

MINUTES
South Carolina Board of Registration for Professional Engineers and Surveyors
9:30 a.m., September 24, 2019
Synergy Business Park, Kingstree Building
110 Centerview Drive, Conference Room 105
Columbia, SC

Call To Order

Chairperson Dinkins called the meeting to order at 9:32 a.m.

Statement of Public Notice

Chairperson Dinkins stated that public notice of this meeting was properly posted at the South Carolina State Board of Registration for Professional Engineers and Surveyors Office, Synergy Business Park, Kingstree Building, on the Board's website, 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.

Introduction of Board Members and Other Persons Attending

Board members present included Gene L. Dinkins, PE, PLS, Chairperson; Dr. Johnston Peebles, Ph.D., PE, Vice-Chairman; Dr. Dennis J. Fallon, Ph.D., PE; Timothy Rickborn, PE; Jimmy Chao, PE; Henry Dingle, Jr., PLS; and D. Mack Kelly, Jr., PE, PLS.

Staff members present included: Lenora Addison-Miles, Administrator; Alice DeBorde, Program Coordinator; Janene Grantham, Program Assistant; Stacey Hewson, Esq., Advice Counsel; Donnell Jennings, Esq., Office of Disciplinary Counsel and Rodney Pigford, Office of Investigations and Enforcement.

Others present included: Kenneth Canty, LeRonne Riddick-Seals, Robert Phillips, Donald Bruce Nothdurft, Ashley Sapyta, Allison King, Chris Langston, Max Brown, Keith Cochran, Michael Kilian, Spencer Plowden, Tim Lingerfelt, and Travis McLeod (Creel Court Reporting).

Approval of Meeting Minutes

The board reviewed the minutes from the July 16, 2019 meeting.

MOTION: To approve minutes. Rickborn/Chao/approved.

Approval of Excused Absences

Baker Cleveland's absence was excused.

Review and Approval of Agenda

MOTION: To approve agenda. Peebles/Rickborn/approved.

License Fee Analysis and Recommendation – LLR Director, Emily Farr

Director Farr introduced Abhijit Deshpande and Patrick Jarvis, LLR Finance. Over the last eight months Mr. Deshpande has worked on the license fee analysis for the agency. The last fee analysis was conducted in 2014 and in the future there will be a fee analysis every two years. Director Farr recommended a 20% decrease in board licensure fees. If approved, the decrease in fees would be

effective July 1, 2020. The fee change would be proposed through changes to the regulations and must be approved by the Legislature.

MOTION: To approve 20% fee decrease proposal. Fallon/Chao/approved.

Reports

- a. Mr. Pigford presented the OIE report. From January 1, 2019 through September 16, 2019, 27 cases are active investigations, two cases have been closed, and a total of 56 complaints were received. The average age of investigations is 105 business days.
- b. Mr. Jennings presented the ODC report. There are currently 24 cases open, 15 pending action, seven pending consent agreements/MOA's, two pending hearings and seven cases have been closed.
- c. Mr. Jennings asked the Board for direction prior to presenting the IRC report.

MOTION: To enter executive session for legal advice. Chao/Fallon/approved.

MOTION: To exit executive session. Rickborn/Dingle/approved.

MOTION: To accept the recommendation for dismissal of cases 2018-23 and 2019-8. Rickborn/Peeples/approved.

MOTION: To accept recommendation of formal complaints for cases (2019-10, 2019-23, 2019-40, 2019-41, 2019-68). Case #2019-20 will be a separate motion. Rickborn/Fallon/approved.

MOTION: To accept the recommendation of formal complaint for case 2019-20. Rickborn/Chao/approved. Dingle abstained.

MOTION: To accept reconsideration and dismissal of case 2017-56. Rickborn/Fallon/approved.

- d. Mrs. Miles presented the Administrative and Financial reports. Mrs. Miles noted as of September 13th, there were a total of 17,979 engineers, 977 surveyors, 126 dual licensees, and 10 associate PE's current through June 30, 2020. There are 3,303 firms and 1,024 branches current through March 31, 2021. Meeting materials also contain information regarding the number of in state and out of state early PE/PS exam candidates by year. As requested, there is a breakdown of engineers and surveyors license totals from fiscal year 2014 through fiscal year 2018. As of September 16th, the NCEES CBT Summary for the current testing window, shows 98 FE, six FS, three PE, and one PS exam delivered. We also approved 275 PE candidates and 9 SE candidates for the October exam. We received 1,776 Early PE exam applications and 1,075 have passed the exam. There have been eight Early PE applications and five have passed. The cash balance (\$3,562,168) was provided by Director Farr. The Education and Research Fund balance was \$440,458.22.

