

MINUTES
South Carolina Board for Registration of Professional Engineers and Surveyors
9:30 a.m., January 23, 2018
Synergy Business Park, Kingstree Building
110 Centerview Drive, Room 105
Columbia, SC

Call To Order

Chairperson Fallon called the meeting to order at 9:41 a.m.

Statement of Public Notice

Chairperson 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 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 Dr. Dennis Fallon, Ph.D., PE, Chairperson; John P. Johnson, PE, PLS, Vice-Chairman; Dr. Johnston Peeples, Ph.D., PE, Secretary; Timothy Rickborn, PE; Gene L. Dinkins, PE, PLS; and J. Baker Cleveland, III, Esq. Mr. D. Mack Kelly, Jr., PE, PLS, was not in attendance. Jimmy Chao, PE, was introduced as a new board member.

Staff members present included Lenora Addison-Miles, Administrator; Britton Jenkins, Program Assistant; Stacey Hewson, Esq., Advice Counsel; Erin Baldwin, Esq., Office of Disciplinary Counsel; and Sharon Cooke, Office of Investigations and Enforcement.

Others present included: Joe Jones, Allison King, Brian Bonds, Jesse Burke, Jameel Hattab, Shirani Fuller, Brian Miserendino, Stephen Jones, Lee Prickett, Walter Mills, and Mark Casey.

Approval of Meeting Minutes

The board reviewed minutes from the November 28th and November 29th board meetings.

MOTION: To approve November 28th board meeting minutes. Rickborn/Johnson/approved.

Dr. Peeples asked to add that he was not in attendance at the November 29th board meeting.

MOTION: To approve November 29th board meeting minutes with changes.
Dinkins/Rickborn/approved.

Approval of Excused Absences

Dr. Fallon excused the absence of board member Mack Kelly.

Review and Approval of Agenda

MOTION: To approve board meeting agenda with no changes. Peeples/Chao/approved.

Reports

- a. Mrs. Cooke presented the OIE report. She reported that 59 cases were received between January 1, 2017 and December 31, 2017. Fourteen cases are active investigations. Thirteen cases were closed. Twelve cases were “do not open” cases. One case was opened. Eleven cases were pending board action. Two cases are pending CA review. Two cases are pending drafting of formal complaint. Four cases are pending IRC.
- b. The board reviewed the January 11, 2018 IRC Report. Seven cases were recommended for dismissal: 2016-21, 2017-3, 2017-39, 2017-60, 2017-69, and 2017-74. Three cases were recommended for formal complaints: 2017-9, 2017-21, 2017-22.

MOTION: To enter executive session for legal advice with Mrs. Baldwin and Mrs. Cooke participating. Rickborn/Johnson/approved.

MOTION: Exit executive session. Johnson/Chao/approved.

MOTION: To accept dismissal cases with the exception of case #2017-70 which will be returned to the IRC for additional review. Rickborn/Chao/approved.

MOTION: To accept formal complaint cases as noted on the IRC report and amend case 2017-9 to include unprofessional conduct. Johnson/Peebles/approved.

- c. Mrs. Baldwin presented the ODC report. She reported that seven cases were open with two of those cases scheduled for the March board meeting. She added that one additional case is pending a Consent Agreement.
- d. Mrs. Miles presented the administrative and financial reports. Mrs. Miles reported that as of January 9, 2018 there were 31,283 active credentials. She added that there were a total of 17,253 engineers, 1,028 surveyors, 142 dual licenses, and 15 associate PE’s current through June 30, 2018. During the January/February/March testing window there have been 18 FE exams delivered and one FS exam is scheduled. Mrs. Miles reported that board staff has received 1,167 Early PE exam applications and 695 candidates have passed. Six early PS exam applications have been received and four have passed. The November cash balance was \$2,890,191.97. The Education and Research balance was \$375,228.22. Mrs. Miles noted that Statement of Economic Interest reports must be filed online by March 30th. Mrs. Miles added the reimbursement rate for mileage is now 54.5 cents. Mrs. Miles reminded the board a structural engineer is still needed to serve on the IRC committee. Pat Gambill’s term expires the end of this month, but he has agreed to continue to serve. The board has been invited to give a presentation at the 2018 SC Engineering Conference and Trade Show on June 7th at Hilton Myrtle Beach.

Funding Requests

- a. The board reviewed a \$19,500 funding request for the 2018 SCSPLS Convention and Technical Conference.

MOTION: To approve funding request of \$19,500 for the SCSPLS Convention and Technical Conference. Peeples/Dinkins/approved.

- b. The board reviewed an \$8,000 funding request for the 2018 ACEC-SC and SCSPE Winter Meeting.

MOTION: To approve funding request of \$8,000 for the ACEC-SC and SCSPE Winter Meeting. Peeples/Dinkins/approved.

Application Hearings

- a. Mr. Jameel Hattab appeared before the board for an Application Hearing. 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. Johnson/Rickborn/approved.

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

MOTION: To grant PE licensure to Mr. Hattab. Johnson/Chao/approved.

- b. An Application Hearing was held for Mr. Neal Anderson. He was not in attendance. 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 deny application due to lack of information. Cleveland/Johnson/approved.

- c. Ms. Shirani Fuller appeared before the board for an Application Hearing. She was represented by Lee Prickett, Esq. Mr. Brian Miserendino served as a witness. This matter was recorded by a court reporter to provide a verbatim script, should one be necessary.

