

SOUTH CAROLINA
BOARD OF PROFESSIONAL ENGINEERS
AND SURVEYORS
Board Meeting
March 11, 2008
110 Centerview Drive, Room 202-02, Columbia, SC

Call to Order – Chairman M. L. Love, P.E., called the meeting to order at 9:45 a.m. Board Members present were Gene L. Dinkins, P.E. and L.S.; Andy Kinghorn, P.E.; Thurl Amick, Sr., L.S; Nancy Cottingham, Public Member; Theresa Hodge, P.E.; and Cecil O. Huey, Ph.D., P.E.. Also present were Jan Simpson, Board Administrator, and Melissa Jones, Program Assistant. Other attendees: Joe Jones, Executive Director of SCSPA; Rick Inman, Hollis Walker, Jr., Althea Ward, and Edmund Weaver, Jr.

The Board conducted an **Application Hearing for Engineers Incorporated (Harvey Capell, President)**. At the conclusion of the Hearing, Chairman Love called the Board meeting to order at 10:15 a.m.

Administrator Simpson stated the **public notice** of the meeting was properly posted at the Board office and provided to organizations and news media in compliance with Section 30-4-80 of the S.C. Freedom of Information Act. A quorum was present at all times.

Review Agenda - Administrator Simpson reviewed the agenda.

Report on Engineering Technology Applicants – Gene Dinkins reported on the first round of applicants for licensure as a Professional Engineer through the newly created procedure for engineering technology degree holders. The Review Committee reviewed portfolios for three applicants on January 23, 2008, and interviewed them on February 15, 2008. The Review Committee recommended Edmund C. Weaver, Jr., and Thomas Gasparich for licensure, but did not recommend Peter Kamis at this time. All candidates are in the field of electrical engineering. The Board went into Executive Session upon motion and second by Dinkins/Cottingham to discuss the candidates' qualifications. The Board returned to Open Session.

Motion by Dinkins/Huey: To issue a Professional Engineer license to Edmund C. Weaver, Jr. and Thomas Gasparich and to deny licensure sat this time to Peter Kamis. Motion carried.

The Board welcomed applicant Edmund Weaver, Jr., who thanked them for the opportunity to become licensed as a Professional Engineer. Mr. Weaver told the Board he thought the process and the interview were objective, fair, and appropriate. When asked if anything was omitted in the process, Mr. Weaver said he thought it was comprehensive, and noted that character and ethics were part of the interview, which he deemed to be important. Dinkins noted the process is structured to differentiate between individuals with technical competence to make engineering decisions and individuals who perform technical work. The Board thanked Mr. Weaver for attending the meeting.

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February Board meeting minutes – Motion by Amick/Huey to approve the minutes of the meetings on February 12 and 13, 2008. Motion carried.

Enforcement Report – No report

Report on Application-related Consent Agreements signed since last meeting - James M. Standard for practicing engineering on 23 projects after his license lapsed in 2004; and Island Surveying for practicing surveying on approximately 525 projects after the license lapsed. Board members asked that the Consent Agreements be held for Sharon Dantzler’s input.

Control Monuments – Revised interpretation. Motion: Dinkins/Amick to adopt final language of the policy on Control Monuments; copy attached. Motion carried.

Board members would like to review other Board policies and update if necessary.

IRC Members - Chairman Love welcomed Rick Inman, PLS, and Hollis Walker, PE, as alternate IRC members. Mr. Dinkins noted the need to have alternate members in the event of illness or recusal of an IRC member. He noted the Board has worked hard recently to establish parameters for the IRC to use in situations that occur on a regular basis. There are built-in increases in sanctions for repeated violations. Board policies have changed with regard to practicing after lapse of a license to more closely mirror the statutes. Mr. Kinghorn noted the IRC is a critical component of the enforcement responsibility of the Board. The Board has confidence in the character, integrity, and professional expertise of the IRC members. Communication between the IRC and Board is essential, and he hopes the deliberations and outcomes will reflect what is best for the profession and for citizens of South Carolina. He expressed appreciation for the many volunteer hours given by the professional members of the IRC. Mr. Dinkins explained the separation required by LLR of the Board members who might have to sit as a panel and the IRC; often the only time Board members hear details of a case is when it comes before them as a hearing, so it is critical that the IRC and the Board members approach enforcement issues with a shared philosophy and set of guidelines.

Charlie Ido distributed draft guidelines he has used for typical sanctions for recurring violations.

