

## MINUTES

### South Carolina Board for Registration of Professional Engineers and Surveyors

Board Meeting

9:30 a.m., March 22, 2011

Synergy Business Park

110 Centerview Drive, Kingstree Building Room 108

Columbia, South Carolina

Tuesday, March 22, 2011

1. Meeting Called to Order

Chairman Andy Kinghorn, P.E., called the meeting to order at 9:00 a.m. Board Members present were Theresa Hillard Hodge, P.E., Thurl M. Amick, Sr., PLS, Nancy W. Cottingham, Gene L. Dinkins, P.E., PLS, Cecil Huey, Jr., P.E., Charles M. Joye, II, P.E., and M.L. Love, Jr., P.E.

Staff members participating in the meeting included: Jan Simpson, Board Administrator, and Missy Jones, Program Assistant. Other LLR employees participating in the meeting included: Sharon Dantzler, Deputy General Counselor; Charlie Ido, Assistant Deputy Director; Christa Bell, Assistant General Counsel; Steve Freshley, Chief Investigator, OIE; Jamie Saxon, Assistant General Counsel; and Suzanne Hawkins, Assistant General Counsel.

a. Public notice

Mr. Kinghorn stated 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. Introduction of Board Members and All Other Persons Attending

Mr. Kinghorn introduced the Board members.

3. Approval of Agenda

Mr. Kinghorn asked if any members needed to make changes to the agenda and no changes were recommended.

4. Application Hearings

a. Payne Thomas – Collusion Hearing

Mr. Thomas appeared for a hearing related to an NCEES Irregularity Report related to the October 2010 FE exam administered at Clemson University. Irregularity Reports are the result of computer analyses of all score sheets of candidates taking the exam nationally. The reports identify statistically abnormal similarities in answers. This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary. Mr. Bob Whorton, Manager of Compliance and Security for NCEES, was present to explain the computer programs and analyses NCEES uses to identify possible instances of collusion between candidates. Ms. Shelly Geer and Mr. Mark Leasure, the exam proctors, were also present by

telephone to answer any questions from the Board or Mr. Thomas. Mr. Thomas described his activities on exam day, the room in which he took the exam, and the seating configuration. He answered all questions posed to him.

Executive Session

MOTION

Mr. Dinkins made a motion the Board enter executive session. Mr. Love seconded the motion and it carried unanimously.

Return to Public Session

MOTION

Mr. Joye made a motion the Board return to public session. Mrs. Hodge seconded the motion and it carried unanimously.

Payne Thomas – Collusion Hearing

MOTION

Mrs. Joye made a motion that there was no evidence of shared information or any other irregularity and approved the release of Payne Thomas's FE exam score. Mrs. Hodge seconded the motion, and the motion carried unanimously.

b. The Protection Engineers Group, Inc. – Application Hearing

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary. The Protection Engineering Group, Inc., provided services in South Carolina prior to obtaining a Certificate of Authorization (firm license). Thomas Gardner, PE, and R. Patrick Flynn, attorney for the company, testified that the company thought the SC Secretary of State's Certificate of Authority was the "COA" required to practice in SC. were present. The Board questioned Mr. Flynn, attorney for the company, and Mr. Gardner about the firm's providing engineering services on one project in South Carolina prior to the issuance of a Certificate of Authorization.

Mr. Flynn and Mr. Gardner answered questions from the Board regarding the circumstances.

Executive Session

MOTION

Mrs. Hodge made a motion the Board enter executive session. Mr. Amick seconded the motion which carried unanimously.

Return to Public Session

MOTION

Mr. Amick made a motion the Board return to public session. Mrs. Hodge seconded the motion which carried unanimously.

The Protection Engineers Group, Inc. – Application Hearing

Mr. Dinkins made a motion the Board grant the firm a Certificate of Authorization with the issuance of a letter of caution. Mrs. Cottingham seconded the motion which carried unanimously.

5. Disciplinary Hearing – Acceptance of Memorandum of Agreement

In the Matter of Case # 2010-42, Howard Boyd – offering to provide surveying services and using a firm name that was not licensed.

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

Ms. Bell presented the proposed Memorandum of Agreement to the Board for acceptance.

