

MINUTES
South Carolina Board for Registration of Professional Engineer and Surveyors
9:30 a.m., February 17, 2015
Synergy Business Park, Kingstree Building
110 Centerview Drive, Room 108
Columbia, SC

Call To Order

Chairperson Rickborn called the meeting to order at 9:44 a.m.

Statement of Public Notice

Chairperson Rickborn 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 Timothy Rickborn, PE, Chairperson; Dennis J. Fallon, Ph.D., PE, Vice-Chairman; John P. Johnson, PE, PLS, Secretary; Gene L. Dinkins, PE, PLS; Miller L. Love, Jr., PE; and Theresa Hodge, PE;

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

Other members present included: Joe Jones, Adam Jones, and Marguerite McClam.

Review of Agenda

Chairperson Rickborn asked if there were any proposed changes to the agenda for the February 17, 2015 agenda.

MOTION: To move agenda item 7b before 6a. Approve agenda with changes.
Fallon/Dinkins/approved.

Unfinished Business

- a. Mrs. Hodge presented the spreadsheet for calculating fines.

MOTION: To enter executive session for legal advice. Hodge/Love/approved.

MOTION: To exit executive session. Johnson/Hodge/approved.

MOTION: To continue developing the fine calculation formula. Dinkins/Johnson/approved.

Mr. Dinkins suggested the formula used to determine fines be based on the total of revenue received instead of the number of projects performed. He added there should be a minimum fine of possibly \$500, and categories of assessments for revenue in the ranges of \$0 to \$100,000, \$100,000 to \$500,000, and in excess of \$500,000. Mrs. Hodge said she would continue working on the calculations. Mr. Rickborn asked Mrs. Miles to gather past cases for Mrs. Hodge so that she can use them to further develop the formula.

- b. The board reviewed the Successor Engineer/Surveyor policy. Mr. Rickborn explained the issue arose when a mechanical engineer passed away after signing and sealing drawings resulting in the Building Official not issuing a permit. Mr. Rickborn noted that there is some language in the statute and regulations regarding the engineer /surveyor in responsible charge of projects. He referred to the proposed policy on Successor Engineer/Surveyors. Mr. Johnson asked if based on the proposed policy, would a firm have to notify a client that the engineer has passed away or left the company, even if the firm owns the drawings. Mr. Dinkins added this happens a lot with surveyors where the surveyor leaves the firm and the client calls years later to get a copy of plats. He added that he has always been told that being the registered agent, he is allowed to put his signature in addition to the original surveyors' drawing. Mr. Dinkins said there are two different situations: first, if there is no change on an archive drawing and, second, if someone takes over the drawing with intention to do additional work. He added the policy should be separated based on those situations. Mr. Rickborn noted that the policy he suggested is intended to address who would be in charge of the plans if the original engineer/surveyor passes away as opposed to if the original engineer/surveyor leaves a company. He added that it may be more beneficial to have a separate policy for engineers and land surveyors, but that they should be as similar as possible for continuity. Mr. Rickborn will work with Mr. Dinkins and Mr. Johnson to draft the surveyor policy.

MOTION: To receive the proposed Engineer/Surveyor Policy as information and work with Mr. Dinkins and Mr. Johnson to propose language of the surveyor specific policy.
Fallon/Hodge/approved.

- c. The board reviewed Southern Zone award nomination criteria. Mrs. Miles noted the nominations must be submitted by March 2, 2015.

MOTION: To nominate board member Mr. Love for the NCEES Southern Zone Distinguished Service Award. Dinkins/Hodge/approved.

- d. Mr. Rickborn noted that David Blackwell from the Office of the State Fire Marshall inquired if the design of a fire alarm system requires the work of an engineer. He added that at a previous board meeting, Mr. Blackwell went into great detail about an ongoing issue with the Rock Hill Building Official. Mr. Rickborn explained that there is a fire sprinkler policy in place and there is a difference between fire sprinkler and fire alarm requirements. Mr. Rickborn referred to the Board's meeting minutes from February 4, 2010 which document a motion that fire alarm plans and sprinkler systems for buildings not exempted by Section 40-22-280 must be sealed by a South Carolina Professional Engineer prior to submission to permitting agencies. Mr. Rickborn asked should there be a requirement for a PE to prepare

the alarm system drawings. He added that it appears the International Fire Code and Building Code requires a design professional, but the board does not have a policy in place.

MOTION: To accept the documentation as information and authorize the board chair to work with David Blackwell to draft the fire alarm policy for the South Carolina Board of Professional Engineers and Land Surveyors.

- e. Mr. Rickborn updated the board on the Joint Task Force Committee. He noted that there is a sub-committee meeting scheduled for February 26, 2015.

MOTION: To recess for lunch. Johnson/Dinkins/approved.

The board recessed for lunch between 12:34 and 1:04.

New Business

- a. Mr. Rickborn noted that Mrs. Miles contacted him regarding inquiries from two-year degree surveyor applicants who were approved prior to 2010 law change requiring a four-year degree. Mr. Dinkins added that effective July 1, 2010 the section of the law regarding the two-year degree became void. Mr. Dinkins said that his opinion is that the applicants should be turned down and that they must meet the current requirements. He added that his interpretation of Sections 40-22-225(C)(2) is that the board has no authority to extend those requirements beyond the statutory date of July 1, 2010.

MOTION: Surveyor applicants who do not meet the four-year degree requirement effective July 1, 2010 are ineligible for licensure. Johnson/Love/approved.

- b. The board reviewed proposed legislation Senate Bill S. 410. Joe and Adam Jones were invited to review the legislation with the Board during the meeting. Mr. (Joe) Jones explained that the proposed language in Section 40-22-35 that reads, "so as to specify the manner in which a registered engineer or surveyor may negotiate a contract for his professional services," is a significant change from what was introduced in Senate Bill S.497, and it is a good change. