

**MINUTES**  
**South Carolina Board of Registration for Professional Engineers and Surveyors**  
**Board Meeting**  
**9:30 a.m., October 13, 2009**  
**Synergy Business Park**  
**110 Centerview Drive, Kingtree Building, Room 204**  
**Columbia, South Carolina**

**Call to Order** – Chairman Gene L. Dinkins, P.E. and L.S., called the meeting to order at 9:30 a.m. Board Members present were Anderson Kinghorn, Jr., P.E.; Nancy Cottingham, Public Member; Theresa Hodge, P.E., Miller L. Love, Jr., P.E.; Thurl Amick, L.S.; Charles Joye, P.E.; and Cecil O. Huey, Ph.D., P.E. Also present were Jan Simpson, Board Administrator; Melissa Jones, Program Assistant; Sharon Dantzler, LLR Attorney; Sandra Dickert, Administrative Assistant.

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** – In public session, Administrator Simpson reviewed the agenda.

The Board held an application hearing in regard to Anthony W. Nettles and Bowdon Engineering, LLC.

**Legislator Don C. Bowen – Request for Reconsideration of acceptance of Consent Agreement for Steven Branyon and Branyon Land Surveying** – This matter was deferred to the November 10, 2009 meeting.

**Customer Care Center – Connie Huffstetler** – Connie Huffstetler, Supervisor of the Customer Care Center, briefed the Board regarding that area. She noted the center began with eight employees; however, one additional full time employee has now been added as well as a part time individual.

**Approval of July 14, 2009 and September 24, 2009 Board Meeting Minutes**

**MOTIONS**

Ms. Hodge made a motion the Board accept July 14, 2009 meeting minutes. Mr. Amick seconded the motion, which carried unanimously.

Mr. Amick made a motion the Board accept the September 24, 2009 meeting minutes. Mr. Kinghorn seconded the motion, carried unanimously.

Following a discussion regarding Mr. Branyon's hearing during the September 24, 2009 meeting, Mr. Love made a motion the Board reconsider the September 24, 2009 meeting minutes. Mr. Hodge seconded the motion, which carried unanimously.

Mr. Love made a motion the Board add language to the third paragraph stating Mr. Branyon's case was scheduled to be heard by the Board; however, of his own volition, Mr. Branyon agreed to and signed a consent agreement. The Board was not privy to any of the facts pertaining to this case and the Chairman accepted the consent agreement. Mr. Amick seconded the motion, which carried unanimously.

**Engineer Technology Review Committee (Julius O. Ajewole – Civil)** – Ms. Hodge stated the Committee rejected three of Mr. Ajewole’s projects in March 2009 and asked him to submit two additional projects. In July 2009 Mr. Ajewole submitted two more projects for review. The committee met again at the end of July 2009 and concluded the applicant did not respond to the request for projects which showed special knowledge and evidence of supervisory control of the work on the projects. A motion to invite him for an interview failed one to four. The committee recommended that Mr. Ajewole not be licensed through the portfolio process. Mr. Amick made a motion to accept the Committee’s recommendation which carried unanimously.

Discussion ensued regarding committee meetings and requiring additional information regarding projects for the committee’s review.

### **Administrator’s Report – Jan Simpson Lapsed Certificates of Authorizations (COA)**

As of August 4, 2009, four months after the expiration date for firm renewals, there were 198 firms in South Carolina that did not renew. By administrative action, we lapsed their license and issued a Cease and Desist Order to all South Carolina firms.

Since issuance of the C&D Orders, 78 firms renewed or notified the Board office the license was no longer needed (out of business, etc.). There are still 120 in-state firms with a lapsed license; however, based on our “research,” 26 of these are closed.

There are 284 out-of-state firms that did not renew and their COA was lapsed also. We did not issue C&D Orders to those firms. (See licensure statistics on page 2)

### **Expenditure of Education and Research Funds**

Representative Bill Sandifer, chairman of the House Labor, Commerce and Industry Committee, inquired about the Board’s expenditure of \$12,000 to three organizations that co-sponsored a conference in June 2009. SCSPE provided detailed information which I forwarded to Rep. Sandifer. On October 6, I met with Rep. Sandifer and House LCI Chief Counsel Andy Fiffick. Mr. Sandifer believes there should be increased accountability for the funds and suggested that the Board create a form similar to a grants application form (which we had already done) to be completed by all applicants for funding. He also asked for more detailed reporting in the future and asked the Board to consider requiring an evaluation form to be completed by participants in funded activities. He believes CE activities should focus on new material and there should be some type of testing (even if just an evaluation) of participants.

