

MINUTES
South Carolina Board of Registration for Professional Engineers and Surveyors
9:30 a.m., May 7, 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 9:34 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 Peeples, Ph.D., PE, Vice-Chairman; J. Baker Cleveland, III, Secretary; 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; Elaine Belton, Program Assistant; Stacey Hewson, Esq., Advice Counsel; Donnell Jennings, Esq., Office of Disciplinary Counsel; Rodney Pigford and James Kemfort, LLR Office of Investigations and Enforcement.

Others present included: Jesse Burke, Paul Sperry, Esq., Dilip Khatri, Thomas Heckman, Adam Limeburner, and Nadine Garrett (Creel Court Reporting).

Approval of Meeting Minutes

The board reviewed the minutes from the March 19, 2019 meeting.

MOTION: To approve minutes. Fallon/Peeples/approved.

Approval of Excused Absences

All members present.

Review and Approval of Agenda

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

Reports

- a. Mr. Pigford presented the OIE report. From January 1, 2019 through May 1, 2019, eight cases are active investigations, six cases have been designated as Do Not Open, four cases are pending board action, two cases are pending CA review, and one case is pending IRC – for a total of 21 cases.

- b. Mr. Pigford presented the April 29, 2019, IRC report. The IRC made the following recommendations: Dismiss case 2019-2; Dismiss with Cease and Desist cases 2018-48 and 2018-84; and formal complaints for cases 2018-28, 2018-63, 2018-65, 2018-75, 2018-94, 2018-95, 2019-4, 2019-6, 2019-9.

MOTION: To accept IRC report. Fallon/Rickborn/approved.

- c. Mr. Jennings presented the ODC report. There are currently 13 cases open with 10 pending action, three pending consent agreements/MOA's, and eight cases have been closed by consent agreements sent to the board chairman.
- d. Mrs. Miles presented the Administrative and Financial reports. Mrs. Miles noted as of April 25th, there were a total of 17,463 engineers, 975 surveyors, 123 dual licensees, and 11 associate PE's current through 2020. Firm licenses are currently being renewed. There are 3,056 firms and 971 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 of April 25th, the NCEES CBT Summary for the current testing window, shows 127 FE exams, three FS, PE, and one PS exam scheduled. Delivered exams show 45 FE and five PE exams have been delivered. We received 1,588 Early PE exam applications and 948 have passed the exam. There have been seven Early PS applications and five of those have passed. The state-specific surveying exam was administered on May 3rd. There were nine examinees and four of those passed; three of those were by comity and one was an initial licensure candidate. The March cash balance report reflected a balance of \$3,709,396.03, and the Education and Research Fund balance was \$466,678.22. The Notice of Drafting of the Board's intent to amend the regulations was posted in the *State Register* on April 26th.

Executive Session for Legal Advice – Darra Coleman, LLR Chief Advice Counsel

Potential Litigation and Ethical Obligations to Recuse Upon Identification of Conflict of Interest

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

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

Funding Request

- a. The Board reviewed a funding request for the 2019 SC Engineering Conference and Trade Show.

MOTION: To approve \$30,000 funding request. Fallon/Rickborn/approved.

- b. Jesse Burke presented a funding request for the 2019 SEASC Annual Conference and Trade Show.

MOTION: To approve \$5,200 funding request. Fallon/Chao/approved.

Disciplinary Hearings

- a. Dilip Khatri appeared before the board for a disciplinary hearing in case 2018-25 (MOA). Mr. Khatri was represented by Paul Sperry, Esq. This matter was recorded by a court reporter to provide a verbatim script should one be necessary. Mr. Rickborn was recused from the hearing.

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

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

MOTION: To accept MOA. Licensee violated the State's allegation D, as listed on page 11 of the MOA, by having his license disciplined in another jurisdiction. Based on the violation finding, it is recommended that the licensee pay the \$300 cost for investigation and the Board issue a Public Reprimand. Cleveland/Dingle/approved.

Application Hearings

- a. Thomas Heckman appeared before the board for an application hearing. Mr. Heckman 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/Rickborn/approved.

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

MOTION: To accept as qualifying experience the applicant's 1.5 years of experience with Wood PLC. Based upon evidence presented, do not accept the 2.5 years at Bennett & Pless as qualifying experience. Cleveland/Kelly/approved. Fallon opposed. Dingle abstained.

