

MINUTES
South Carolina Contractor's Licensing Board
Board Meeting
July 20, 2023, 10:00 a.m.

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10:00 a.m.

WELCOME AND CALL TO ORDER:

Daniel Lehman, Board Chairman, called the regularly scheduled meeting of the South Carolina Contractor's Licensing Board to order at 10:00 a.m.

Mr. Lehman announced that public notice of this meeting was properly posted at the Synergy Business Park, Kingstree Building and on the Agency's website, and provided to all requesting persons, organizations and news media in accordance with Section 30-4-80 of the South Carolina Freedom of Information Act.

Staff members in attendance: Maggie Smith, Program Coordinator II; Zahid Chinwalla, Administrative Coordinator; Susan Boone, Deputy Director of General Counsel; Katherine Barroll, Assistant Disciplinary Counsel; Chris Elliott, Assistant Disciplinary Counsel; Alexis Bell, Assistant Disciplinary Counsel; Alice Douglas, Paralegal; Donnell Jennings, Program Manager II, Office of Investigations and Enforcement (OIE) Maurice Smith, Investigator IV; Marcie Greene, Advice Counsel; Mary League, Advice Counsel; Katie Phillips, Office of Communications and Governmental Affairs; and Kathy Burgess, Office of Communication sand Governmental Affairs.

There were no public members in attendance.

The Court Reporter was Courtney Glover with Creel Court Reporting, Inc.

APPROVAL OF AGENDA

Motion:

Mr. Richardson made a motion to approve the July 20, 2023, agenda, with modification to have Katie Phillips speak during Item 8b. Ms. Lineberger seconded the motion, which carried unanimously.

INTRODUCTION OF BOARD MEMBERS

Mr. Lehman introduced the following board members: Legrand Richardson Jr., William Edward Gibbs, and Kimberly Lineberger.

APPROVAL OF EXCUSED ABCENCES

Ms. Lineberger made a motion to approve Mr. Appleton's excused absence. Mr. Gibbs seconded the motion, which carried unanimously.

APPROVAL OF MEETING MINUTES

Mr. Richardson made a motion to approve the April 20, 2023, Board Meeting minutes. Ms. Lineberger seconded the motion, which carried unanimously.

BOARD CHAIRMAN REMARKS – Daniel Lehman

Mr. Lehman greeted everyone.

STAFF REPORTS

Administrator's Report – Maggie Smith

Ms. Smith introduced herself to the Board, stating that she has not met with them since before the COVID-19 pandemic. Ms. Smith thanked the Board for allowing her to attend the meeting in place of Ms. Price.

Ms. Smith briefly gave an update about the renovations of the Agency's public spaces, and informed the board that they are the first ones to use the new meeting rooms.

Ms. Smith directed the Board to the 2024 board meeting calendar dates that were included in the meeting materials and asked them to contact Ms. Price if they are not available for any of the meeting dates provided. She also briefly reviewed the PSI exam and survey statistics, licensure statistics, financial report, and voluntary contributions report located in the meeting materials. She explained that Ms. Price has been working with PSI to update the roofing and swimming pool exams effected by the legislative update.

Ms. Smith informed the Board that the mechanical contractor license renewals will open on August 1, 2023, and that staff is ready to process the renewals with the financial changes that Ms. Greene will review for the Board later in the meeting. Mr. Chinwalla will e-mail the Board about their available dates to serve as a hearing officer for hearings officer hearings, if they were interested.

Ms. Smith notified everyone that the next board meeting will be held on October 19, 2023.

Legislative Update - Marcie Greene & Katie Phillips

Ms. Greene introduced herself to the Board as the new Advice Counsel for the Contractor's Licensing Board, and discussed the legislative changes to the financial limits and classifications for each group. She explained that a notice of the changes was sent to the effected licensees.

Ms. Phillips shared feedback with the Board regarding the new swimming pool license requirements from business owners following the explanation of legislative changes. She proposed a solution to the unintended and unforeseen issue arising at the permitting level, suggesting the issuance of a temporary credential for the month of August for pool licensees. The licensee would have to provide evidence of registering for the appropriate technical exam and meet the financial requirements, and the temporary pool license would be valid for sixty (60) days. The Board expressed concern that 60 days is not enough for the licensee to take and pass the swimming pool exam, and Mr. Richardson suggested a six-month temporary swimming pool license with the possibility to extend it, if needed.

Motion:

Mr. Richardson made a motion to go into Executive Session to receive legal advice about temporary licenses. Ms. Lineberger seconded the motion, which carried unanimously.

Motion:

Ms. Lineberger made a motion to come out of Executive Session. Mr. Gibbs second the motion, which carried unanimously.

It was noted for the record no votes were taken during Executive Session.