I suggest:

- Creating an interactive, web-based Funding Application
- Setting a deadline for submittal of the application to the Board office prior to Board meetings
- Drafting an evaluation form for sponsors to use

### **RFP for Creating State-Specific Surveyor Exam**

I am working with LLR’s procurement division to create an RFP for creating an exam on the new Surveying Standards regulations passed in June 2009. We will need volunteers to create the questions and an experienced person to provide the exam services. Until the new exam is ready, we will continue to use the old test based on the Minimum Standards that were in effect until June 2009. That document is posted on the Board’s web site.

| LICENSE TYPE                           | # IN-STATE | # ADDED SINCE LAST REPORT | # ADDED SINCE 07/01/2009 | # LICENSED VIA THE PORTFOLIO PROCESS | TOTAL # OF LICENSEES |
|--|------------|---------------------------|--------------------------|--------------------------------------|----------------------|
| DUALS (ENGINEER & SURVEYOR)            | 140        | 0                         | 1                        | 0                                    | 180                  |
| ENGINEER                               | 4914       | 148                       | 148                      | 25                                   | 13,975               |
| ASSOCIATE ENGINEER                     | 11         | 0                         | 0                        | 0                                    | 15                   |
| LAND SURVEYOR – A                      | 563        | 1                         | 1                        | 0                                    | 877                  |
| LAND SURVEYOR – B                      | 26         | 0                         | 0                        | 0                                    | 34                   |
| GEODETTIC SURVEYOR                     | 1          | 0                         | 0                        | 0                                    | 16                   |
| GEOGRAPHIC INFORMATION SYSTEM SURVEYOR | 20         | 0                         | 0                        | 0                                    | 52                   |
| PHOTOGRAMMETRIC SURVEYOR               | 3          | 0                         | 0                        | 0                                    | 126                  |
| CERTIFICATE OF AUTHORIZATION           | 909        | 57                        | 57                       | 0                                    | 2552                 |
| EMERITUS – ENGINEER                    | 26         | 0                         | 0                        | 0                                    | 48                   |
| EMERITUS – SURVEYOR                    | 3          | 0                         | 0                        | 0                                    | 7                    |
| RETIRED – ENGINEER                     | 534        | 0                         | 0                        | 0                                    | 1141                 |
| RETIRED – SURVEYOR                     | 63         | 0                         | 0                        | 0                                    | 111                  |

**Investigative Report, Todd Bond** – Mr. Bond, of the Office of Investigations and Enforcement, briefed the Board on the September 29, 2009 IRC meeting.

**MOTION**

Mr. Kinghorn made a motion the Board accept the September 29, 2009 IRC report. Mr. Amick seconded the motion, which carried unanimously.

**Report on Consent Agreements Related to Application Issues** – Melissa Jones reported on consent agreements, cease and desist orders, and letters of caution since the last Board meeting.

Mr. Love discussed a matter in the Charleston area in which the Office of Investigations and Enforcement has determined a case could not be opened on a complaint file. It was noted during discussion that the Office of Investigations and Enforcement has determined a case would not be opened, however, several individuals have asked that the Office of Investigations and Enforcement review the complaint again.

**Recordation of Sketches** – Mr. Dinkins said this issue came up as a result of the Standards of practice manual states that compiled maps cannot be used for deeding of property or recordation. He further stated questions have arisen regarding sketches, which in some instances, have been recorded as attachments to deeds.

Mrs. Dantzler stated the attorney who records the recordation, the Clerk of Court, the Registrar of Mesne Conveyance are not individuals who could be disciplined by this board. The question for the Board is if an individual can trace the recordation to a licensee? Just about anything could be attached as a document as long as it pertains to the body of the documents. The question is whether the licensee recorded documents properly.

**Interpretation of Statute of Repose** – Mr. Joe Jones noted that Regulation 15-3-640 states that “no actions to recover damages based upon or arising out of the defective or unsafe condition of an improvement to real property may be brought more than eight years after substantial completion of improvement.” He noted an effective date of July 1, 2005 was placed in the law. In his opinion the language should read after July 1, 2005 since everything before that date would remain under the thirteen year statute of repose.

Mrs. Dantzler suggested the policy regarding the statute of repose be as follows:

The effective date of Regulation 49-420 was June 26, 2009. Therefore, the Board interprets the section to mean that surveyors must retain records only so long as the statute of repose requires beginning on that date. It is no longer necessary to keep records that are older than the applicable statute of repose requires. The board will revisit the interpretation in November.

**Question Regarding Engineers Signature on As-Built Drawings** – Mr. Dinkins stated this matter was placed on the agenda due to a question that was presented to him regarding seals on record drawings. Ms. Simpson stated the question had arisen regarding drawings completed by an individual which cannot be verified by the individual affixing the seal. He does not think the Board could give the individual an answer.

After some discussion regarding this matter, Ms. Simpson stated she would draft a response to the individual. The Board asked that the matter be carried over to the November 10, 2009 meeting. The Board also asked that once the language is finalized that it be placed in the newsletter and/or on the Board’s web page.

**Policy on Repeat Applications** - The Board reviewed its policy on repeat applications. Ms. Simpson asked the Board for clarification regarding the rejection of applications following two attempts to submit the application. The Board determined the applicant must submit a new application, fee, and new plats (for surveyors) Engineers must submit a new application, fee, and new description of all work experience.

**Waiver of the Fundamentals of Surveying Exam for Applicant with Doctoral Degree** – Robert A. Foster spoke with the Board to object to allowing an individual with a doctoral degree to exempt the Fundamentals of Surveying exam. He believes the applicants need to pass the exam.

