

MINUTES
South Carolina Board for Registration of Professional Engineers and Surveyors
Board Meeting
9:30 a.m., March 16, 2010
Synergy Business Park
Kingstree Building
110 Centerview Drive, Conference Room 204
Columbia, South Carolina

1. Meeting Called 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.; Thurl Amick, L.S.; Nancy Cottingham, public member; Theresa Hodge, P.E.; Cecil O. Huey, Ph.D., P.E.; Charles Joye, P.E.; and Miller L. Love, Jr., P.E.

Staff members participating during the meeting included: Jan Simpson, Board Administrator and Melissa Jones, Program Assistant. Other LLR employees participating in the meeting included: Randy Bryant, Assistant Deputy Director; Christa Bell, Litigating Attorney, OGC; Todd Bond; Investigator, OIE; Sharon Dantzler, Deputy General Counsel; Steve Freshley, Investigator, OIE), Dean Griggs, Hearing Advice Attorney; and Jamie Saxon, Hearing Advice Attorney.

- a. Mr. Dinkins announced that public notice of this meeting was properly posted at the S. C. Board of the Registration for Engineers and Surveyors office, Synergy Business Park, Kingstree Building and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act.

2. Pledge of Allegiance

3. Approval of Agenda

The Board reviewed and adopted the agenda as presented.

4. Application Hearing – Christopher T. Vail

From 9:40 a.m. to 10:20 a.m. the Board conducted an application hearing.

5. Consideration of Memorandum of Agreement – Arvin Thornburg

From 10:30 a.m. to 11:15 a.m. the Board considered a Memorandum of Agreement.

Consideration of Cease and Desist Order

The Board considered a cease and desist order.

6. Approval of the January 19, 2010 and February 4, 2010 Meeting Minutes

MOTION

Mr. Kinghorn made a motion the Board accept the January 19, 2010 meeting minutes as presented. Mr. Huey seconded the motion, which carried unanimously.

MOTION

Mr. Kinghorn made a motion the Board accept the February 4, 2010 meeting minutes as presented. Ms. Hodge seconded the motion, which carried unanimously.

8. Chairman's Remarks – Gene Dinkins

a. LLR Restructuring Proposal

Mr. Dinkins briefed the Board regarding the restructuring of LLR. He noted this action could have unknown consequences to the Board. He stated this Board and several other Boards have had serious concerns with the agency; however, there is a potential that the action could streamline and have cost savings for the agency. He noted he had written a letter to Mr. Randy Bryant who made a presentation during the February 4, 2010 meeting. He went on to say Mr. Bryant had written a letter to him which was made available to him during this meeting.

Discussion on Mr. Bryant's letter and a meeting between Mr. Dinkins and Mr. Bryant ensued.

Mr. Bryant stated the Senate would notify the agency in June 2010 what its liabilities would be. He further stated since the agency is a revenue generated agency the monies would have to be paid back since the agency has already received the monies. He noted the agency had to remit over \$9,000,000.00. He would notify the Board of the amount of funds from the Board's account. He said the Department of Natural Resources is partially revenue generated from the boaters, as well as the Department of Consumers Affairs. He said LLR is the only agency which it totally revenue generated.

9. Administrator's Remarks, For Information – Jan Simpson

a. Administrative Disciplinary Report – Melissa Jones

Mrs. Jones presented the members with the consent agreements related to application issues and a letter of caution issued since the last Board meeting.

b. Legislative Report – Jan Simpson

Ms. Simpson presented the members with a computer generated legislative report.

Mr. Dinkins stated he and Mr. Joe Jones attended the House LCI committee hearing regarding H.4546.

Mr. Jones briefed the Board regarding the hearing. He noted Representative Sandifer, chairman of the committee, stated he would ask Ms. Youmans to testify before the committee and that other hearings regarding the bill would take place. He further stated he has the understanding that the bill would pass the House prior to the end of the session. He said the Board of Accountancy has formed a committee to detail a business plan should the bill pass.

Mr. Dinkins briefed the members regarding remarks made by two individuals who testified before the committee and a letter sent to the boards listed in the joint resolution from Representative Sandifer. He noted he understands the licensing fees would totally fund the state board, which would make the Board self sufficient.

MOTION

Mr. Joye made a motion the Board form a business plan committee.

Mr. Joye, Mrs. Cottingham, Mr. Love, and Mr. Kinghorn will serve on the committee.

Mr. Joye asked that staff provide the members with copies of the annual revenues and expenditures, with specific details.