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

Unfinished Business

- a. The Board reviewed the action items from the March 19, 2019 meeting.
Dr. Peeples and Ms. Hewson will move forward on surveyor four-year curriculum. Dr. Peeples will share the curriculum with the new education consultant. Ms. Hewson will work with Dr. Fallon on drafting the regulations. The request for clarification of policy from the Office of State Fire Marshall is ongoing. Mr. Blackwell was to provide a list of potential engineers to serve on the committee to produce a guidance document for clarification on when an engineer should be involved with the construction of fire protection systems.
Dr. Fallon has contacted Mr. Sayle Lewis, regarding digital models and electronic data statement. Mr. Cleveland and Ms. Hewson discussed the expungement policy and discovered board is only authorized by statute to develop a procedure for expunging public reprimands and does not have statutory authority to expunge other disciplinary actions. The Board decided to remove this item from the report.
The board reviewed the proposed Guidelines on Survey Uses and Requirements for Non-Survey Additions (19.1).

MOTION: To accept the guidelines. Dingle/Cleveland/approved. A letter from the chairman will be prepared and attached to the guidelines for dissemination.

Mr. Kelly reported the Municipal Association will meet July 18-21 in Greenville, and the SC Association of Counties will meeting August 4-7 in Hilton Head. The board discussed the feasibility of a member attending these meetings to speak to these organizations. The draft guidelines for Survey Data Collection and Successor Engineer/Surveyor was reviewed. Ms. Hewson will make the requested changes for the board to review. Successor Engineer/Surveyor Policy name was changed to "Guidelines".

MOTION: To accept the guidelines with noted changes. Rickborn/Fallon/approved.

Ms. Hewson is working with management regarding the surveyor education consultant. Mr. Rickborn reported that he has contacted NCEES regarding the issue with MLE records showing no experience under licensed PE's. NCEES is working on this. It has been suggested that Model Law Rules be incorporated into Model Law. NCEES Annual meeting funding delegates were submitted to NCEES on April 17th. Travel request has been submitted to the agency for consideration.

- b. Mr. Jennings reported that there have been issues with licensees giving false information on online renewals for firms. With the electronic signature, there is no verification of the truthfulness of the application. Mrs. Miles reported that there have been a number of incidents this renewal period with inaccurate information being presented. The Board will determine if this is an issue they wish to pursue and it will be discussed later.

New Business

- a. Mr. Adam Limeburner appeared before the Board for special consideration for issuance of an EIT certification. EIT certification has been reserved for SC exam candidates only. Mr. Limeburner has applied for a special inspector registration with the SC Building Codes Council and a SC EIT certification is required. The Board will consider requests on a case by case basis.

MOTION: To grant Mr. Limeburner EIT certification in SC contingent upon the Board staff reviewing his education and examination, and thus satisfying SC requirements. Rickborn/Dingle/approved.

- b. Mrs. Miles requested guidance from the Board regarding the upcoming sunset of the portfolio review process. Board determined if there is an application submitted and postmarked by June 30, 2020, we will give the applicant a reasonable amount of time to submit projects, etc. for approval. No reasonable amount of time was specified.
- c. Mr. Jennings advised the board that ODC is in need of geotechnical engineers and surveyor expert reviewers to review complaint cases. Edward Hajduk, Stephen Geiger, Donovan Ledford, William Camp, and Kenneth Humphries were recommended as geotechnical engineer reviewers. Brian Bonds, Elliott Quinn, Dennis Clinkscales, and Robert David Branton were recommended as surveyor expert reviewers. Mr. Jennings will contact the individuals, with the Board's permission.

Other Business

The SC Engineering Conference and Trade Show will be held in Greenville. The Board is scheduled to give a presentation on Thursday, June 6th. Dinkins will discuss threats to licensure, Chao will discuss the Alabama QBS, Dingle will address data collection and drones, Kelly will discuss the successor guidelines,

and Cleveland will address ethics and disciplinary issues.

Notice of Next Meeting

The next meeting of the SC Board of Registration for Professional Engineers and Surveyors will be held on Tuesday, July 16th 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. July 17th has been reserved for disciplinary hearings if needed.

MOTION: To adjourn. Peeples/Chao/approved.

The meeting adjourned at 4:50 p.m.

Respectfully Submitted,

Elaine W. Belton
Program Assistant