There was discussion related to recurring violations with which the IRC deals, such as inappropriate use of the title “engineer,” and the current LLR policy of separating violations by unlicensed individuals from violations by licensees. “Renewal fraud” means not disclosing a sanction by another state board or not completing required continuing education; these types of violation go to the IRC. Mr. Ido noted sanctions posted on the web site have no “expiration date” and will remain posted as public information. He characterized plan stamping as one of the most egregious offenses, based on board member feedback over the past 15 years.

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“Negligence” vs. “gross negligence” was discussed. Negligence may be construed as anything omitted carelessly (such as a north arrow on plats) whereas “gross negligence” indicates a more serious omission or behavior. Misconduct may be many things, e.g., failure to comply with a Board Order. Minimum Standards violations may be small and easily remedied; repeated violations or more serious violations are taken up by the IRC.

Unlicensed practice is handled administratively by the licensing staff by first issuing a Cease and Desist Order. Upon receipt of an application, the licensing staff offers a Consent Agreement (using parameters set by the Board) or schedules a hearing before the Board.

Charlie introduced his successor, Steve Freshley, who will be Todd Bond’s supervisor effective immediately.

Sharon Dantzer, LLR Attorney, joined the meeting. For the benefit of new member Theresa Hodge, Attorney Dantzer was asked to explain why LLR has Investigative Review Committees to review alleged violations. The SC Constitution states that a person may not be subject to the same person (meaning individuals or organizations for investigation and prosecution on the one hand and adjudication on the other hand. The Supreme Court has thrown out three cases where there was “co-mingling” of the roles. The Board’s role is that of adjudicator. In legislation in 1993 and 1996, investigations/prosecution was placed in a separate legal entity, LLR. To protect the separation required by the state Constitution, Investigative Review Committees were created to recommend whether or not formal charges should be brought against an individual or firm (“probable cause committee”) or to recommend dismissal or to not proceed with formal charges. Also, the IRC must sift through the facts of a case to present a full picture which is accomplished by having different points of view represented: legal, administrative, professional (technical and ethical), and investigative. The Board’s options are to dismiss a case, offer/approve/reject a Consent Agreement, hold a hearing, or accept a voluntary relinquishment of a license.

Procedural issues were discussed; differences between application hearings and investigative hearings were outlined; requiring reasonably accessible professional or ethical training was discussed as a provision in Consent agreements. How does the Board receive facts of a case so they can make an informed decision? Attorney Dantzer noted all Consent Agreements should have sufficient Findings of Facts regarding a case so that the Board can make an informed decision. Past actions may be considered as relevant information but may not be considered as a propensity to violate the law.

The Board expressed interest in meeting with the IRC annually.

Lunch break, 1:30 p.m. – 2:00 p.m.

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GIS Surveyor by exam - Gene Dinkins reported South Carolina's first exam candidate for GIS licensure, Seth McCoy, has passed the exam and been issued a license. NCEES confirmed that he is the first GIS Surveyor candidate in the nation to become licensed by examination.

NCEES Issues - Mr. Dinkins reported on NCEES Board issues:

- Mr. Dinkins also reported other states' interest in using the Photogrammetry exam. It appears there may be as many as 10 states that want to license photogrammetry surveyors.
- NCEES is now an approved ANSI standards provider; NCEES will attempt to have the Model Law and Model Surveyor requirements accepted as ANSI standards.
- NCEES values Board Administrators as part of the "institutional memory" of the organization. NCEES is planning to host a meeting for all Administrators at the NCEES office in Clemson, perhaps in Fall 2008.
- Computer-Based Testing (CBT) will be studied for another year; Mr. Dinkins recommended Administrator Simpson to serve on the Task Force next year.
- Requiring increased education for licensure (BS+30) is moving forward; several states have initiated statute changes to increase education requirements.
- We hope for good participation at the upcoming Southern Zone meeting in Puerto Rico. The Board expressed interest in having new Board member Theresa Hodge attend to get a "crash course" in NCEES and how state Boards relate to the national organization.
- Chart showing pass rates since October 2000 for surveyor exam candidates with varying education: those with no degree, two-year degree, 4-year degree, and 4-year surveying ABET degrees. The exam pass rates increase dramatically for individuals who hold the 4-year accredited degree.

Administrators Report – Administrator Simpson highlighted changes requested by the Board for licensure statistics and briefly discussed personnel issues.

Business cards used by individuals not licensed in South Carolina – "Assistant engineer" and "associate engineer" are not acceptable titles for unlicensed individuals. However, "engineering associate" or "engineering assistant" are acceptable.

Proposed Consent Agreement: James M. Standard. Motion by Kinghorn/Huey: To increase penalty to \$3000. Motion carried. Mr. Standards' license lapsed in 2004 and he submitted a list of large projects in South Carolina while unlicensed.