Mr. Bryant stated he has directed all administrators to distribute budget information to the members. He noted that a member of any board who is also a state employee is not reimbursed for attending board meetings.

c. Administrator's Report – Jan Simpson

As you know, LLR's portion of Legislature-mandated budget cuts was approximately \$9.5 million. Funds were taken from areas that could sustain the cuts without negative impact. LLR anticipates the cuts will continue, so there will likely be additional cuts from the Board's budget.

I attended an Administrators meeting at NCEES offices in Clemson with approximately 25 other state board administrators. Discussion centered on administrative issues, licensing issues, future changes to exam administration, exams, computer-based testing update, a national exam candidate ID system, ABET, NCEES Records, and other items of particular interest to administrators. It was a very informative meeting.

LLR delayed for six weeks the move of three staff members to the Office of Licensure and Compliance, pending one staff member's return from medical leave. One other staff member was moved. We are revising staff responsibilities in the interim and will do so again once the three staff members move.

I attended the luncheon hosted by the SC Society of Professional Land Surveyors during their conference in Columbia. It was well attended and Board members were recognized and thanked for the Board's assistance in funding a portion of the event.

d. Financial Report

The Board reviewed the financial report.

10. Investigator's and Office of General Counsel Report – Todd Bond and Christa Bell

Mr. Bryant stated he has asked that the Office of Investigations and Enforcement (OIE), the Office of Licensing and Compliance (OLC), and the Office of General Counsel (OGC) brief each board regarding the number of cases and/or licenses processed. He further stated in this manner the Board could ask the representatives of those offices could fully answer all questions the members may have.

Mr. Steve Freshley, of the Office of Investigations, stated the Board of Professional Engineers and Land Surveyors is one of seven boards which he supervises. He noted Mr. Todd Bonds is the Board's investigator. He briefed the Board regarding the March 4, 2010 IRC meeting. He said case #2009-36 is being recommended for a formal complaint and case #2009-51 is being recommended for dismissal.

The Board accepted the March 4, 2010 IRC report as presented.

Mr. Rick Inman, a land surveyor currently sitting on the IRC, briefly discussed the IRC meetings.

a. Number of Investigations

Mr. Freshley stated OIE has received four cases since January 1, 2010. He further stated one case is active and the remaining three 2010 cases are pending investigation.

Discussion ensued on why cases would be classified as 'do not open'.

b. Number of Open Complaint Cases

c. Number of OIE Pending Investigations

Mr. Freshley stated there are 17 open cases in the Office of Investigations and Enforcement. He stated the oldest case in that office is 318 days old and the newest case is six days old. He noted all of the cases are from 2009 and 2010. He said OIE has initiated 45 cases, of which all but 13 cases have been presented to the IRC or have been resolved.

d. Number of OGC Pending Hearings

Ms. Christa Bell, of the Office of General Counsel, stated Ms. Lou Ann Grey is a new attorney assigned to the Board of Professional Engineers and Land Surveyors. She further stated there are currently six cases in the Office of General Counsel, of which two were settled today. She went on to say there may be one very new case that has not yet been signed into the Office of General Counsel. She noted one case scheduled to be presented during this meeting was continued to a later meeting as a result of the respondent being ill.

7. Tour of LLR and lunch

The Board recessed the meeting for a tour of LLR and lunch at 1:00 p.m.

The Board returned to public session at 2:00 p.m.

11. Unfinished Business

a. Review of fine chart and model of violations

Ms. Simpson stated Mrs. Jones believes this fine chart may be working better with the engineers. Mrs. Jones stated she has not yet used the chart for a surveyor.

b. Policy for Engineers' Signature on Record Drawings

The Board reviewed a draft policy regarding engineers' signature on record drawings.

MOTION

Mr. Joye made a motion the Board accept the new policy regarding engineers' signature on record drawings. Mr. Amick seconded the motion, which carried unanimously.

Discussion ensued in regard to using the e-blast for notifying the licensees of the new policy, renewal information and reminders and the chairman's letter.

12. New Business

a. Proposed Amendments to NCEES Bylaws

The Board reviewed the proposed amendments to the NCEES bylaws. No Board members made any comments regarding the proposed amendments.

b. Nomination for Southern Zone Distinguished Service Award

Mr. Dinkins stated Mr. Dennis Smith of Kentucky has again contacted him regarding a distinguished service award. He further stated it could be an emeritus member of any board, a current member, or a member board administrator of any board. He asked that if a member has a recommendation to contact him or Ms. Simpson.

