

MINUTES
South Carolina Board of Registration for Professional Engineers and Surveyors
9:00 a.m., May 11, 2021
Videoconference Meeting

Call to Order

Chairperson Peeples called the meeting to order at 9:02 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 Kathy Meadows, Office of Investigations and Enforcement; Courtney Clark, Tracey Solet, and Kate Barroll, Office of Disciplinary Counsel.

Others participating included: Allison King, Adam Jones, Allison Fuller, Brian Bonds, Sam Wellborn, Greg Young, Seth Rose, David Roberts, David Graffius, Brian Christiano, Joshua Lloyd, Brian Wolfe, David Brandyburg, Angel Rivas, Michael Zavislak, Robert Cook (attorney), Jimmy Oswald, Christopher Burgess, Deven Buzhardt, Greg Harnish, Greg Parsons, and Sean Cary (Creel Court Reporting).

Approval of Meeting Minutes

The board reviewed the minutes from the March 16, 2021 meeting.

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

Approval of Excused Absences

All members present.

Review and Approval of Agenda

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

Reports

Office of Investigations and Enforcement

Ms. Meadows, OIE Investigator, presented the OIE report. From January 1, 2021 through May 5, 2021: 34 complaints received, and 13 active investigations. The average age of investigations is 52 business days.

Investigative Review Committee Report

Ms. Meadows presented the IRC report. The committee met on May 5, 2021 with the following recommendations: Formal Complaint for cases 2019-98, 2019-101, 2020-62, 2020-74, 2020-75, 2020-89.

MOTION: To approve May 5th IRC report. Rickborn/Fallon/approved.

Office of Disciplinary Counsel Report

Mr. Jennings presented the ODC report. As of April 27, 2021, there were 54 open cases, 25 are pending hearings and agreements. Since the last meeting, nine cases were closed, and since January 1, 2021, 14 cases have been closed.

Mr. Jennings noted the new format for the ODC report has been streamlined by the agency to provide consistency amongst all boards. Mr. Rickborn requested an aging case report for the next meeting to show that older cases are being handled first.

Administrative and Financial Reports

Mrs. Miles presented the Administrative and Financial reports. Mrs. Miles noted as of April 29, 2021, a total of 18,376 engineers, 918 surveyors, and 113 dual licensees registered through June 30, 2022. There are 3,332 firms and 1,131 branch offices current through March 2023; and 250 firms and 34 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 (April - June) shows 198 FE, five FS, 28 PE, and three PS exams. We have received 2,120 Early PE exam applications and 1,339 have passed the exam. There have been 12 Early PS applications and five have passed. Per request, information regarding previous CBT exam totals was also provided. The March cash balance was \$4,375,279.10. The Education and Research Fund balance was \$571,858.22.

Disciplinary Hearings:

MOTION: To allow member Cleveland to serve as chair for disciplinary hearings. Rickborn/Dinkins/approved.

- a. Mr. David Paul Roberts appeared before the Board for a disciplinary hearing in case 2019-40. He 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. Rickborn/Chao/approved.

MOTION: Accept MOA. Issue a \$500 fine, public reprimand and investigative costs. Fallon/Rickborn/approved.

MOTION: Previous motion was amended to include that payment must be made in 30 days. Peeples/Rickborn/approved.

- b. Mr. Brian Christiano, BC Engineering and Design LLC, appeared before the Board for disciplinary hearings in cases 2019-73 and 2019-74. Mr. Christiano was represented by attorney Seth Rose. This matter was recorded by a court reporter to provide a verbatim script should one be necessary. Members Dinkins and Dingle were recused from this hearing.

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

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

MOTION: Based on the evidence presented, there is no violation of Section 40-22-20(26)(b) or Regulation 49-202. Dismiss case. Chao/Rickborn/approved.

MOTION: Amend previous motion. Dismiss both cases. Chao/Kelly/approved.