Motion:

Mr. Richardson made a motion to amend the agenda to add temporary pool licenses, stating that the new pool licensure requirement is causing exigent circumstances, which may require many firms that have been doing residential pool work to cease doing pool work, and that was not the intent of the legislature. The existing exigent circumstances relating to pool licensure necessitate adding this item to the agenda. Ms. Lineberger second the motion, which carried unanimously.

Mr. Lehman stated that the agenda was amended to add temporary licensure for pool licensure. The recommendation of temporary pool licensure, which includes a 30-day application window, will be modified to a 60-day application window. The requirements are that the licensee must pay the license fees, designate a qualifying party that is registered to take both of the required exams, provide proof that they were building pools prior to May 19, 2023, submit a work experience affidavit, and the applicant and the primary qualifying party (PQP) must attest on the application that the PQP is qualified to take the exams. The temporary license will automatically lapse after six (6) months; however, applicants may include a written request for a one time, ninety-day extension with just cause.

Mr. Richardson made a clarification that the temporary license application will be available until September 30, 2023. The applicants may apply for a temporary pool license from August 1, 2023, through September 30, 2023.

Motion:

Mr. Richardson made a motion to adopt the temporary pool license requirements as amended. Ms. Lineberger second the motion, which carried unanimously.

Ms. Phillips and Ms. Burgess left the Board meeting.

Ms. Greene continued with the legislative update. She briefly explained that the roofing and specialty roofing classifications have been combined in the Practice Act. Also, the specialty roofing classification is included under the general roofing classification statute. The surety bond forms have also been updated to reflect the adopted changes to the coverage amount for different license classifications.

Ms. Greene went on to explain that there were four changes made to the Agency's Engine Act, with the first change relating to investigations. Moving forward, the Office of Investigations and Enforcement (OIE) is required to notify the respondent when they initiate an investigation. The respondent will be provided with a copy of the complaint, to include the name of the complainant. This will be the practice unless the Board determines there is good cause to withhold the complainant's name, and the Board would have to determine that on a case-by-case basis. The Board may designate a member to make this decision on behalf of the Board.

Motion:

Mr. Richardson made a motion to designate the Chairman to evaluate confidentiality requests for complaints. Mr. Gibbs seconded the motion, which carried unanimously.

Ms. Greene continued, informing the Board of the new criteria for denying a license application based on criminal history. With this change, the Board cannot deny a license based solely on a prior criminal conviction, unless it directly relates to the licensee's duties, responsibilities, or

fitness to practice the occupation/profession. If the Board denies a license, the Board cannot use terms such as “moral turpitude” or “good character” as justification.

Lastly, Ms. Greene notified the Board of a new provision allowing apprenticeship experience be used to qualify for licensure based on the U.S. Department of Labor and Apprenticeship. This change will likely only effect qualifying parties.

Office of Investigations and Enforcement Reorganization – Donnell Jennings

Mr. Jennings introduced Ms. Susan Boone as the new Deputy Director of General Counsel. He discussed the restructuring of that department and how it will make the investigative process more efficient.

Office of Investigation and Enforcement (OIE) Report – Maurice Smith

Mr. Smith reported that from January 1, 2023, through July 19, 2023, OIE received 269 complaints related to general and mechanical contractors, with 39 active investigations and 129 closed cases.

From January 1, 2023, through July 19, 2023, OIE received 9 complaints for burglar alarm, fire alarm and fire sprinkler contractors, and closed 6 cases, with 1 active investigation.

Investigative Review Conference Report (IRC) – Maurice Smith

Mr. Smith reported that, at their meeting on June 22, 2023, the IRC recommended 9 cases for dismissal, 10 cases for formal complaint, 8 cases for formal complaints with citations, and 1 case for a letter of caution.

For burglar, fire alarm and fire sprinkler contractors, the IRC recommended 2 cases for formal complaint with citations.

Motion:

Mr. Richardson made a motion to dispose of the matters per the IRC Conference Report from June 22, 2023. Ms. Lineberger seconded the motion, which carried unanimously.

Mr. Smith left the board meeting.

Office of Disciplinary Counsel (ODC) – Chris Elliott

Mr. Elliott informed the Board that the ODC has closed more cases this fiscal year than in the previous four years. He also reported that the ODC has opened more cases this fiscal year than in the last four years.

Waiver of Final Order Hearing Report (ODC) – Chris Elliott

Mr. Elliott presented the Final Order Hearing Report to the Board and explained the new process for a waiver of final order hearing to them, requesting their approval.

Motion:

Mr. Richardson made a motion to accept the Hearing Officer Recommendation for the public reprimand, with a civil penalty of a \$1,000.00 and \$500.00 for statutory violations, for a total of \$1,500.00 to be paid within 60 days of receipt of the final order, for Case No. 2021-88. Mr. Gibbs seconded the motion which carried unanimously.