**MOTION**

Surveyors Ben Christenson, Al Whitworth, and Dennis John spoke in support of the Board’s decision to waive the Fundamentals of Surveying exam on a case-by-case basis. To clarify the

previous policy, Mr. Love made a motion the Board add the word 'technical' to the related doctoral degree in the policy. Mr. Kinghorn seconded the motion, which carried unanimously.

**Curing Education Deficiencies: CLEP or Challenge Exams** – Ms. Simpson stated this matter came to staff as a question regarding how to handle an identified deficiency when an individual has his/her education evaluated. CLEP is an avenue to take an exam on a subject matter; however, the individual does not get a transcript. Challenge exams are when an individual goes to a college program and asks for a final exam on a deficiency. If the professor agrees to give the final exam, then the course would appear on the college transcript.

**MOTION**

Mr. Joye made a motion the Board accept passing grades on CLEP exams to cure deficiencies identified on evaluations of a transcript. Mr. Amick seconded the motion, which carried unanimously.

**Fine Chart** - The Board reviewed the fine chart and, after discussion issuing fines in the Board's discretion, the number of projects, percentage per fees, and issuing fines per day, Mr. Dinkins asked that the Board consider this matter further.

**Proposed Curriculum to Meet Four Year Surveying Education Requirements, The Citadel** – Mr. Dinkins reviewed a proposed curriculum from Dr. Dennis Fallon of The Citadel. He noted the proposed curriculum would satisfy the Board's four year surveying educational requirements. The Citadel is asking the Board to approve graduates of the program as meeting the Board's educational requirements for licensure as surveyors.

**MOTION**

Mr. Love made a motion the curriculum would satisfy the Board's educational requirements under the four year degree effective July 1, 2010; however, the Board is not taking the position that the curriculum is EAC/ABET approved. Mr. Amick seconded the motion, which carried unanimously.

**Elliott Quinn – Question About Certain Practices Meeting Surveying Standards** - Elliott Quinn of Thomas & Hutton requested an interpretation regarding the technical standards concerning the monumentation of a dynamic line. He noted the request stems from a client who was giving a conservation easement of a marsh to the Audubon Society. The company platted the property, monumented the property line where it intersected the critical line and tied the points between with bearings and distances. The company clearly stated it was no set monument. His question is if the company is violating the minimum standards and if the company needs to change its practice.

Discussion on the matter ensued and the Board determined that if the property is deeded and has a property corner, the boundaries need to be monumented, even if it is deeded to a critical line that is subject to move. Easements do not have to be monumented.

**Consider Gap in Experience/No Recent Experience When Approving Comity PE Applications** – Ms. Simpson stated this matter arose when an applicant had not practiced engineering for a long time. Ms. Hodge recently reviewed an application in which the applicant had experience, followed by a gap of 25 years, brief amount of experience by the applicant. She noted the technology in engineering has changed so much over the years. Mr. Kinghorn also reviewed the application and approved it since he did show he was doing some engineering. He went on to say he reviewed another application which showed a big gap in the

practice of engineering that he also approved. Ms. Hodge suggested the Board establish a policy stating a member automatically refer the application to another member if he/she has a problem with approving the application. Ms. Dantzler stated the legal issue is that there is a federal constitutional right to move from state to state and to put higher standards on an individual who has maintained licensure needs to be treated exactly like a senior engineer within South Carolina.

**Web Site Updates** – Ms. Simpson stated revisions have been made on the web site and asked that the Board review the revisions for accuracy.

**Survey Coordinators** – Robert C. Hooks stated he spoke with an investigator who informed him of the Board's previous views regarding surveyor coordinators. Mr. Hooks stated had to go through education, testing, and experience to obtain licensure. He is now a subcontractor for a company which is an unlicensed corporation. He briefed the Board in regard to a survey coordinator's duties. He is asking that all individuals and firms offering or providing surveying services be required to obtain education, test, and gain experience as he was required to do.

Robert C. Hooks protested the offering of surveying services by "surveyor coordinator" who are not licensed and alleged the practice would not be allowed in the legal profession. Mrs. Dantzler stated there is not comparable language in the practice of law or surveying. She further stated the statutes are very different and most licensing statute usually apply only to doing the work. She noted there may be ten of the boards within the agency that include the use of a particular title. She noted surveying is not one of those professions.

Mr. Dinkins asked that this matter be placed on the agenda for the November 10, 2009 meeting to allow time for Mrs. Dantzler to conduct research on this matter.

**Newsletter Articles** – Ms. Simpson asked if the Board members had specific topics for the upcoming newsletter. Hodge suggested the Board's sponsoring of the ASCE class. Mr. Dinkins suggested the monumenting of property lines.

**Other Business** - Mr. Dinkins asked that election of officers be placed on the agenda for the November 10, 2009 meeting. Discussion of board appointees ensued.

There being no further business the Board meeting adjourned at 3:09 p.m.

Respectfully submitted

Sandra C. Dickert  
Administrative Assistant