- c. Mr. Greg Young, ProNovus Engineering Solutions, appeared before the Board for a disciplinary hearing in case 2019-104. The firm was represented by attorney Sam Wellborn. 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/Chao/approved.

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

MOTION: Statute violations. \$2,000 fine, public reprimand and investigative costs. Dinkins/Rickborn/approved.

- d. Mr. Jimmy Oswald, owner of Oswald Wholesale Lumber, appeared before the Board for a disciplinary hearing in case 2018-75. The firm was represented by attorney Robert M. Cook, II. Christopher Burgess and Deven Buzhardt served as 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. Dinkins/Fallon/approved.

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

MOTION: To deny motion to compel and motion to dismiss. Rickborn/Kelly/approved.

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

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

MOTION: No violation. Issue a non-disciplinary Letter of Caution. Dinkins/Chao/approved.

Application Hearing:

Joshua Lloyd appeared before the board seeking approval to go through the Portfolio Review Process. Mr. Lloyd was not represented by counsel. Brian Wolfe served as a witness. This matter was recorded by a court reporter to provide a verbatim script should one be necessary.

MOTION: To approve for portfolio review process. Dinkins/Fallon/approved.

Funding Request

The Board reviewed a request from ACEC-SC, ASCE-SC, and SCSPE for funding for a combined 2021 SC Engineering Conference and Trade Show to be held June 3-5, 2021 in Myrtle Beach. The meeting will be a hybrid event (in-person and virtual).

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

Civil Portfolio Review Committee Recommendations

The Board reviewed the February 17, March 1, April 19, and April 21 committee recommendations.

MOTION: To accept the February 17th recommendation to deny licensure to David Brandyburg. Rickborn/Fallon/approved.

MOTION: To accept the March 1st recommendation to deny licensure to Nathan Nelson and provide him an opportunity to submit new projects, within six months, that show work prior to the June 30, 2020 date. Rickborn/Dingle/approved.

MOTION: To accept the April 19th recommendation and approve licensure for David Graffius, Brian Cossman, Matthew Kiker and Greg Harnish.

MOTION: To accept the April 21st recommendation and approve licensure for Timothy Hayes and Angel Rivas. The two denied applicants, Kreipe and Swygert, will be considered at the July meeting to allow time for receipt of the official meeting transcripts. Fallon/Rickborn/approved.

Unfinished Business

Review of Action Items

The Board reviewed the action items from the March 16, 2021 meeting. A draft of the proposed regulation changes has been completed and will require Board review and approval.

MOTION: To file a Notice of Drafting for proposed changes to all of Chapter 49. Rickborn/Dingle/approved.

New Business

NCEES 2021 Annual Meeting Funded Delegates

The NCEES Annual Meeting will be held August 19-20, 2021 in New Orleans, LA. The meeting is limited to three delegates from each Board, and the delegates will be funded by NCEES.

MOTION: To approve Peeples, Dinkins, and Chao to attend as the funded delegates. Rickborn/Fallon/approved.

Expungement Policy

Counsel Hewson prepared a draft policy for Board review. This matter will be discussed at the July meeting.

Other Business

Counsel Jennings asked the Board for names of dual licensees to serve as expert reviewers for complaint cases. The Board recommended Johnny Johnson (former board member), Jim Freeland, and James Futter.

Mr. Dinkins requested that applications be revised to include a question to ask if the firm has been disciplined. Counsel and staff will work on making the changes.

Mr. Jennings advised the Board that June 30th will be his last day in the Office of Disciplinary Counsel. He will be returning to the Office of Advice Counsel.

The Board expressed its desire to return to in-person meetings as soon as feasible.

Notice of Next Meeting

The next meeting of the SC Board of Registration for Professional Engineers and Surveyors will be held on Tuesday, July 20, 2021, with July 21, 2021 also scheduled as a second meeting date.

MOTION: To adjourn. Rickborn/Chao/approved.

The meeting adjourned at 4:56 p.m.

Respectfully Submitted,



Lenora Addison-Miles, CPM, MBA
Administrator