

**MINUTES**  
**South Carolina State Board for Registration of Professional Engineer and Surveyors**  
**9:30 a.m., December 15, 2014**  
**Synergy Business Park, Kingstree Building**  
**110 Centerview Drive, Room 204**  
**Columbia, SC**

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**Call To Order**

Vice-Chairman Fallon called the meeting to order at 9:41 a.m.

**Statement of Public Notice**

Vice-Chairman Fallon stated that public notice of this meeting was properly posted at the South Carolina State Board of Registration for Professional Engineers and Surveyors, Synergy Business Park, Kingstree Building, and provided to all requesting person, 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 Dennis J. Fallon, Ph.D., PE, Vice-Chairman; John P. Johnson, PE, PLS, Secretary; Gene L. Dinkins, PE, PLS; Miller L. Love, Jr., PE; Theresa Hodge, PE; Jeffrey Mulliken, Ph.D., PE; and Nancy W. Cottingham. Chairman Timothy Rickborn participated by telephone conference.

Staff members present included Lenora Addison-Miles, Administrator; Britton Jenkins, Program Assistant; Donnell Jennings, Esq., Advice Counsel; Holly Beeson, Office of Communications and Government Affairs.

Others present included: Andy Kinghorn, Marguerite McClam, Ismail Ozbek, Adam Jones, and Joe Jones.

**Review of Agenda**

Vice-Chairman Fallon asked if there were any proposed changes to the agenda for the December 15, 2014 meeting. There were none.

**MOTION:** To approve the agenda for the December 15, 2014 meeting. Hodge/Love/approved.

**Unfinished Business**

Mr. Jennings spoke with the board about the Recovering Professional Program (RPP) Questionnaire. He explained that at the last meeting, the board approved the Memorandum of Agreement that would allow RPP to provide recovery services for engineering/surveying professionals. He explained the purpose of the RPP questionnaire is to determine how RPP would provide services for the recovering professionals covered under the Memorandum of Agreement. The board reviewed and selected the appropriate questions on the questionnaire.

**MOTION:** To accept the RPP Questionnaire as outlined. Cottingham/Love/approved.

**New Business**

Mr. Jennings stated he met with Mrs. Beeson and she recommended he research the Practice Acts of other boards and their authority to promulgate regulations and/or statutes. He learned that the

Massage/Bodywork Therapy Panel and the South Carolina Real Estate Commission are the only two boards that have language in their Practice Acts regarding recommending action to proposed statutory revisions. Mr. Jennings noted he and Chairman Rickborn talked about revising the Practice Act to give authority to the Board to suggest statutory revisions to LLR instead of the current authority to promulgate regulations only. Mr. Jennings introduced Holly Beeson, Counsel to the Office of Communications and Government Affairs, to address the Board regarding member participation in the legislative process. Mrs. Beeson explained the policy adopted by the agency was created by former director, Holly Pisarik. LLR's new director, Richele Taylor, will be given the opportunity to review it and make any changes, if needed. The directive given from Mrs. Pisarik is that boards and commissions are created by statute, and the duties and powers they have appear in the statute. Mrs. Beeson added the agency has sought to encourage its boards and commissions to provide feedback on legislation and problems within their legislation act and work with the associations as needed. Mrs. Beeson said the board is allowed to write letters to the General Assembly and Chairs of the Senate and House LCI, stating their opinion, as they have done in the past. Mrs. Beeson added the agency always encourages members of the Board to visit the State House to answer questions the General Assembly may have. Mrs. Beeson noted the important issue for the agency is how far they can go without crossing over the line into lobbying. She explained that lobbying is a person who appears only in public sessions of committee and subcommittees of the General Assembly. Mrs. Beeson advised the board they can appear and testify, but they should disclose on whose behalf they are appearing. Mr. Jones asked if board members were restricted from writing individual letters of opinion to the General Assembly. Mrs. Beeson noted that letters on behalf of the board to the General Assembly have to be drafted in public session. Mrs. Beeson said she is unsure if they can write individual letters. Mr. Jones asked if it was a violation for a board member to speak, as a registered engineer or land surveyor, to a legislator in favor or against a proposed legislation. Mrs. Beeson explained she would rather get in contact with Cathy Hazelwood to counsel members of the board on their conduct. She added that an individual not being compensated and expressing their opinion as an individual is not engaging in lobbying. The board thanked Mrs. Beeson for attending the meeting.

Mrs. Hodge left the meeting at 10:25 a.m.

Mr. Dinkins announced that former board member Ferrell Prosser, PLS, passed away.

**MOTION:** To enter into executive session for legal advice with Mrs. Miles being allowed to participate. Johnson/Love/approved.

**MOTION:** To exit executive session. Dinkins/Mulliken/approved.

The board recessed for lunch from 12:05 to 12:35 p.m.

