank Walker
Wendi Nance
Dean Grigg, Advice Attorney

Also Present:

Gary Wiggins
Jennie Meade

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MS. LINEBERGER: Having determined that a quorum of the Members is present, I call the meeting of the South Carolina Licensing Board to Order. The Notice and agenda for the July 21st, 2011 meeting of the South Carolina Contractor's Licensing Board were posted in accordance with Section 30-4-80 of the South Carolina Code of Laws, 1976 as amended relating to the Freedom of Information Act. If you will look under -- the first tab is our agenda. We will look at the agenda and need a Motion for approval or any changes that might be necessary.

MR. WALKER: Madam Chair, I'd like to add discussion about NASCLA on the remarks.

MS. LINEBERGER: Okay. Are there any other changes?

MR. PLYLER: For the whole agenda?

MS. LINEBERGER: Yes.

MR. PLYLER: I'd like to make a Motion to modify the agenda. The Licensing Report and the Examination Pass/Fail report are not being discussed today.

MS. LINEBERGER: Are there any further Motions or changes?
(Whereupon, a vote was taken and the Motions were passed unanimously)

MS. LINEBERGER: Okay. Moving on down to the Approval or Disapproval of the absent Members, Dan called me this week, and he is actually on vacation. So, he is not going to be here. So, if we have a Motion?

MR. CASWELL: I move we approved this absence.

MS. NANCE: I second.

(Whereupon, a vote was taken and the Motion was passed unanimously)

MS. LINEBERGER: Okay. If you will, review the minutes from the April 21st meeting. Is there a Motion for approval of the minutes?

MR. CASWELL: I so move, Madam Chair.

MS. LINEBERGER: Is there a second?

MR. NEELY: Second.

(Whereupon, a vote was taken and the Motion was passed unanimously)

MS. LINEBERGER: Under Item Number Five, just to let everybody know that the NASCLA meeting is in Savannah this year.

Frank, do you have the dates of that meeting?

MR. WALKER: I think it is the 23rd and the 26th. I had the information on my desk to bring, and I -- the deadline for registration is tomorrow, the close of business tomorrow. I assume that Monday will be okay, but I would like to attend, but I don't know if that is allowed in the ---

MR. WIGGINS: Madam Chair, I asked Jennie to get that flyer that came in. It was supposed to be in the agenda as an FYI. She didn't have that flyer available. So, we will have that in a few minutes.

MS. LINEBERGER: And how - last year we had how many go, or we could send how many people? I think -- I know I went.

MS. NANCE: I think it was because it was local. It was closer. I think they offered it. For some reason I think everyone was offered an opportunity to go. I'm not sure.

MR. WIGGINS: That is correct. As long as there is money in the budget that all members can attend, whoever wants to go.

MS. LINEBERGER: Okay. Is there anybody else that would like to attend that?

MS. NANCE: That's the 23rd and the 26th, right? Yeah. I'd like to go.

MR. WALKER: We will wait until Jennie gets here, but that's what is in my memory that's what it was.

MS. LINEBERGER: Is that of August?

MS. NANCE: Yes.

MS. LINEBERGER: Okay. She will bring the flyer in, and then we will get everybody signed up.

Moving onto the remarks. Gary, do you have an update for us on the Administrator's position?

MR. WIGGINS: The Administrator position is still a process. I'm not part of that, because I'm not the actual Administrator for that program. So, consequently, Mr. Ido has given me as much information as he can. There were several candidates that were being considered, but to my knowledge at this point two offers have been made and both were turned down, and that's the latest. I got that as early as this morning.

MS. LINEBERGER: And the status of the financial statement changes?

MR. WIGGINS: The status of the financial statement, if you recall we had a piece of legislation that was dropped in the hopper early this Legislative Session, and it would have changed the financial statement required for all of the classifications that went to the LCI Committee and the Senate, and it was assigned to the subcommittee, but it had not moved out of subcommittee. So, it is just sitting there. We have one more Legislative Term to complete the cycle. So, it is still there. We get one more Legislative Cycle after that, which will be this time next year, and if the Bill is not out of the House and Senate by then it is a dead issue.

MS. LINEBERGER: Yes, Frank?