Ms. Bell, Ms. Douglas, Mr. Jennings, and Ms. Burgess left the meeting.

Changes to Section 40-11-110 – Chris Elliott

Motion:

Ms. Lineberger made a motion to go into Executive Session for legal advice related to private reprimands. Mr. Gibbs seconded the motion, which carried unanimously.

Amended Motion:

Ms. Lineberger amended her motion to go into Executive Session for legal advice with LLR staff remaining in the room. Mr. Richardson seconded the motion, which carried unanimously.

Mr. Richardson recused himself from the room as the Hearing Officer for these cases.

Motion:

Ms. Lineberger made a motion to come out of Executive Session. Mr. Gibbs seconded the motion, which carried unanimously.

It was noted for the record no votes were taken during Executive Session.

Motion:

Mr. Richardson made a motion that the Board clarifies that ODC has authority under the new section 40-11-110(K) to issue private reprimands and consent agreements with the approval of the Chairman. Ms. Lineberger seconded the motion, which carried unanimously.

The board took a 15-minute comfort break.

DISCIPLINARY HEARING - Final Order Hearing

Case No: 2022-239

Chris Elliott, Office of Disciplinary Counsel, represented the State. The Respondent was not present at the hearing. All persons testifying were sworn in by the court reporter. In accordance with Board confidentiality statutes, the hearing was closed. Mr. Richardson recused himself from the hearing.

Mr. Lehman moved to enter exhibits in the case.

Motion:

Ms. Lineberger made a motion to approve the Hearing Officer Recommendation. Mr. Gibbs seconded the motion, which carried unanimously.

If the Respondent wishes to appeal this Order, they must appeal to the Administrative Law Court within 30 days from receipt of the Order. This concluded the hearing.

Mr. Elliott left the meeting. Mr. Richardson rejoined the meeting.

APPLICATION HEARINGS

RGC Group, LLC (CLG.108072)/ Robert Gregory Chasteen (CQG.17675 PQ) – Reinstatement Application

The application for reinstatement and technical exam waiver request could not be approved at staff level, since it has been more than four consecutive years since the license has been in “Inactive”, and the respondent, Mr. Chasteen, did not take the required examination to reinstate the license. A quorum of the Board was present. All persons testifying were sworn in by the court reporter. Application hearings are recorded by a certified court reporter in the event a verbatim transcript is necessary.

Motion:

Mr. Richardson made a motion to deny the reinstatement application and technical exam waiver request and to refund the application fees. Ms. Lineberger seconded the motion, which carried unanimously.

Gabbidon Design Build, LLC. (CLG.)/Leonard Gabbidon (CQG. PQ) – Initial Application

Mr. Gabbidon’s initial application could not be approved at staff level due to the revocation of the general contractor’s license and exam credentials in the state of North Carolina. Mr. Gabbidon was present and was represented by counsel, F. Douglas Banks, Esq. A quorum of the Board was present. All persons testifying were sworn in by the court reporter. Application hearings are recorded by a certified court reporter in the event a verbatim transcript is necessary.

Mr. Lehman entered respondent’s exhibits 1-6 into evidence.

Motion:

Mr. Richardson made a motion to approve the initial application since the financial statement appears to be in order and the North Carolina case is under appeal, and approve the license with the condition that, should Mr. Gabbidon lose that appeal, he will immediately notify the Board as required. Ms. Lineberger seconded the motion, which carried unanimously.

NEW BUSINESS

Chapter 29 Regulations

Ms. Greene briefly reviewed the changes made to the Board’s regulations. She asked the Board to consider if they want to add an exam for the Nonstructural Renovation (NR) classification.

Motion:

Ms. Lineberger made a motion for the presented changes be approved with the addition of a technical exam for the Nonstructural Renovation (NR) classification upon Ms. Price’s confirmation that an exam will be available. Mr. Richardson seconded the motion, which carried unanimously.

Travel Request – 2023 NASCLA Annual Conference

Ms. Smith spoke about the 2023 NASCLA Annual Conference and requested that two staff members, two board members and two investigators be approved to attend the meeting, with those individuals specified at a later date. Mr. Lehman expressed that he wants to check with Mr. Appleton to see if he would like to attend the NASCLA Annual Conference.

Motion:

Ms. Lineberger made a motion to approve the travel request. Mr. Gibbs seconded the motion, which carried unanimously.

PUBLIC COMMENTS

There were no public comments.

ADJOURNMENT

Motion:

Mr. Richardson made a motion to adjourn. Ms. Lineberger seconded the motion, which carried unanimously. The meeting concluded at 12:36 p.m.

The next meeting is scheduled for Thursday, October 19, 2023, at 10:00 a.m.