Executive Session

MOTION

Mrs. Hodge made a motion the Board enter executive session. Mr. Amick seconded the motion which carried unanimously.

Return to Public Session

MOTION

Mr. Amick made a motion the Board return to public session. Mrs. Hodge seconded the motion which carried unanimously.

MOTION

Mrs. Amick made a motion the Board accept the Memorandum of Agreement and impose a \$1,000 fine to be paid in 30 days of the date the Memorandum of Agreement was signed. Mr. Dinkins seconded the motion which carried unanimously.

Mr. Kinghorn requested a change in Agenda to accommodate Mr. Joe Jones' schedule.

11. New Business

e. Funding Request – SCSPE

Mr. Joe Jones, Executive Director of SCSPE, submitted a request for funding in the amount of \$15,000 for speakers and venue costs for the South Carolina Engineering Conference to be held June 9–12, 2011, in Hilton Head. He provided the Board with an agenda and program. The funding is provided from the Board's Education and Research Fund as authorized by Section 40-22-245.

MOTION

Mr. Joye made a motion the Board approve the request for \$15,000.00. Mrs. Hodge seconded the motion which carried unanimously.

Christa Bell introduced Suzanne Hawkins who will be the Board's litigation attorney starting April 1, 2011. Mrs. Bell will become the Board's Advice Counsel starting April 1, 2011.

6. Approval of the January 25, 2011, Board Meeting Minutes

MOTION

Mrs. Hodge made a motion the Board approve the January 25, 2011, Board meeting minutes. Mr. Amick seconded the motion which carried unanimously.

7. Chairman's Remarks – Andy Kinghorn

Mr. Kinghorn reported that he attended Board Presidents' Assembly in Atlanta, GA, along with Jan Simpson and Gene Dinkins. Mr. Dinkins reported to the participants that the SC Board accepted RCEP as a continuing education provider and will accept transcripts of activities for audit purposes. LLR's new director, Catherine Templeton, met with the Chair, Vice-Chair, and Mr. Dinkins after the Board meeting on January 25, 2011, and they were very pleased with the new direction and changes she plans to implement.

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

a. Administrative Disciplinary Report – Missy Jones

Mrs. Jones briefed the Board regarding the disciplinary report. (Attached)

b. Administrator's Report – Jan Simpson

Ms. Simpson stated that LLR Director Catherine Templeton has restructured the Professional and Occupational Licensing (POL) division into a format similar to the structure two years ago prior to creation of the Office of Licensure and Compliance. As a result, the Board of Professional Engineers and Surveyors has been assigned two people in addition to the existing staff. Everyone on staff will be cross-trained to work with all three Boards (Architects, Landscape Architects). The change is officially effective April 1, but staff already has begun taking on those responsibilities. Licensing will return to the Board staff: initial, renewal, reinstatements, and application hearings.

c. Financial Report – Jan Simpson

A full financial report was emailed to the Board Meeting prior to the meeting, and a less detailed report was distributed at the meeting.

d. Legislative Report – Jan Simpson

Landscape Architect Board Regulations have been filed, and H. 3039 (stock school plans) remains in subcommittee. S.410 was introduced to have an Oversight Committee for Board with other funds.

Jim McCarter continues to represent the Board at the Design Professional quarterly meetings although he could not attend the most recent one. It was scheduled just 2 weeks prior to the meeting date.

MOTION

Mr. Joye made a motion that Board request LLR Director Templeton to establish a position of Deputy Administrator for Ms. Simpson to ensure continuity in the event she retires. Mr. Dinkins seconded the motion which carried unanimously. Mr. Kinghorn will write Director Templeton.

9. Office of Investigation and Enforcement Report – Steve Freshley  
Office of General Counsel Report – Christa Bell
  - a. Number of Investigations – Steve Freshley
  - b. Number of Open Complaint Cases – Steve Freshley
  - c. Number of OIE Pending Investigations – Steve Freshley

#### IRC Report

Mr. Freshley reported eight active cases in OIE as of today. The oldest is 286 days old and the newest is three hours old. Mr. Freshley stated that the IRC met on March 9, 2011.

