

MINUTES
South Carolina Board for Registration of Professional Engineers and Surveyors
Board Meeting
9:30 a.m., September 21, 2010
Synergy Business Park
Kingstree Building
110 Centerview Drive, Conference Room 105
Columbia, South Carolina

Meeting Called to Order

Chairman Gene L. Dinkins, P.E. and L.S., called the meeting to order at 9:34 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: Christa Bell, Assistant General Counsel; Todd Bond, Investigator, OIE; Sharon Dantzler, Deputy General Counsel; Sandra Dickert, OBS; Steve Freshley, Chief Investigator, OIE; and Jamie Saxon, Hearing Advice Attorney.

Public Notice

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.

Approval of Agenda

MOTION

Mr. Kinghorn made a motion the Board approve the agenda as presented. Mr. Amick seconded the motion which carried unanimously.

Applications Hearings

K & R Land Surveyors, Inc. – Application for firm license

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

MOTION

Mr. Love made a motion the Board instruct the Board Administrator to issue a Certificate of Authorization to the firm upon payment of \$500.00. Mr. Amick seconded the motion which carried unanimously.

Melvin Glass and EMC Engineering, Inc. – El Paso, TX

Mr. Glass appeared by telephone.

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

MOTION

Mr. Anderson made a motion the Board grant Mr. Glass his engineering license and grant the firm, EMC Engineering, Inc., a Certificate of Authorization and that the staff issue a letter of

caution to Mr. Glass to practice only in his area of expertise. Mrs. Cottingham seconded the motion, which carried unanimously.

Disciplinary Hearing

Consideration of proposed Consent Agreement – Frederic M. Shmurak
Ms. Bell presented the members with the consent agreement regarding Mr. Shmurak.

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

MOTION

Mr. Amick made a motion the Board approve the Consent Agreement signed by Mr. Shmurak that calls for a fine of \$1000 and a public reprimand. Mr. Kinghorn seconded the motion which carried with a majority vote. Mr. Joye voted nay.

Approval of the July 20, 2010 Board Meeting Minutes

MOTION

Mrs. Hodge made a motion the Board approve the minutes of the July 20, 2010 meeting. Mr. Kinghorn seconded the motion which carried unanimously.

Chairman's Remarks – Gene Dinkins

Mr. Dinkins stated the NCEES annual meeting went very well. A change to computer-based testing for FE and FS exams was approved and will be implemented as soon as feasible. There was considerable debate about whether or not to allow individuals who hold a doctoral degree in engineering to be exempt from taking the Professional Engineer exam for licensure purposes. The resolution did not pass.

Board Officers - Mr. Dinkins reminded everyone that election of officers will be held during the next meeting. New terms begin January 1, 2011.

Administrator's Remarks, For Information – Jan Simpson

Administrative Disciplinary Report – Missy Jones

Mrs. Jones presented the report of administrative actions taken since the last meeting and a summary of all actions taken during 2011. Actions include Consent Agreements, Cease and Desist Orders issues, Letters of Caution and Application hearings held.

Legislative Report – Jan Simpson

No legislative report was given during this meeting.

Administrator's Report – Jan Simpson

Ms. Simpson stated there are 703 South Carolina candidates taking the exams in October. Ten candidates will take the final Structural II exam and 185 are registered for the PE exam; 25 candidates are taking the combo exam which is the Professional Surveyor and State-specific exams.

Ms. Simpson stated the agency is in the process of converting to a new database and briefed the Board regarding the new system.

Ms. Simpson stated there are currently two portfolios in the office for the portfolio process.

Ms. Simpson presented the members with current licensure statistics. [end of report]

NCEES Examinee Management System

Mr. Dinkins stated he had met with NCEES and ACEC representatives on September 20th and discussed the new examining management system. There are 25,000 candidates registered nationwide to take the FE exam in October. There are approximately 500 candidates registered to take the surveyors exam, down from about 1000 in previous exams. Approximately 500 to 600 people will take the PS exam which is also a decrease in test-takers. He said the candidates to take the engineers exam (PE) is up approximately two percent.

Financial Report and Customized Board Reports – Tracey McCarley

Ms. McCarley, who is with LLR's education department, is working on a special project regarding financial statements; she is meeting with all board to determine the financial information they would like to get in a financial report. The Board asked to see the categories of revenue, travel, per diem, salaries, fringe benefits, rent, office supplies, education and research fund, IRC expenses and the portfolio process. The Board determined it does not need to see renewal fees by line item.

Design Professional Meeting Report – Jan Simpson

Ms. Simpson stated the design professionals will meet at 1:30 p.m., Tuesday, September 28th at Mashburn Construction Company offices in Columbia. She asked the Board if there were any concerns they wished her to take to this meeting.