Mrs. Miles stated NCEES exams will be held on October 25-26, 2019. If any board members are interested in visiting the exam site, please let her know by Thursday of this week. The Interprofessional Council on Registration (ICOR) will host an orientation for new state board

members and member board administrators, February 12-14, 2020 in Washington, DC. Funding will be provided for those who have served in these positions for 24 months or less.

Funding Request

- a. Ashley Sapyta, chair of the SC Chapter of the Air & Waste Management Association, requested funding for workshops in four counties, for training to help small-to-medium businesses understand what is required of them in terms of environmental compliance and how the professional engineer is an integral part of the environmental permitting and compliance process. Ms. Sapyta was unable to provide an estimate regarding the number of PE's attending. Mr. Dinkins expressed his concerns because no CE credits would be offered for these workshops. Dinkins stated he was not sure if this falls under our mandate for education. Ms. Sapyta stated they are targeting mostly manufacturing companies because that's where the most environmental compliance issues are located.

MOTION: To deny funding request. Rickborn/Dingle/approved.

Mr. Dingle left the meeting at 11:05 a.m.

- b. Allison King, SCSPE, requested \$9,000 for the 2019 Fall Symposium in Rock Hill, Greenville and Charleston. Eight CE hours will be given.

MOTION: To approve funding request. Rickborn/Chao/approved.

Disciplinary Hearings

- a. Mr. Kenneth Canty appeared before the board for a disciplinary hearing in case 2018-80. Mr. Canty was not represented by counsel. He did not have any witnesses. This matter was recorded by a court reporter to provide a verbatim script should one be necessary. Mr. Chao was recused from the hearing.

MOTION: To enter executive session for legal advice. Fallon/Rickborn/approved.

MOTION: To exit executive session. Fallon/Rickborn/approved.

MOTION: To accept MOA. Issue a public reprimand and pay investigative costs. Fallon/Rickborn/approved.

- b. Donald Nothdurft appeared before the board for a disciplinary hearing in case 2018-53. Mr. Nothdurft was represented by Sam Phillips, Esq. who also served as a witness. This matter was recorded by a court reporter to provide a verbatim script should one be necessary.

MOTION: To enter executive session for legal advice. Peeples/Rickborn/approved.

MOTION: To exit executive session. Rickborn/Chao/approved.

MOTION: To defer action until additional information is received from North Carolina Engineers Board, and NC Geology Board, and hear the matter at the November meeting. Rickborn/Fallon/approved.

The Board recessed for lunch from 12:15 until 1:00 p.m.

- c. BNP Associates, Inc., case 2019-4 was continued.
- d. Carolina Soil Inspections, LLC, appeared before the board for a disciplinary hearing in case 2019-6. Christopher Langston represented the firm and was not represented by counsel. He did not have any witnesses. This matter was recorded by a court reporter to provide a verbatim script should one be necessary.

MOTION: To enter executive session for legal advice. Fallon/Peeples/approved.

MOTION: To exit executive session. Chao/Rickborn/approved.

MOTION: To accept the MOA. Applicant violated 40-22-30(A)(3), 40-22-250(A), and 40-22-110(A)(5). Pay \$1000 fine. Reject the COA application. Firm will need to submit a new application. Rickborn/Fallon/approved.

Application Hearings

- a. William L. Toney, Jr. appeared before the board, via conference call, for an application hearing. Mr. Toney was not represented by counsel. He was in the presence of notary, Michelle Owens. He did not have any witnesses. This matter was recorded by a court reporter to provide a verbatim script, should one be necessary.

MOTION: To enter executive session for legal advice. Fallon/Peeples/approved.

MOTION: To exit executive session. Rickborn/Peeples/approved.

MOTION: To grant license by comity. Fallon/Kelly/approved. Chao opposed.

- b. Max Brown appeared before the board for an application hearing for re-exam consideration. Mr. Brown was not represented by counsel. He did not have any witnesses. This matter was recorded by a court reporter to provide a verbatim script should one be necessary.

