

MINUTES
South Carolina Board of Registration for Professional Engineers and Surveyors
9:30 a.m., March 16, 2021
Videoconference Meeting

Call to Order

Chairperson Peeples called the meeting to order at 9:30 a.m.

Statement of Public Notice

Chairperson Peeples 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 participating included Dr. Johnston Peeples, Ph.D., PE, Chairperson; Jimmy Chao, PE, Vice-Chairperson; Henry Dingle, Jr., PLS, Secretary; Gene L. Dinkins, PE, PLS; Dr. Dennis J. Fallon, Ph.D., PE; Timothy Rickborn, PE; D. Mack Kelly, Jr., PE, PLS; and Baker Cleveland.

Staff members participating included: Lenora Addison-Miles, Administrator; Stacey Hewson, Esq., Office of Advice Counsel; Donnell Jennings, Esq., Office of Disciplinary Counsel; Rodney Pigford and Christa Bell, Office of Investigations and Enforcement; Courtney Clark, and Tracey Solet, Office of Disciplinary Counsel.

Others participating included: Allison King, Adam Jones, Brian Bonds, Darra Coleman, Richard George, David Brandyburg, Donovan Pullen, Carlos Gittens, DeeDee Schwacke, Tilden White, and Katherine Boone (Creel Court Reporting).

Approval of Meeting Minutes

The board reviewed the minutes from the January 19, 2021 meeting.

MOTION: To approve minutes as amended. Fallon/Rickborn/approved.

Approval of Excused Absences

All members present.

Review and Approval of Agenda

To move the two denied portfolio applications (Brandyburg and Nelson) to the May 11th meeting.

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

Reports

Office of Investigations and Enforcement

Mr. Pigford presented the OIE report. From January 1, 2021 through March 10, 2021: 11 complaints received, and five active investigations. The average age of investigations is 112 business days. From

January 1, 2020 through December 31, 2020, 79 complaints were received, seven are current investigations, and 19 cases were closed.

Investigative Review Committee Report

Mr. Pigford presented the IRC report. The committee met on March 4, 2021 with the following recommendations: Dismiss cases 2020-8, 2020-43, 2020-50, 2020-71; Formal Complaint for cases 2020-57, 2020-58, 2020-60, 2020-63, 2020-86, 2020-87; Letter of Caution for case 2020-69.

MOTION: To approve March 4th IRC report. Fallon/Chao/approved.

Office of Disciplinary Counsel Report

Mr. Jennings present the ODC report. As of March 2, 2021, there were 52 open cases, 22 are pending actions, 25 are pending CA/MOA, one pending appeal, one pending board action, three pending rescheduling, and seven cases closed.

Mr. Jennings asked the Board for permission to have Mr. Rickborn review a very complex case to determine if the manufacturing exemption applies. The IRC referred the case to the full Board for a decision. Mr. Rickborn will be recused from any board consideration or ruling regarding this case.

MOTION: To approve Rickborn to review case. Dinkins/Fallon/approved. Mr. Rickborn abstained.

Administrative and Financial Reports

Mrs. Miles presented the Administrative and Financial reports. Mrs. Miles noted as of March 3, 2021, a total of 18,138 engineers, 916 surveyors, and 113 dual licensees registered through June 30, 2022. There are 2,102 firms and 623 branch offices current through March 2023; and 1,458 firms and 508 branch offices active in renewal. Meeting materials also contain information regarding the number of in-state and out-of-state early PE/PS exam candidates by year. The NCEES CBT Summary for the current testing window (January – March) shows 148 FE, six FS, 28 PE, and two PS exams. We have received 2,096 Early PE exam applications and 1,339 have passed the exam. There have been 11 Early PS applications and five have passed. The January cash balance was \$4,353,860.54. The Education and Research Fund balance was \$552,678.22.

Members were reminded that Statement of Economic Interest Reports must be filed electronically with the State Ethics Commission by March 30, 2021.

Application Hearing:

Tilden White appeared before the board to request renewal of his professional engineer license. Mr. White was not represented by counsel. This matter was closed to the public in order to protect Mr. White's privacy interests that may be protected by federal law. This matter was recorded by a court reporter to provide a verbatim script should one be necessary.

MOTION: To close hearing to protect personal privacy. Chao/Cleveland/approved.

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

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

MOTION: To grant renewal conditioned upon successful completion of the terms of his probation in North Carolina, and he must self-report any arrest other than a standard traffic violation, during the entire renewal period.
Cleveland/Rickborn/approved.

Hearing Officer Recommendation

LMS Surveying Ltd. Co., appeared before the Board in reference to case 2020-85. Richard George, owner of LMS, participated in the hearing. The firm was represented by Darra James Coleman, Esq., with Nexsen Pruet, LLC. Ms. Coleman made a motion, seconded by Mr. Jennings, for closed proceedings pursuant to S.C. Code Section 30-4-70. The motion carried. Dinkins was recused from this matter. 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/Fallon/approved.

