

**S.C. Department of Labor, Licensing and Regulation  
Contractors' Licensing Board Quarterly Meeting  
110 Centerview Drive, Room 111, Columbia, S.C.**

Minutes of the July 21, 2005, Quarterly Board Meeting

**BOARD MEMBERS PRESENT**

Joe Chandler, Chairman  
Frank Walker  
Daniel B. Lehman  
Mark Plyler  
Kim Lineberger, Vice Chairman  
Lewis Caswell  
Bill Neely

**ABSENT MEMBER:**

Wendi Nance

**OTHERS PRESENT:**

Rick Wilson, Board Advice Attorney  
Geoffrey Bonham, Staff Attorney  
Shirley Robinson,

**BOARD STAFF PRESENT**

Ron Galloway, Administrator  
Joyce Thurber, Program Coordinator  
Andrew Dempsey, Investigator  
Stan Bowen, Investigator

**OTHERS PRESENT:**

Mike Hendrix, Association of General Contractors  
Curtis Boon, Weldon Construction  
Hank Moseley, American Metal Buildings  
Mike Berrian

Where action is recorded below, it is taken in each case on motion duly made, seconded and carried unanimously unless indicated otherwise.

**Call to Order:**

Chairman Joe Chandler called the meeting to order at 10:07 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 Member:**

**Motion: Frank Walker moved that Wendi Nance be excused from the meeting due to an emergency meeting called by employer, President of the University of South Carolina, but ask Ms. Nance if her new position will affect her participation with the Board. Ms. Nance had recently accepted a new position in the University's National and Corporate Development Division. The motion was seconded and passed.**

**Approval of Agenda:**

Mr. Chandler asked if there were any changes to the Agenda.

**Motion: A motion was made by Mr. Caswell to approve the Agenda as written. The motion was seconded and passed.**

**Approval of April 21, 2005 Board Minutes:**

The minutes of the April 21, 2005, meeting were previously sent to the board members for review.

Mr. Lehman commented that on page 8, the date of the next meeting should read July 21, 2005, instead of October 20, 2005.

**Motion: A motion was made by Ms. Lineberger to approve the minutes of April 21, 2005 as amended. The motion was seconded and passed.**

**Chairman's Remarks:**

Mr. Chandler reported on some correspondence that he received from former board member, Jim Tharp, involving a public school job that McCrory Construction bid on in Lexington County. They were second bidder by approximately \$1 million dollars. The school board allowed the low bidder to raise his price to just under McCrory's bid because he left out the roofing. This wouldn't have been a problem if the job had been re-bid. However, the low bidder shouldn't be allowed to get the low bid and add to his bid part of a project omitted, and then raise the bid just below the next responsive bidder. Mr. Chandler thought this a disturbing procurement action. The case did go to the State Supreme Court, which ruled that this was within the discretion of the school board and did not affect fair competition.

Following a discussion, the board felt the decision unfair, but decided not to pursue the matter further.

**Public Comments: None**

**Administrator's Remarks:**

Mr. Galloway stated that the National Association of State Contractor's Licensing Agencies (NASCLA) Annual Meeting would be held in Salt Lake City, Utah, September 27 – 30, 2005. Joe Chandler and Kim Lineberger will attend for the Board and report on any important issues or actions taken.

The Fire Sprinkler Association pushed for the new Fire Sprinkler legislation to be passed. It passed June 11, 2005, of this legislative session, even though the governor had vetoed it. A synopsis of the new law was given to the board members to review the significant changes. The legislation was moved to Title 40, Chapter 10. The enforcement pertaining to licensure of Act #177 will begin January 2, 2006. A new board member will be added to the Board in the fire sprinkler discipline after January 2, 2006. These changes will be mailed to all fire sprinkler licensees and will be focused in the August newsletter.

Newsletters will no longer be printed, but will be posted on the Contractors' Board web site. A link under publications is provided on the web page so that when a name and e-mail address is entered, they will be notified of the next available posting of a newsletter on the Contractors' web site. Mr. Galloway will enter all the e-mail addresses for the board members to receive notification of the next newsletter when posted.