MR. WALKER: I might have had my head in the sand. I don't recall reading the proposed changes.

MS. LINEBERGER: Can you ---

MR. CASWELL: I can address that if you'd like. Yeah, we went to a hearing, a subcommittee hearing, and opposed the changes, and I'm talking about myself and two other mechanical contractors, and as I understood it, I know Gary is right. It could still come back up, but it was certainly dead for that session, and I would just like to say that, Gary, we would -- obviously this Board would want to know if there is another hearing to be held on it any time between now and the end of the second session.

MR. WIGGINS: Well, this was a -- this was a Bill that was sponsored by Senator Burton. I'm not sure where it came from. As a matter of fact, I have asked, and that question has not been answered. So, it did not come from this Board. It was not anything that was deliberated by the Board itself. So, it came from an outside source.

MR. CASWELL: That's right.

MS. LINEBERGER: And it came up really quick. It was one of those emails and then the hearing was two days later.

MR. CASWELL: Exactly.

MR. WIGGINS: That's right.

MS. LINEBERGER: So, it was like -- happened that quick. Do we have a list of Board Representatives for the IRC Meetings?

MR. WIGGINS: This has been a hard issue now for several months. The Boards are supposed to have an outside representative, a representative from the industry that is actually representing not the Board, but the interest of the industry itself on the IRC. The IRC is where we have the -- all of the information is collected by the investigators, and any one of the complaints that are issued and brought back prior to them coming to the Board, and the recommendations from the IRC are brought back to

the Board itself. Right now we have one Board Member, and it is a rotating situation as you know, that attends the IRC, but it is not a comfortable situation to be in because of the fact that we have to have a - that Board Member recuse himself or herself anytime that issue comes before the full Board itself, and the Board and Staff is just too close to the issues to actually sit on that committee and have any type of nonproprietary nature. So, consequently they are being asked, all Boards in LLR are being asked, to have a industry representative on the IRC. Right now the Contractor's is only one of three Boards that do not. All the others have complied. So, the request is to find a member of the industry, contractor, it could be mechanical, it could be general, anybody who fits within the Licensing Board statutory provisions and appoint that person as a representative, a industry representative to the IRC. That's the question before the Board.

MS. LINEBERGER: My first question, is that something that they would be compensated for travel like a Hearing Officer or something like that? Is there compensation for that?

MR. WIGGINS: I would have to check into that. The Building Codes Council Manufactured Housing Board are not compensated, but they were told up front that they would not be compensated. I would need to check and see if any other Boards are compensated, because I'm not familiar with those.

MS. NANCE: How long have the other Boards been operating with an industry representative?

MR. WIGGINS: Some of them go back eight, nine years.

MS. NANCE: Really?

MR. WIGGINS: Yeah, the Building Codes Council goes back at least four years, Residential Builders Commission about four or five years.

MS. LINEBERGER: And I think as a Board we wanted to continue having Board Members there.

MR. WALKER: I thought you spoke with the Administrator.

MS. LINEBERGER: Right, and I did talk to Catherine, and she said if that was the feel of the Board then that would be fine.

MR. WIGGINS: Okay. I can only pass on the information that we get from Catherine's office.

MR. CASWELL: Madam Chair, let me just ask a question. We had the meeting where we tried to establish some kind of standard parameters. Has that gone anywhere? Has that been adopted?

MS. LINEBERGER: Actually, it is setting with Jamie Saxon and Dean. Did you see their last email concerning that?

MR. CASWELL: Well, I might have, but I have short term memory problems.

MS. LINEBERGER: On the IRC we're trying to establish some parameters.

MR. GRIGG: Parameters.

MS. LINEBERGER: And got the email back that maybe we didn't want to put that in writing as policy.

MR. GRIGG: And we can probably spend a little time maybe in Executive Session as to the details about that.

MS. LINEBERGER: Okay.

MR. GRIGG: But there are some concerns that arise with putting something in writing. Obviously, you know, it may become subject to things. So, that was the reason for Jamie's response to that effect, but maybe we should spend some time in Executive Session discussing it.

MR. CASWELL: I would like to do that.

MS. LINEBERGER: Do we have a Motion to go into Executive Session?

MS. NANCE: So moved.