#### MOTION

Mr. Joye made a motion to accept the recommendations made by the Office of Investigation and Enforcement in their IRC Report. Mr. Dinkins seconded the motion which carried unanimously.

- d. Number of OGC Pending Hearings – Christa Bell
- e. OGC Case Report – Christa Bell

Ms. Bell reported there are currently five open cases in OGC; of those, one is pending legal action and three are pending before the Administrative Law Court. Five cases are pending Consent Agreements and Memoranda of Agreement; there are no cases pending final order hearings and only one case pending a final order. Fourteen cases have been closed since January 2010; one case is on appeal at the Administrative Law Court should be concluding soon.

10. Unfinished Business
  - a. Construction Staking – Thurl Amick

This topic was carried over from the January 2011 meeting. The Board reaffirmed its position from the January 2011 Board meeting. The Board requested that Christa Bell do research into the laws and regulations of the Board for construction staking and present her findings at the May Board Meeting.

- b. Review of IRC Members and terms of service – Theresa Hodge

This topic was carried over from the January 2011 meeting. Mrs. Hodge suggested the following guidelines for the Investigative Review Committee (IRC): The committee should consist of four members appointed by the Board; recommendations for appointment may be made by any individual or group. Two members must be professional engineers and must be actively engaged in the practice of engineering; two members must be professional surveyors and must be actively engaged in the practice of surveying. Members of the IRC shall serve for terms of four years and until their successors are appointed. No more than one engineer's term shall expire in any calendar year; no more than one surveyor's term shall expire in any calendar year. In the event of a vacancy, the Board shall appoint a person to fill the vacancy for the unexpired portion of the term. Members of the IRC are limited to serving eight years.

Each engineering member of the IRC must be a citizen of the United States and a resident of South Carolina, must be licensed in this State, must have been engaged in the practice of

engineering in this State for at least twelve years and must have been in responsible charge of important engineering work for at least five years. Each surveyor member of the IRC must be a citizen of the United States and a resident of this State, must be licensed in this State, and must have been engaged in the practice of surveying in this State for at least twelve years and in charge of important surveying work. Mr. Dinkins suggested that surveyor must have been engaged in the practice of surveying in this State for at least five years instead of twelve years. Discussion involved whether retired professionals should be appointed. A Board member shall also serve on the IRC committee; the position may rotate among members.

Ms. Simpson is to send the Board Members IRC dates through 2011. The Board debated several issues about the proposal.

#### MOTION

Mr. Joye made a motion to accept Mrs. Hodge's recommendations for the IRC composition and terms of service guidelines with the following changes: 1) The two PE members and the two PLS members must be actively engaged in the practice of engineering or surveying at the time of their appointment. 2) Members of the Board may serve on the IRC Committee. 3) The surveyors must have been engaged in the practice of surveying in this State for at least five years. The Board will not determine who votes. Mr. Dinkins seconded the motion which carried unanimously.

#### c. NCEES Change to Education Standard – Impact on SC Board

Mr. Dinkins discussed proposed new education requirements for engineers which reduce the number of courses in humanities. Discussion followed about the NCEES requirements versus ABET requirements. This matter was carried over and the Board requested that Dr. Castro, Education Consultant, attend the May 17, 2011 Board Meeting.

#### Incorrect Board of Registration Seal – Jan Simpson

Ms. Simpson reported to the Board that the Seal on the "wall certificate" paper is incorrect. Ms. Simpson stated that because of the large amount volume paper on hand, she could not justify discarding it. The Board agreed; the seal will be corrected when the current stock is depleted.

#### 11. New Business

##### a. Update on Clemson Curriculum for Surveying – For information

Ms. Simpson presented updated information about the surveying coursework offered through the Forestry Program at Clemson. The Board has already approved this curriculum.

##### b. CE Audit Issues – Jan Simpson & M.L. Love, Jr.

Ms. Simpson reported on the 2008-2010 Continuing Education Audit results (see Administrator's Report). Mr. Love commented on the poor quality of some of the continuing education submitted to the Board. The Board decided after discussion that the Board will continue to determine what is acceptable for continuing education.

c. Acceptance of Veteran's Points for FE and PE Exams – Jan Simpson

The Board reaffirmed that the South Carolina Board will not license applicants who received a passing exam grade by the addition of veteran's points.

d. Technical Course Option in Clemson Civil Engineering – Dr. Cecil Huey

Dr. Huey presented proposed technical coursework offered through the B.S. Civil Engineering Program at Clemson that would satisfy surveying education requirements for licensure. The coursework options were developed by Dr. Messier at Clemson. Discussion followed about the technical courses. The Board requested that Dr. Messier attend the May 17, 2011, Board Meeting for further discussion.