13. Discussion Topics

a. Engineers Technology Review Committee – Andre Brooks

Ms. Dantzler discussed legal factors, such as the Board's abuse of discretion. She noted the Andre Brooks matter was the first order she has taken to the Administrative Law Court (ALC) on

behalf of the Board. She further stated the ALC has consistently refined what it is doing from the Brooks' order and have come to the point where they examined three matters independently:

1. Requirement for experience versus applicant's experience;
2. Requirement for education versus applicant's education; and
3. Requirement for examination versus applicant's exam results.

Ms. Dantzler stated the portfolio review begins only if the applicant holds a technical degree, which Mr. Brooks holds. She noted there is no examination question in this matter it is the quality of the experience, which is the purpose of the portfolio review. She noted the portfolio review committee reviewed the portfolio and has recommended the portfolio not be approved. She does not think the Board has any competing evidence. She said the Board knew that if he appealed the decision he has the right to attempt to demonstrate that his experience is better than the committee thought he had.

MOTION

Mr. Kinghorn made a motion the Board accept the recommendation of the Portfolio Review Committee to deny licensure. Mr. Amick seconded the motion, which carried unanimously.

b. Revise State Specific Survey Exam

Mr. Dinkins stated he has kicked everything off to get the SC Society of Professional Land Surveyors on board to form a committee to develop a new state specific survey exam. He does not think the committee has yet been formed. He has spoken with Mr. Jerry Carter of NCEES in an attempt to hold a workshop at the convention which would deal with writing state specific exams.

Ms. Simpson stated she would be happy to work with the committee to begin review of the exam if Mr. Dinkins would supply her with names.

c. PDH Credits for IRC Service

The Board discussed how the PDH credits would be administered. It was determined credits would be given for the meeting, but for preparation of the meeting.

MOTION

Mr. Kinghorn made a motion the Board grant PDH credit for the IRC meetings for IRC members and alternates. Mr. Amick seconded the motion, which carried unanimously.

d. Update on DHEC Beach Erosion Survey Issue

Mr. Dinkins stated DHEC, through OCRM, distributed a request for proposed for work, including topographical surveying, analysis of dunes, setting of monumentation, measuring changes in on coast and shoreline. He noted the RFP was sent to him because the document stated a licensed surveyor was not needed. He forwarded the RFP to Mr. Amick for his review. He said it was evident that the work was surveyor work. He responded to DHEC stating the work requires a professional surveyor. He noted DHEC does not like the answer and the Board has had another request from another coastal consulting firm asking specific questions.

Ms. Simpson stated Mr. Dinkins and Ms. Dantzler were drafting a letter in response to Mr. Winslow of DHEC.

Mr. Dinkins stated Ms. Dantzler responded to Mr. Winslow's letter after which the Board received a letter from a coastal consulting firm (Coastal Sciences) requesting further

information. He went on to say he and Ms. Dantzler reviewed that letter and determined the Board does not give legal advice to private companies. He said Ms. Dantzler has also responded to that letter.

The Board determined it would not pursue this matter further. If the work is completed by individuals who are not professional surveyors a complaint would have to be filed with the Board for any action to be taken.

e. Acceptance of Policy on Examinations

Ms. Simpson stated she felt the Board may need a policy regarding examination. She went on to say several years ago individuals were able to take non-NCEES exams. She further stated the Board which administered that exam verified that the exam was equivalent to or substantially equivalent to the NCEES exam. She stated the verbiage now states:

The statement must be in writing and signed by staff of the Board with the Board seal affixed.

The Board suggested the following verbiage:

The statement must be in writing and signed by ~~staff~~ an official representative of the Board with the Board seal affixed.

MOTION

Mr. Love made a motion the Board accept the non-NCEES exam policy. Mr. Kinghorn seconded the motion, which carried unanimously.

f. Approval of Funding Request from SCSPE

Ms. Simpson stated Joe Jones of SCSPE asked that the Board approve a funding request during this meeting; however, she did not get the request until late yesterday afternoon. She notified Mr. Jones that the request could not be considered during this meeting.

Discussion ensued regarding details of funding requests and if the Board could address the request since the matter was placed on the agenda.

Ms. Simpson stated Mr. Jones is requesting \$15,000.00 for the 2010 SC Engineering Conference.

MOTION

Ms. Hodge made a motion the Board support Mr. Jones' request for funding; however, the invoice must be received by June 30, 2010, that the Board's logo be visibly inserted on the agenda, all pamphlets and brochures with all other sponsors, and that he announce that the Board is making a significant contribution to the conference. Mr. Joye seconded the motion. Discussion ensued in regard to what would happen if the Board goes autonomous, approving the request for speakers and speaker expenses, and amending the request form. The motion carried unanimously.