The Boiler Safety Act legislation ( Title 41, Chapter 14) also passed this legislative session as of June 14, 2005, and will be under the administration of the Department of Labor, Licensing and Regulation to be implemented January 2, 2006. Mr. Galloway discussed the exemptions in the law and stated that the board will primarily be a filing cabinet for boiler inspection reports. However, the Board will enforce any violations of certified special inspectors.

Mr. Galloway reported the following changes in the Office of Investigation and Enforcement affecting the work of the Board: Stan Bowen has transferred back to the Contractors' Licensing Board as an investigator; Andy Dempsey will continue investigating cases for the Board; and Chas Nicholson retired June 28, 2005, but will work part-time as a temporary employee to help the Board and Building Codes Council as needed.

**New Business:**

(1) Approval of IRC Recommendations for April 7, 2005, May 11, 2005, and June 2, 2005. Following a review and discussion of the IRC Recommendations, a motion was made.

**Motion: Mr. Caswell made a motion to approve the IRC Recommendation Reports of April 7, 2005, May 11, 2005 and June 2, 2005. The motion was seconded and passed.**

2) Mr. Galloway presented a change in the policy regarding Consumer Complaints for commercial work and the time frames after construction that certain types of work will be investigated. The structural time frame was changed from ten to eight years based upon a change in State statute.

**Motion: Mr. Caswell moved for approval that the time frame be changed from ten to eight years that a complaint will be investigated after construction for the classifications of bridges and structural framing, and for major structural damage deficiencies occurring as a result of substandard work, and for life safety hazards. The motion was seconded and passed.**

3) Henry (Hank) Moseley, Jr., appeared before the board to request that the license of American Metal Buildings be reinstated after being revoked by the board on April 26, 2003. He had contacted the complainants involved in the three outstanding complaints (V02/03-36, C02/03-12 and C02/03-2) on his record and had offered them a payment plan to resolve issues. A letter was received from Theresa and James Snyder, one of the complainants, requesting that the board not reinstate Mr. Moseley's license because he had not once in three years tried to resolve the complaint. After receiving Mr. Moseley's comments, a motion was made.

**Motion: Mr. Walker moved that all outstanding complaints must be completely cleared before coming back before the board. Liens and judgments must be checked and his record must be clean before allowing reinstatement. The motion was seconded and passed.**

4) Request for Approval of Experience for a Building License/Jim Selmensburger.  
Mr. Selmensburger wrote a letter requesting a review of his experience, but did not appear to present his experience.

5) Request for Approval of Experience for a Water & Sewer Line License/Mike Berrain.  
Mr. Berrain appeared before the board and explained that he had sixteen years of experience in the water and sewer line field when employed by the City of Columbia, but prior to the last five years as required for licensure. He wants to start his own business and become a licensed contractor. Mr. Caswell asked him to provide specific projects done by city employees.

**Motion: Ms. Lineberger moved to allow Mr. Berrain to sit for the water and sewer lines exam when he supplies the additional requested information. The motion was seconded and passed.**

6) Approval of Jim Tharp to be a hearing officer/ Ron Galloway.  
Mr. Galloway explained that the department will only allow board members and former board members to be hearing officers at this time. Too, there may be times when the board member with the required expertise for a case would not be available. Mr. Tharp as a building general contractor has a wide range of experience that would be invaluable to the board as a hearing officer. Others already approved are department board administrators in related fields. Thus, their service may appear to be a conflict of interest.

**Motion: Mr. Walker moved to approve Jim Tharp of McCrory Construction and former board member, to be a hearing officer for the board panel hearings. The motion was seconded and passed.**

7) Vote to Administer Business Management and Law Exam and Consideration for Waivers for the Exam/ Ron Galloway.  
All commercial contractors are required to take and pass a Business Management and Law Exam (BM&L) in addition to the technical exam for licensure. The purpose of the BM&L exam is to determine if a person knows how to run a business. The Residential Builders

Commission requires the same basic examination. However, there are licensed residential builders who have been in business many years who decide to get the commercial license, but have never taken the BM&L exam. Mr. Galloway asked the board if they would waive the BM&L exam if the residential builders had two or more years experience.

Mr. Walker thought that an item should be added to the policy stating that an applicant is also required to take the S.C. Code of Laws exam on Title 40, Chapter 11, for commercial contractors, when coming from another state that has a written reciprocity agreement with South Carolina.