MOTION

Mr. Dinkins made a motion the Board approve the suggested technical course options offered by the Civil Engineering program at Clemson as meeting requirements for surveyor education. Mrs. Cottingham seconded the motion and it carried unanimously.

f. Funding Request – Structural Engineers Association of SC

Mr. Brian Pietras submitted a request for funding in the amount of \$4,850 to support speakers and venue costs for the annual meeting of the Structural Engineers Association of South Carolina to be held June 24, 2011, in Columbia. He will provide the Board with an agenda and program. The funding is provided from the Board's Education and Research Fund as authorized by Section 40-22-245.

MOTION

Mr. Love made a motion the Board approve the request for \$4,850.00. Mrs. Hodge seconded the motion which carried unanimously.

g. New Travel Policy – Jan Simpson

Ms. Simpson presented the Board with LLR's New Travel Policy. LLR Director Catherine Templeton will not approve travel requests for Board members. The Board may decide the events they will attend and the number of participating Board members—all within the Board's budget. Boards must vote on attendance. Ms. Simpson noted current mileage reimbursement is 50.5 cents/mile.

MOTION

Mr. Joye made a motion that the Board will attend all regional and national meetings and all NCEES meetings including law enforcement seminars. Mr. Love seconded the motion which carried unanimously.

12. Discussion Topics

a. Travel to Regional and National Meetings

This is a duplicate of 11 g. New Travel Policy. No need for discussion.

b. Special Committee Bylaws

Members were sent proposed Bylaws changes prior to the meeting.

c. Request for consideration – Regulation revision

The Board considered a request that roads identified on surveyor plats have their state and federal numbers labeled. As this would require a change in Regulations, the Board took the matter under consideration for future changes.

13. Board Member Reports

a. NCEES Update – Gene Dinkins

Mr. Dinkins attended the Board Presidents Assembly in Atlanta, February 11 - 12. The Southern Zone meeting will be held in Austin, Texas, in late April. The Zone will vote on candidates for NCEES President Elect, Zone Vice-President, and Zone Assistant Vice-President. Mr. Dinkins stated that NCEES officially cancelled the exam administration in Cairo, Egypt, and Tokyo, Japan, for April 2011, due to safety concerns.

b. ACEC Update – M. L. Love

Mr. Love stated that the American Council of Engineering Companies (ACEC) will visit Congress members next week in Washington, D.C. Mr. Love noted a trend of medium sized firms being bought by larger firms. Mr. Love attended the ACCA and will give the report on that meeting at the Southern Zone Meeting. Mr. Love also attended the POLC in Atlanta.

c. UPLG Update – Theresa Hodge

Mrs. Hodge stated that UPLG met in late February 2011. The Committee had eight charges ranging from computer-based testing to adding “earned” doctoral degree instead of PhD. One charge was to study adding the term “authoritative” but UPLG could not reach a consensus on a definition.

15. Public Comments

Mr. Ido stated that he is meeting with all of the Boards to discuss the reorganization of the LLR.

Mrs. Simpson noted that the Administrative Disciplinary Report distributed with meeting materials mistakenly listed William Scharnitzky.

Mrs. Simpson noted that the Board has the current and correct version of Regulation 49-204. (There was confusion about this at the January 2011 meeting).

16. Executive Session (if needed)

The Board did not enter into executive session.

17. Adjournment

MOTION



Mr. Dinkins made a motion the Board adjourn. Mrs. Hodge seconded the motion and it carried unanimously.

The March 22, 2011, meeting of the SC Board for Registration for Professional Engineers and Surveyors adjourned at 3:00 p.m. The next meeting is scheduled for May 17, 2011, at 9:30 a. m., Room 108.

Respectfully submitted,

Missy D. Jones