14. Board Member Reports

a. NCEES Committees

Mr. Dinkins stated he did not have a report for this committee. He hopes to get appointments for the committees. He has put in words for individuals and hopes to get the appointments soon.

Mr. Dinkins stated an Engineering Application Task Force meeting was held in New Orleans in February. He noted the task force is attempting to develop a more uniform process as to when individuals should be allowed to take an exam.

Mr. Dinkins stated the NCEES Committee also met. He noted the meeting was uneventful.

Ms. Hodge stated the UP met in January 2010. The committee received approximately seven charges following the August 2009 meeting. Each member took a charge for review and responded to NCEES in January 2010.

Mr. Love stated he was involved with the nominations. He discussed the committee discussed how many candidates can be nominated and what is a nomination. There still can be names from the floor following procedure plus four 'seconds' from the floor by the states.

b. SCSU/USC Curriculum – Gene Dinkins

Mr. Dinkins stated things appear to be moving better. He further stated he has met with Dr. Bob Mullen, the new department head of Civil Engineering, Mr. Walt Castro and Mitchell on February 17th. He noted it was a direct result of the Board speaking with legislators in January. He spoke with an influential USC Board of Trustee member and now the USC officials are supportive. He went on to say that during the February 17th meeting Dr. Castro presented a proposed curriculum, followed by discussion concerning tuition and admission to USC. He attended a follow up meeting on March 11. Other attendees also included Dr. Ken Lewis, Dr. Stanley, Walt Castro, Mitchell, Joe Jones, and Ms. Simpson. He stated second semester junior year and first semester senior year SC State students majoring in Civil Engineering would take courses in Columbia. Then the SC State senior year students would attend SC State the second semester and they would have an Engineering Technology Degree with a major in something to be determined at a later time. He noted the Board would automatically accept that as substantially equivalent since Dr. Castro has already approved the curriculum. He further stated SC State anticipates five students at a time. He noted there was a little bit of push back from SC State.

Discussion ensued regarding an agreement between USC and Clemson University that was never signed. The discussion also included SC State granting the degree; however, SC State is not authorized to grant the degree.

Mr. Dinkins stated he feels the Board has fulfilled its obligation.

Mr. Joye suggested the Board document the fact that the Board has reached a milestone and send a preliminary report to the legislature. Mr. Dinkins suggested the Board wait to send a report.

c. Southern Zone Issues – Gene Dinkins

Mr. Dinkins stated there are no issues. He noted a meeting is scheduled for April 8 – 10, 2010 in Tampa, Florida. No nominations have been received for regional treasurer. Mr. Love stated the deadline for nominations was March 15, 2010.

d. ACEC – Miller L. Love

Mr. Love stated the business of continuing education has been a joint venture between ACEC and NCEES. RCEP is a program developed to allow a licensee to register all of his/her continuing education credits on a database which will reside at ACEC. The big issue is there are 12 to 15 registered continuing education providers, whereas AIA has approximately 1,300

continuing education providers. It costs money to become a registered continuing education provider and it costs money to use the database. Twenty percent of the revenue derived from these programs goes to ACEC and eighty percent of the revenue goes to NCEES.

Mr. Love stated this budget year would be a tough year for the associations and would be flat. He noted there would be no significant increase in membership dues until possibly the second or third quarter of 2011.

Mr. Love stated there are four civil engineers who have applied to take the exam.

Mr. Dinkins stated some hot topics include CBT, computer based testing. He noted the council will have to take a vote to approve or disapprove CBT. He noted the Miami office of records evaluation program has been losing approximately \$800,000.00 a year and will be closed by early 2011. He noted Math Counts has received increased funding support; however, the support for BS+30 seems to be crumbling.

Discussion ensued regarding application evaluations by former board members. The Board determined that all surveyor applications are to be distributed to Mr. Amick and engineer applications are to go to all members, with the exception of Mr. Dinkins.

The Board discussed holding the October 26, 2010 meeting at The Citadel in Charleston. Mr. Love will speak with Mr. Fallon in regard to this matter.

Ms. Simpson reminded the members to file the Statement of Economic Interest forms with the Stated Ethics Commission.

15. Public Comments

No public comments were made during this meeting.

17. Adjournment

The March 16, 2010 meeting of the SC Board of the Registration for Professional Engineers and Surveyors adjourned at 3:30 p.m.