**A motion was made by Mr. Caswell to approve the Business Management & Law policy with the deletion of item # 2, which stated that a waiver may be granted to a S.C. residential licensed applicant that is licensed for a period of two years or more with the South Carolina Residential Builders' Commission. The motion was seconded and passed.**

#### **Old Business:**

- (1) Rick Wilson asked the board to give the department the authority to cancel a license upon departure of the qualifying party and following the ninety day grace period allowed for rehiring a qualifying party. After a brief discussion, a motion was made.

**Motion: Mr. Caswell made a motion for the board to establish a policy giving the Contractors' Licensing Board staff authority to cancel a license after a ninety (90) day grace period when the qualifying party leaves and no other qualifying party is added. The motion was seconded and passed**

#### **Vote on the Panel Hearing Officer Recommendations :**

- (1) C-03/04-126 Carolyn Watson, Complainant vs Weldon Construction and Curtis Boone, Qualifying Party, G-13363.

At the Final Order Hearing the State was represented by Geoffrey Bonham, Esquire, assistant general counsel. The Respondent, Curtis Boone of Weldon Construction, was present and represented himself with no legal counsel. Mr. Baron Stanton, Esquire is no longer representing the Respondent. Dan Lehman served as the hearing officer and recused himself from the board decision on the recommendation. Testifying on behalf of the State were Complainant, Carolyn Watson and Board Investigator, Chas Nicholson. Mr. Boone testified on his own behalf and also testifying on behalf of the Respondent was the retired inspector for the City of Columbia, Donnie Phipps.

Mr. Bonham presented the Hearing Officer's Report and Recommendation from the panel hearing held on January 27, 2005. The charges stemmed from work done by a plumbing contractor hired in October of 2000, to repair a plumbing leak in the second floor bathroom of a residence at 516 Congaree Avenue, Columbia, South Carolina. The plumbing contractor had opened the ceiling of the first floor dining room and cut a triple joist and a single joist to access the piping. Subsequently, the Respondent contracted with the homeowner to repair the ceiling and the joists. The repair was made. However on or about January 7, 2004, the homeowner noticed a wet spot in the ceiling of the first floor dining room. The plumber was called and opened the ceiling again and determined that the wet spot had allegedly been caused by defective repair of the joists rather than by defective plumbing. The Respondent was notified.

The Respondent asserted in a letter February 18, 2004, that he performed a temporary fix to prevent any settling because the homeowner allegedly informed him that she would be remodeling the residence in about a year from the date of the repair. The Respondent had recommended a replacement of the entire ceiling but the homeowner had declined that option on the basis of cost. Since the Complainant and Respondent were unable to agree on this matter, the homeowner filed a complaint with the department on March 11, 2004.

On March 23, 2004, Investigator Chas Nicholson inspected the residence and determined (1) that the Respondent failed to obtain a building permit for the work performed, and (2) the Respondent failed to tightly draw up the lag bolt heads with the lintels. The lag bolts should have engaged all of the joists and should have been tightened with the bolt heads secure against the surface of the lintels.

The Hearing Officer's recommended the following sanctions in this matter:

1. The Respondent be ordered to pay the cost of the Board's investigation and the cost of the Hearing held on January 27, 2005;
2. The Respondent be required to pay a \$500 fine for failure to obtain a building permit; and that
3. The Respondent be required to pay a civil penalty of \$2,000.

The Respondent testified that he had learned a lesson regarding communication with the homeowner and regarding the work he had performed. He requested clemency and asked for a reduction of the fines assessed.

**Mr. Caswell made a motion to go into Executive Session to receive legal advice from legal counsel. The motion was seconded and passed. Ms. Lineberger moved to come out of Executive Session. The motion was seconded and passed.**

**A motion was made by Mr. Walker to accept the Hearing Officer's recommendation, but reduce the fine to \$2500 to be paid within 180 days (six months). The motion was seconded and passed.**

The hearing was adjourned.

The next regularly scheduled board meeting will be held on Thursday, October 20, 2005, at 10:00 A.M. in Room 111 of the Synergy Office Park, Kingstree Building, 110 Centerview Drive, Columbia, South Carolina. There being no further business, the board meeting was adjourned at 11.33 A.M.

Respectfully submitted,

Ronald E. Galloway, Administrator