MOTION: To grant PE licensure. Dinkins/Rickborn/approved.

- d. Mr. Stephen Jones appeared before the board for an Application Hearing. 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. Rickborn/Chao/approved.

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

Mr. Jones withdrew his application. He will need to request to reappear before the board to show documentation of completed courses/study.

The board recessed for lunch from 12:23 p.m. to 1:11 p.m.

- e. Mr. Walter Mills appeared before the board for an Application Hearing. 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 allow Mr. Mills to sit for the PE exam based on the evidence presented. Johnson/Dinkins/approved.

- f. Mr. Mark Casey appeared before the board for an Application Hearing. 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 allow Mr. Casey to sit for the PE exam based on the testimony presented. Dinkins/Johnson /approved.

Portfolio Review Committee Recommendations

The board reviewed Portfolio Committee recommendations. Jason Conner and John Brinson were recommended for licensure at the December 6, 2017 electrical portfolio review committee meeting. John McWhorter, Julio Orbegoso, Marc Rader, Phillip Hart, and Richard Lemasters were recommended for licensure at the January 11, 2018 civil portfolio review committee meeting.

MOTION: To accept the portfolio committee recommendations from the December 6, 2017 electrical portfolio committee meeting. Approve candidates for licensure. Peeples/Johnson/approved.

MOTION: To accept the portfolio committee recommendations from the January 11, 2018 civil portfolio committee meeting. Approve candidates for licensure. Rickborn/Chao/approved.

Unfinished Business

- a. The board reviewed action items from the November 28th and November 29th meetings. Dr. Fallon noted that he and Dr. Peeples have not been able to work with Dr. Castro regarding Surveyor approved 4-year curriculum. He suggested that they hold off until the board has permanent advice counsel. All other items on the report were completed or were addressed on the January 23rd agenda. The Board requested that Dr. Castro and Dr. Gowdy attend the March meeting to discuss online courses, and the distinction between education and experience.
- b. The board discussed the Joint Task Force Overlapping Practice document. Anthony Lawrence from the South Carolina Architectural board was unable to attend the meeting for further discussion. Mr. Rickborn advised the board to review the Overlapping Practice document provided by Mr. Lawrence for discussion when he is able to appear.
- c. The board will schedule a future meeting date to continue regulatory review. Dr. Fallon suggested the board have a two-day meeting when they are ready to do regulatory review. Mr. Cleveland suggested assigning sections to each board member to review. Dr. Fallon will distribute it evenly to board members for review, and forward it to Lenora for dissemination to the board.

New Business

- a. The board reviewed the resume' of Angela Musselwhite to serve as a civil Portfolio Review Committee volunteer.

MOTION: To accept as portfolio committee volunteer. Rickborn/Peeples/approved.

- b. The board reviewed a letter from attorney Alexander Pattera, on behalf of his client, for the Board's position regarding the use of UAV's for engineering services. Mr. Dinkins noted the board does not regulate the use of UAV's and tools used to provide engineering services. He added that based on the description of activities in the letter, these functions fall under the scope of 40-22-20(26), the practice of TIER A surveying, and are not minor engineering surveys as defined in 40-22-20(12). There is not an issue with the use of UAV's. The board suggested a letter be written in response to the request for clarification.

MOTION: The activities described in the letter fall within the definition of the practice of TIER A surveying, rather than minor engineering surveys. Dinkins/Johnson/approved.

Chairman Fallon and advice counsel will draft a response to Mr. Pattera.

- c. The Board discussed 2018 NCEES meeting attendance. Dr. Fallon, Jimmy Chao, and Dr. Peeples were chosen as funded delegates for the Southern Zone meeting. Rickborn and Dinkins are funded by NCEES.

MOTION: To request LLR funding for two additional board members (Cleveland and Johnson) to attend the Southern Zone meeting. Rickborn/Dinkins/approved.

- d. The board reviewed the 2018 NCEES Call for Awards Nominations request. No action was taken.
- e. The board elected officers for 2018.

MOTION: To nominate Dr. Fallon as board Chairman, Dr. Peeples as Vice-Chairman and J. Baker Cleveland as secretary. Dinkins/Rickborn/approved.

Other Business

Mr. Rickborn suggested the board honor M.L. Love for his service to the board.

MOTION: To draft a resolution of appreciation and present a plaque to past board member M.L. Love. Rickborn/Peeples/approved.

The plaque should be presented to Mr. Love at the Engineering conference in June.

Public Comments

Mr. Jones asked if the board would be interested in having a joint panel with the Professional Engineers of North Carolina (PENC) during the conference in June. Mr. Dinkins noted that the discussions and presentations at the South Carolina conference deal with South Carolina issues that may be a conflict with North Carolina. Mr. Jones advised the board to take a position on HB.3649.

Notice of Next Meeting

The next meeting of the SC Board of Registration for Professional Engineers and Surveyors will be held on Tuesday, March 20, 2018 at the SC Department of Labor, Licensing, and Regulation, Synergy Business Park, Kingtree Building, 110 Centerview Drive, Room 108, Columbia, SC and will begin at 9:30 a.m.

MOTION: To adjourn. Dinkins/Cleveland/approved.

The meeting adjourned at 3:02 p.m.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Britton S. Jenkins". The signature is fluid and cursive, with a large initial "B" and "J".

Britton S. Jenkins, Program Assistant