Dr. Fallon reminded the audience that the purpose of the board is to protect the health, safety, and welfare of the citizens of South Carolina with regards to engineering and land surveying. Dr. Fallon welcomed the public to provide their feedback. He explained the board wanted to know the reason the public wishes to include QBS in the board statute. He explained the sense of the board is that there is not widespread support for QBS and asked if it should be postponed a couple of years to gain additional support. Mr. Jones explained that according to the NCEES website, Alabama, Georgia, North Carolina, Oklahoma, and the District of Columbia have QBS in their Practice Acts and the South Carolina Architects have had similar language since 1998. Mr. Jones added the ACEC and the SCSPE both have endorsed the

proposed legislation and have supported it since 2012. The American Society of Civil Engineers has also endorsed the legislation. His opinion is that there are many people who support the legislation and would like to see it get passed. Mr. Jennings asked how adding QBS to Practice Act would promote the health, safety, and welfare of the public. Mr. Jones noted the reason for having QBS gives the public the option to choose an engineer or surveyor based on the best design possible instead of price. He added that the policy of QBS has a better chance of passing if it is included in the Practice Act as opposed to a stand-alone piece of legislation. Mr. Dinkins asked why QBS should be added now as opposed to two years from now. Mr. Jones explained it would be best to do this now since the Practice Act would be opened for changes. Mr. Kinghorn noted he is against the QBS paragraph being included in the Practice Act. He noted that being on both sides of the QBS debate throughout his professional career; he feels that it favors the engineering firms' side. He added that QBS is in the interest of ACEC-South Carolina, SCSPE, SCSPLS, ACEC, and that those associations are the ones who should be advocating for QBS, not the South Carolina Board. Mr. Kinghorn added QBS does not fit into the mission of the board, which is the health, safety, and welfare of the public. He referred to an article from the November 18, 2013 SCSPE News that noted the advantages of QBS are providing ones qualifications for a job requires less work and less time than attempting to do enough research to prepare a legitimate bid. Mr. Kinghorn explained that this is not the right way, and that engineers should do the proper research. Ms. McClam added that her small firm probably has the most to lose with QBS, but she affirms her support for it to be added to the Practice Act. Ms. McClam noted that at their last meeting of 42 attendees, only three members were opposed to QBS. Mr. Dinkins asked Mr. Kinghorn how it could be interpreted that health, safety, and welfare shouldn't come first, and price selection come afterwards. Mr. Kinghorn added the welfare of the public would involve the financial side, and if public entities have to pay more for a particular service as a result of regulation or law, then it does not protect the welfare of the public. Mr. Jones added the reason the Federal Government implemented QBS was to protect public sector money.

**MOTION:** To enter executive session for legal advice. Johnson/Cottingham/approved.

**MOTION:** To exit executive session. Johnson/Love/approved.

Mr. Dinkins asked Mr. Jones if he had any potential sponsors for the legislation. Mr. Jones said he did not have any because he is unclear of the Board's opinion. He noted he has been waiting on the vote of the board. Mr. Dinkins noted the Board fully endorses the proposed changes to the Practice Act, and that if they get strong support from the association, they are on board. Mr. Dinkins noted the sense of the board is that in principle, they are all in favor of selecting the best qualified firm for engineering and surveying services. Dr. Fallon added the Board has thought about this issue a lot and they are in need of answers. He noted that the Board has requested Advice Counsel to do further research on the issue. Mr. Jones noted that it will be a sad day to go into the Legislative Reception without a decision on this issue. Mr. Dinkins suggested a phone conference before the next board meeting to have a discussion. Mr. Dinkins asked how long it would take to get support. Mr. Jones said he is unsure. Mr. Rickborn noted that staff and board members will do whatever they can to schedule a conference call before the next board meeting to discuss the issue.

#### **Other Business**

Mr. Fallon thanked Mr. Mulliken for his services as board member.

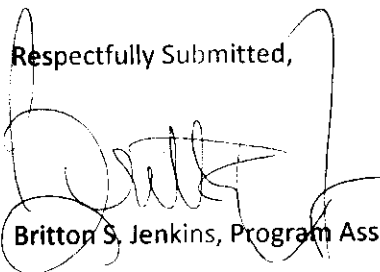
#### **Notice of Next Meeting**

The next meeting of the SC State Board of Registration for Professional Engineers and Surveyors will be held on Tuesday, January 20, 2015 at the SC Department of Labor, Licensing, and Regulation, Synergy Business Park, Kingstree Building, 110 Centerview Drive, Room 108, Columbia, SC and will begin at 9:30 a.m.

There being no further business:

**MOTION:** To adjourn. Love/Johnson/approved.

The meeting adjourned at 2:37 p.m.

Respectfully Submitted,  
  
Britton S. Jenkins, Program Assistant