MS. LINEBERGER: Is there a second?

MR. CASWELL: Second.

(Whereupon, a vote was taken and the Motion was passed unanimously to go into Executive Session)

MS. LINEBERGER: Do we have a Motion to come out of Executive Session?

MR. NEELY: So moved.

MR. CASWELL: Second.

(Whereupon, a vote was taken and the Motion to come out of Executive Session was passed unanimously)

MS. LINEBERGER: Gary, back to the Board Representatives, do we have a list of who has signed up currently as far as Board Members?

MR. WIGGINS: No, we have no list.

MS. LINEBERGER: Okay.

MR. WIGGINS: This is -- for this Board it has been bounced around a time or two, but we've never put out a request, because the Board always elected to do it from its membership.

MS. LINEBERGER: Right, and that's what I understand. Let me ask you this, on the other Boards for the industry representative, is it the same person every month, or is it rotating representatives, say somebody from each one of our classifications, or how is that done everywhere else?

MR. WIGGINS: That really is up to the Board.

MS. LINEBERGER: Okay.

MR. WIGGINS: The Building Codes Council appointed one individual, and that person has been there for five years, but then again the IRC meetings, you know, they are not all that frequent. So, consequently, one person until they

get burned out is more than willing to serve. Now, it could be done, the Board simply ---

MR. CASWELL: Excuse me. I think the question is, do we have a roster of Board Members who have signed up for the next few months for the IRC?

MR. WIGGINS: Actually, we do, and we looked for that prior to the last ---

MR. CASWELL: Yeah. Joyce sent that out, and we had responses to it I know. I just don't know where it is.

MR. WIGGINS: Yeah, part of the problem that we are having right now is recovering all the files that Joyce had on the computer, because we cannot go into her computer. It's got to be done by our IT person, and they have moved a number of files to Tracy's computer, but we don't believe that we have them all. So, currently that information is -- we're going to try again through IT to be able to get them to isolate all of Joyce's file and move them to a single folder so that we can go through them and pull that information out.

MS. LINEBERGER: Moving on to the Office of Investigation and Enforcement Report. Mr. Freshley?

MR. FRESHLEY: Good morning again, Madam and Board Members. When I spoke to you April the 20th we had eighty-six cases. The oldest was four fifty-four. The newest was six. Here three months later as of yesterday, we've got seventy active cases. The oldest is four hundred and fifty and the newest is one. There are a couple of cases that's very old, and it's really not anything we can do. They are waiting on Citation Appeals and such. Unfortunately going back to Joyce, I think when Joyce left, scheduling some of these things the train got off the tracks a little bit. I spoke to Tracy Gunter last week about some of these Citation Appeals, trying to get them back before the Board. Most of our cases are less than six months old. The next IRC is August the 4th.

MS. LINEBERGER: Thank you. Any questions? Thank you, Mr. Freshley.

MR. FRESHLEY: Yes, ma'am.

MS. LINEBERGER: Office of General Counsel report, Ms. Bell?

MS. BELL: Good morning. The Office of General Counsel, I'll pass these around, this report. There are thirty-three open cases pending at this time. Eight of them are pending action meaning that there needs to be some action taken on those. Five are pending Consent Agreements. Ten are actually pending Evidentiary Hearings. Seven are pending Final Order Hearings, and I anticipate that probably at your next meeting those will probably be -- those seven will be presented at that time, and then two are actually pending Final Orders. Since your last Board Meeting fourteen cases have been closed since April, and

since January of last year seventy-nine cases have been closed, and there is one on appeal. If you have any questions, I'd be glad to entertain them.

MS. LINEBERGER: Any questions? Thank you.

MS. BELL: Thank you.

MR. WALKER: Are we hearing any Final Order Hearing today?

MS. LINEBERGER: No, sir.

MS. BELL: It may be that the transcripts weren't ready yet. Sometimes that's what happens.

MS. LINEBERGER: Is there any further remarks? Anybody have anything? And if there is no old business, we will move right into the new business. The IRC Recommendations for May, June and July under Tab A. If you will, take a look at May, and do we know who the Board Representative was in May?

MR. WALKER: Maybe we should button ---

MR. GRIGG: I think in light of what has been going on, yeah.