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

MOTION: Accept hearing officer recommendation. Fallon/Dingle/approved.

Civil Portfolio Review Committee Recommendations

The Board reviewed the February 17 and March 1 committee recommendations.

MOTION: To move the February 17th denied applicant to the May 11th meeting, to allow time for receipt of the official meeting transcripts. Peeples/Chao/approved.

MOTION: To approve the February 17th committee recommendations. License Walter D. Smith, Marcus Snyder, and Joseph Whitaker. Chao/Fallon/approved.

MOTION: To move the March 1st denied applicant to the May 11th meeting, to allow time for receipt of the official transcripts. Peeples/Rickborn/approved.

MOTION: To approve the March 1st committee recommendations. License Donavon Pullen, Wesley Hunnius, and John Gamble, Jr. Chao/Fallon/approved.

Funding Request

The Board reviewed a funding request from SCSPLS for the 2021 Convention and Technical Conference to be held April 1-2, 2021. The event will be a hybrid conference with limited in-person availability with up to 500 virtual attendees.

MOTION: To approve \$35,000 request. Chao/Dingle/approved.

Unfinished Business

Review of Action Items

The Board reviewed the action items from the January 19, 2021 meeting. Fallon, Peeples, Rickborn, and Kelly will work on regulation revisions.

Affidavit in Support of Initial Complaints

This matter will be taken up at a later time.

Certificate of Study

Rickborn has prepared a revised document and is working with staff and counsel.

Work Experience Verification

Rickborn will work with staff on incorporating the general descriptions for types of practice into a revised work experience form.

COA (EIC) Issue

Mrs. Miles noted during the January 19th meeting the board requested the number of engineers/surveyors that are listed as being in responsible charge of more than one firm. Mrs. Miles asked for guidance on how to proceed with notifying these licensees that this is not acceptable. The Board instructed Mrs. Miles to notify the firms and allow them 60 days to designate another licensee in responsible charge before disciplinary action is pursued.

New Business

IRC Member Appointments

The Board reviewed three applications to fill one vacant surveyor position on the IRC. Applications were submitted by Brian Bonds, F. Elliotte Quinn, III, and Floyd A. Sweatt, Jr.

MOTION: To enter executive session for legal advice regarding personnel issues, with Donnell Jennings, Christa Bell and Lenora Addison-Miles participating.
Dinkins/Rickborn/approved.

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

MOTION: To appoint Brian Bonds as surveyor member of the IRC. To appoint F. Elliotte Quinn, III to serve as an expert reviewer for surveyor complaint cases.
Dinkins/Dingle/approved.

MOTION: To allow Bonds and Quinn to alternate positions, if needed, in the event of conflicts.
Rickborn/Dingle/approved.

The Board would like to thank Rick Inman for his years of dedicated service by honoring him with a service plaque.

Committee Report on Forensic Affidavits

The Committee comprised of Rickborn, Dinkins, Cleveland and Jennings met in October 2020. Mr. Rickborn noted the committee is discussing Section 15-36-100(B), S.C. Frivolous Civil Proceedings Sanctions Act and how to handle cases involving forensic affidavits.

Expungement Policy

Advice Counsel Hewson indicated LLR's director would like the Board to consider adopting an expungement policy for minor infractions. Counsel will research the issue and prepare a draft policy for board review.

COA Licensure (Employees Working Remotely)

Mrs. Miles requested guidance from the board regarding inquiries from firms where employees are now working remotely from their home, and if the board needs to license each employee residence as a branch office.

Request for Interpretation Regarding GPC Machine Control Models

The Board reviewed a request from Ranger Engineering Consulting for an interpretation regarding the creation of GPS machine control models and whether or not this work is considered the practice of engineering and/or surveying. Based on a previous policy digital terrain models fall within the scope of the practice of engineering and/or surveying.

Status of Board Meetings

LLR Director Farr has asked the boards to consider how they would like to handle future meetings. The board will plan on the May meeting being virtual and access how things are at that time. The next meeting will begin at 9:00 a.m. due to a number of disciplinary cases.

Other Business

Mr. Dinkins indicated the hearing officer process appears to be redundant because the cases are heard by a hearing officer and then they come to the full board. It appears to be a duplication of work. Future cases will be handled by MOA hearings instead of a hearing officer.

NCEES Southern Zone meeting will be a virtual event. NCEES is still planning on having an in-person annual meeting but the attendance will be limited to two representatives from each board and no networking events.

Public Comments

Adam Jones gave a brief legislative update regarding architect regulations, and establishing residency for licensure. A bill was introduced by home builders that will change the adoption of building codes to every six years.

Notice of Next Meeting

The next meeting of the SC Board of Registration for Professional Engineers and Surveyors will be held on Tuesday, May 11, 2021 at 9:00 a.m. by videoconference.

MOTION: To adjourn. Rickborn/Chao/approved.

The meeting adjourned at 2:22 p.m.

Respectfully Submitted,

Lenora Addison-Miles, CPM, MBA
Administrator