Office of Investigation and Enforcement Report – Steve Freshley Office of General Counsel Report - Christa Bell

Mr. Freshley reviewed IRC Recommendations for seven cases in OIE, including dismissals, formal complaints, and letters of caution.

MOTION

Mr. Kinghorn made a motion the Board approve the IRC report. Mrs. Hodge seconded the motion, which carried unanimously.

Number of Investigations – Steve Freshley

Number of Open Complaint Cases – Steve Freshley

Mr. Freshley stated there are currently 11 active cases in OIE; the oldest case is 318 old and the youngest case is 18 day old. He noted OIE has not received any new cases.

Number of OGC Pending Hearings – Christa Bell

OGC Case Report – Christa Bell

Ms. Bell stated there were seven open cases in OGC, of which one was the consent agreement heard today. She noted there are now six open cases in OGC. Another case has been appealed to the Administrative Law Court.

Unfinished Business

Record Drawing Policy

At the Board's last meeting, Mr. Kinghorn asked to revisit the record drawing policy adopted in March 2010 because of concerns that additional language might need to be added.

A brief discussion ensued but the Board determined the current policy is satisfactory.

DHEC RFP Beach Erosion Surveys – Follow Up

Mr. Dinkins summarized previous events regarding an RFP issued by DHEC in January 2010 for beach erosion surveys; the work was subsequently awarded to Coastal Carolina University.

It is the Board's position that the work requires a licensed surveyor and the University does not have a Professional Land Surveyor. DHEC's position is that other statutes allow them to collect erosion data by individuals other than licensed surveyors. It is the Board's position that DHEC can set the standards for the surveys, but the statutes do not give them the authority to conduct the survey. The issue will be heard before the Administrative Law Court in the near future.

Lunch

The Board recessed for lunch at 12:00 p.m. and resumed public session at 12:30 p.m.

Return to Public Session

SCSU – USC Joint Degree Initiative

Mr. Dinkins reported that he, Mrs. Hodge and Mr. Mitchell Tibshirany met recently with representatives from USC and SC State. SC State proposed delaying implementation of the initiative until 2012, but the Board members objected. He went on to say SC State must obtain two more approvals. He urged SC State to move forward as quickly as possible. He spoke with Representative Gilda Cobb-Hunter on September 20, 2010 at which time he brought her up to date.

Mrs. Hodge stated USC has scheduled a course for the SC State students during the Spring 2011 curriculum.

New Business

Engineer Technology Review Committee (Raymond Cottrell – Mechanical)

Administrator Simpson reported on Mr. Cottrell's background and stated the committee met last week and, without reservation, recommended Mr. Cottrell for licensure as a Professional Engineer. She noted the committee consisted of Mr. John Adams, Mr. Larry Copeland, Mr. Jim McCarter, Mr. Ron Maddox, and Dr. Jamil Kahn.

MOTION

Mrs. Hodge made a motion the Board grant licensure to Mr. Cottrell. Mr. Huey seconded the motion which carried unanimously.

Commissions Paid for Engineering and/or Surveying Services – Gene Dinkins

Mr. Dinkins stated commissions are being paid for engineering and/or surveying services for future work. He referenced Regulation 49-305(A) that discusses solicitation of work. Ms. Dantzler stated staff could send a letter of caution by e-blast to licensees. Discussion ensued and the Board asked Ms. Dantzler to draft a letter of caution to the licensees for the Board's review.

Survey Coordinators – Gene Dinkins

Mr. Dinkins stated there are many out of state firms that are soliciting referrals for surveyors for a fee. The surveyors must pay the company a fee whether the surveyor does the work or not. He provided the members with documentation on a company called First American Title on the Internet and referenced a company called Service Magic.

Ms. Dantzler is more hesitant than Mr. Dinkins for both legal and political reasons. She stated the statute on the practice of surveying says the practice is providing the services, it is not advertising. She went on to say there is also a very strong public policy issue that could place unnecessary burdens on interstate commerce. She is not certain that a court reviewing the statute would not conclude that it brought protection to the client who hired the surveyor. She said if the board is absolutely sure this is unlicensed practice then a cease and desist order

would be issued; however, the Board must be aware of what it is doing. She noted the courts will notice the differences between the engineer's statute and the land surveyor's statute.

MOTION

Mr. Dinkins made a motion the Board issue a cease and desist order for engineering and surveying services being provided by Service Magic. Mr. Love seconded the motion. Following discussion in regard to the services Service Magic is providing, Mr. Dinkins withdrew his motion and Mr. Joye withdrew his second.

The Board asked Ms. Dantzler to research Service Magic and First American Title.