MR. CASWELL: Madam Chair, I move to approve May IRC.

MS. LINEBERGER: Is there a second?

MS. NANCE: I second.

(Whereupon, a vote was taken and the Motion was passed unanimously)

MS. LINEBERGER: Taking a look at June IRC, who was the Board Representative for June? Do we know if we had a Board Representative at the June IRC?

MR. FRESHLEY: It's hard to forget, because I'm -- it's easy to forget. It's hard to remember, because I'm getting old and feeble, but I don't think there was a Board Representative at June and July. I know there wasn't one in July. I don't think there was one in June.

MS. LINEBERGER: Thank you. Is there a Motion concerning the June IRC?

MS. NANCE: So moved.

MS. LINEBERGER: Is there a second?

MR. PLYLER: I second.

(Whereupon, a vote was taken and the Motion was passed unanimously)

MS. LINEBERGER: Okay, reviewing July 12th IRC recommendations. I have a question. On the letter of cautions, all those letter of cautions that were issued for unlicensed practice, who would answer that question? Yes, Steve, can you answer that?

MR. FRESHLEY: The July IRC?

MS. LINEBERGER: Yes.

MR. FRESHLEY: Without going into too much detail, it was a burglar alarm case where an unlicensed company who had applied but was not yet licensed had sent a bunch of youngsters into a neighborhood into Columbia, and the IRC wanted to discipline the firm, but decided to issue letters of caution to the foot

soldiers, the people who weren't registered agents. That's why you had that little string of -- and if you will notice, the Case Numbers are pretty much together.

MS. LINEBERGER: That was what brought it up.

MR. FRESHLEY: Yes, ma'am.

MS. LINEBERGER: It was so many of them. So, those were actually issued to the people going out?

MR. FRESHLEY: The door knockers. Apparently, the alarm company had solicited these kids, well not kids, I think they were early twenties maybe, but apparently they didn't know, and the firm did not advise them they needed to be registered agents, and I think if you look at citations, one of the Case Numbers should be fairly close to that string of LOC's. Now, not all of the LOC's were that, but that's the overwhelming majority of them. I think what -- I think the logic of the IRC was we will get the firm and caution the door knockers.

MS. LINEBERGER: And did we do that? Is the alarm company licensed now?

MR. FRESHLEY: I think so. They were in the process, but still at the time it was unlicensed practice.

MS. LINEBERGER: I guess my concern is like we've been talking before, you look at the page before, citations you've got unlicensed practice Citation 500, Citation 500, 500, and then you flip the page, and you've got the same violation, and you've got a letter of caution.

MR. FRESHLEY: Right. I think those letters of caution are for the unlicensed practice letters of caution. I can't remember now, but I think it should be -- there's probably a letter of caution or two that's not unlicensed practice, but the unlicensed practice LOC's were the door knockers. The majority of the Citation unlicensed practice cases were -- we had a string of allegations concerning unlicensed practice in marine construction, and I think the majority of those cases were that. They were opened around March or so. I think the difference is, the marine contractors were actual entities that there were some residential builders. There was a -- you know, or just never got a license and were actually doing marine construction.

MS. LINEBERGER: Are there any other questions? Is there a Motion concerning the July 12th IRC Recommendations?

MR. CASWELL: Move for approval.

MS. LINEBERGER: Is there a second?

MR. PLYLER: Second.

(Whereupon, a vote was taken and the Motion was passed unanimously)

MS. LINEBERGER: Moving on to Tab B, number of Mechanical Contractors with a Group IV Limitation. Are you familiar with that Lewis?

MR. CASWELL: I'm trying to figure our why we asked that. It might have been related to that Bill, because I believe that Bill affected the four level primarily.

MS. LINEBERGER: Is that right, Gary?

MR. WIGGINS: I have a copy of the Bill.

MS. LINEBERGER: So, it would only be four groups. I think we are just wondering how many that would affect, like you said.

MR. CASWELL: Question answered.

(Whereupon, an Application Hearing was heard in the Matter of Ronald Cooley A Motion by Mr. Walker and a Second by Mr. Neely to deny. A transcript will be provided upon Request)

(Whereupon, the Meeting was adjourned at 11:30 a.m)