Motion: Kinghorn/Cottingham: To prepare a proclamation to Charlie Ido for his years of service to the Board of Engineers and Surveyors. Motion carried unanimously.

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Legislation – Members Dinkins and Amick have gotten feedback from surveyor societies and will compile their comments by the next meeting for Board review. The Board then will prepare a final draft to be released for public comment. Chairman Love asked for a completed draft of proposed language for Board review. The previously drafted changes will NOT be used; they will start fresh with currently submitted comments for a “clean” version of proposed language. Chairman Love also asked for a compiled book of Board policies for reviewing and updating.

Dr. Huey noted he will bring a “white paper” he was asked to draft on faculty registration to the next board meeting.

Other Legislation: bills that offer owners incentives for installing fire sprinkler systems in buildings where they are not required by Code. Member Amick discussed drafting a policy that only a surveyor or engineer may develop a 3-D model from construction drawings to go into a GPS receiver for grading land. He suggested that the Board consider drafting a policy stipulating how the model should be developed. Boards in North Carolina and California have drafted such policies

There being no further business, the meeting adjourned at 2:30 p.m.

Respectfully submitted,

Jan B. Simpson
Administrator

SC Board of Professional Engineers and Surveyors
Policy regarding setting Control Monuments
(Addendum to Board meeting minutes, March 11, 2008)

Excerpt from Title 40, Chapter 22, Statutes governing the practice of engineers and surveyors

(24) 'Practice of TIER A surveying' means providing professional services including, but not limited to, consultation investigation, testimony evaluation, expert technical testimony, planning, mapping, assembling, and interpreting reliable scientific measurements and information relative to the location, size, shape, or physical features of the earth, the space above the earth, or part of the earth, and utilization and development of these facts and interpretation into an orderly survey map, site plan, report, description, or project. The practice of TIER A surveying consists of three separate disciplines: land surveying, photogrammetry, and geographic information systems. A surveyor may be licensed in one or more of the disciplines and practice is restricted to only the discipline or disciplines for which the land surveyor is licensed. The practice of TIER A surveying does not include the use of geographic information systems to create maps pursuant to Section 40-22-290, analyze data, or create reports. The scope of the individual disciplines are identified as follows:

(a) Land surveyor:

(1) locates, relocates, establishes, reestablishes, lays out, or retraces any property line or boundary of any tract of land or any road, right-of-way, easement, alignment, or elevation of any fixed works embraced within the practice of land surveying, or makes any survey for the subdivision of land;

(2) determines, by the use of principles of land surveying, the position for any survey monument or reference point; or sets, resets, or replaces such monument or reference; determines the topographic configuration or contour of the earth's surface with terrestrial measurements; conducts hydrographic surveys;

(3) conducts geodetic surveying which includes surveying for determination of geographic position in an international three-dimensional coordinate system, where the curvature of the earth must be taken into account when determining directions and distances; geodetic surveying includes the use of terrestrial measurements of angles and distances, as well as measured ranges to artificial satellites.

(b) A photogrammetric surveyor determines the configuration or contour of the earth's surface or the position of fixed objects on the earth's surface by applying the principles of mathematics on remotely sensed data, such as photogrammetry.

(c) A geographic information systems surveyor creates, prepares, or modifies electronic or computerized data including land information systems and geographic information systems relative to the performance of the activities described in subitems (a) and (b).

(d) An individual licensed only as a geodetic surveyor before July 1, 2004, determines the geographic position in an international three-dimensional coordinate system, where the curvature of the earth must be taken into account when determining directions and distances; geodetic surveying includes the use of terrestrial measurements of angles and distances, as well as measured ranges to artificial satellites. A geodetic surveyor is not authorized to perform the other services a land boundary surveyor is authorized to perform. [bolding added]

**Interpretation of
Section 40-22-20(24)(d)**

It is the interpretation of the South Carolina Board of Professional Engineers and Surveyors (the Board) that the language in Section 40-22-20(24)(d) stating, in part, that a geodetic surveyor “determines the geographic position in an international three-dimensional coordinate system, where the curvature of the earth must be taken into account when determining directions and distances; geodetic surveying includes the use of terrestrial measurements of angles and distances, as well as measured ranges to artificial satellites” means that geodetic surveyors may determine or set control monuments. In this interpretation, a “control monument” is further defined as a Geodetic Control Monument where the geographic coordinates have been determined by a geodetic surveyor or a land boundary surveyor. Determining or setting control monuments is considered within the practice of geodetic surveying or land boundary surveying.

Adopted by the Board in principal February 12, 2008
Final language adopted by Board March 11, 2008