Review of Board Parameters

The Board reviewed the parameters regarding unlicensed practice by applicants for an initial license. The first offense would include a cease and desist being issued as well as a possible Consent Agreement to include a public reprimand and a fine according to a Board-approved formula. The fine for Renewal fraud (claiming completion of required CE hours) will be \$2000.

Mrs. Simpson reviewed several suggested revisions. Discussion ensued in regard to the matter. The Board feels the variants are too great and asked that the parameters be reviewed again during the next meeting.

Mr. Joye left the meeting at 1:22 p.m.

Review of CE Audit Procedures

Ms. Simpson stated a random audit of a percentage of renewed licenses will be conducted. Initial letters will be sent to selected licensees with a stated deadline for providing proof of continuing education. If a licensee fails to comply by the deadline, a second reminder letter will be sent. If there is still no reply, staff will contact the individual if possible. Everyone who has not responded to the audit by the final deadline will be issued a cease and desist order. Any further actions will be guided by the Board-approved parameters.

Call for Nominations for NCEES Awards

Mr. Dinkins stated NCEES is asking for nominations for NCEES national awards to be submitted by January 31, 2011. A new award will go to an individual on the exam committee.

Discussion Topics

SC Officials charged with open meeting violation

All board administrators were asked to provide Board members with a copy of a newspaper article regarding a criminal charge filed against a public entity that did not post notices of meetings in accordance with state requirements.

Ms. Dantzler stated she had always said the Board could be criminally charged but has never seen it done until now. She reminded the Board that the law requires proper and timely posting of any meeting when Board business will be conducted—whether at an Annual Meeting, Zone meeting or elsewhere.

Request to Secretary of State's Office – Jan Simpson, Administrator

Ms. Simpson reported a change in letters being mailed to newly licensed individuals to emphasize information regarding the requirement to license firms in South Carolina. She had previously asked the SC Secretary of State's office to post a notice to firms registering as "foreign corporations" in SC that they must also become licensed by this Board, but the Secretary of State could not comply with that request.

Board Member Reports

NCEES Board – Gene Dinkins

Mr. Dinkins stated he gave a brief report under chairman’s remarks.

NCEES Committee Reports

Mr. Dinkins stated the committees are just now beginning to meet. He noted the Computer Based Testing Task Force is moving forward and will be meeting within the next couple of months.

Mr. Love stated the ACCA will meet in February 2011.

Discussion ensued regarding application hearings conducted by telephone. The Board determined it would consider the nature of an applicant’s request to “meet” by phone and the hardship being cited prior to deciding whether or not to hold the hearing by phone.

Mrs. Cottingham asked that the Board to review the motions to be voted on at the NCEES Annual Meeting prior to the meeting rather than making the determination on the vote during the meeting.

DHEC Hearing at Administrative Law Court

Board members asked about procedural issue with regard to the ALC hearing. Mrs. Dantzler stated pre-hearing statements would be sent to the Board members prior to being submitted to the Administrative Law Court. She asked Mr. Dinkins and Mr. Amick to attend the hearing and to identify a respected land surveyor to testify on the Board’s behalf. She asked that the land surveyor not be from Beaufort County or Horry County.

Public Comments

No public comments were made during this meeting.

Executive Session (if needed)

The Board did not enter executive session

Adjournment

MOTION

Mr. Kinghorn made a motion the meeting be adjourned. Ms. Hodge seconded the motion which carried unanimously.

The September 21, 2010 meeting of the SC Board for Registration for Professional Engineers and Land Surveyors adjourned at 2:03 p.m.

The next meeting of the SC Board of the Registration for Professional Engineers and Surveyors is scheduled for **Thursday**, November 18, 2010.

**Administrator's Report
SC Board of Professional Engineers and Surveyors
September 21, 2010**

No Legislative Report

Exam statistics for October 2010

FE	423
PE	195 (includes 10 taking Structural II)
FS	27
PS	17
SS	16
CB	25 (combination of PS and SS)

TOTAL 703

NCEES's new Examinee Management System works very well and provides updates for review by staff and an opportunity to reconcile our records with those of NCEES.

New Database – "Corelink"

The Board's licensee database will be converted soon to a new system called Corelink. All of the data in our current database will be retained for reference purposes. Applicants will be able to apply online, manage their contact information, request verifications, check their application status—all with a userid and password. Fees will be submitted by e-check or credit card. The staff members (including those who recently transferred to OLC) provided valuable input and feedback multiple times as the project moved forward in phases.

Portfolio Process

Applications are slowing down. We have 48 who have been approved for the Portfolio phase of this licensure pathway but who have not yet submitted the portfolio. We have two portfolios in the office to be assigned to a committee.

PerDiem Rates

On October 1, the GSA "standard" rate for hotels will increase from \$70 to \$77 per night before taxes. This applies to the rates you will pay for hotels in Columbia for overnight stays for board meetings when necessary.