MOTION: Approved to re-take PE exam. Chao/Fallon/approved.

- c. Spencer Plowden appeared before the board for an application hearing to request licensure by exam. Mr. Plowden was not represented by counsel. He did not have any witnesses. This matter was recorded by a court reporter to provide a verbatim script should one be necessary.

MOTION: To enter executive session for legal advice. Chao/Rickborn/approved.

MOTION: To exit executive session. Peeples/Rickborn/approved.

MOTION: Approve for licensure. Chao/Fallon/approved. Kelly opposed.

- d. Keith Cochran appeared before the board for an application hearing to request licensure by comity and waiver of the FE exam. Mr. Cochran was not represented by counsel. Michael Kilian served as a witness. This matter was recorded by a court reporter to provide a verbatim script should one be necessary.

MOTION: To enter executive session for legal advice. Rickborn/Peeples/approved.

MOTION: To exit executive session. Chao/Fallon/approved.

MOTION: To deny the application. Applicant does not meet requirements of 49-200C.(1)(b). Rickborn/Fallon/approved.

NCEES Board of Directors Visit

Mr. Tim Lingerfelt, NCEES Southern Zone VP, and Timothy Rickborn, NCEES Treasurer, gave a brief update on NCEES.

NCEES has purchased a new building in Greenville and it is currently going through renovation. The plan is to move staff into the new building starting in March 2020 and the move will be complete by May 2020. Mr. Rickborn would like for our board to attend the grand opening ceremony if possible.

NCEES has partnered with other licensing boards to form The Alliance for Responsible Professional Licensing. It represents highly complex technical professions such as engineering, medical, accountancy and several other professions.

A new specification of the FS exam will go into effect July 1, 2020.

Unfinished Business

- a. The Board reviewed the action items from the July 16, 2019 meeting. Mrs. Miles stated the only outstanding item was the Guidelines for Successor Engineer/Surveyor. Mr. Rickborn will provide revisions for the November meeting.
- b. Mr. Jennings is still seeking expert reviewers for storm water management cases. There are currently three cases requiring review. Mr. Dinkins may be able to assist in identifying expert reviewers. Mrs. Miles noted in 2014, the board voted expert reviewers would receive PDH credit, mileage and per diem (as long as they are not full-time state employees). Mr. Jennings stated other boards were paying \$100 per hour for expert reviewers.

MOTION: To pay expert reviewers \$100 per hour in addition to PDH credit, mileage and per diem. Chao/Fallon/approved.

- c. Mr. Jennings requested direction in regards to the expert reviewer scope of review. Members were asked to provide a list of questions expert reviewers should address when

reviewing complaint cases. Mr. Jennings will send an email to board members with a proposed list of questions, adopted by the medical board, as an example.

New Business

- a. The 2020 meeting dates are January 7, March 17, May 12, July 21, July 22 (disciplinary hearings), September 22, September 23 (disciplinary hearings), and November 10.
- b. Mr. Jennings asked the board if they wanted to amend the current disciplinary parameters to include investigative costs and discipline to another regulated profession.

MOTION: Amend parameters to include investigative costs and discipline to another regulated profession. Rickborn/Fallon/approved.

- c. Mr. Dinkins indicated Midlands Technical College has expressed an interest in expanding their current surveying program to actually offer a four-year surveying degree. The college is seeking a show of support from the board. Mr. Dinkins drafted a statement that fully endorses education for surveyors.

MOTION: To approve the surveyor education support statement. Rickborn/Kelly/approved.

Other Business

Mr. Chao expressed his interest in board members visiting in-state colleges to speak with students regarding the importance of licensure. He would like the board to look into possibly being able to utilize Education and Research funds to purchase food for these presentations.

Notice of Next Meeting

The next meeting of the SC Board of Registration for Professional Engineers and Surveyors will be held on Tuesday, November 12th at the SC Department of Labor, Licensing, and Regulation, Synergy Business Park, Kingstree Building, 110 Centerview Drive, Room 105, Columbia, SC and will begin at 9:30 a.m.

MOTION: To adjourn. Rickborn/Chao/approved.

The meeting adjourned at 4:18 p.m.

Respectfully Submitted,

Janene Grantham
Program Assistant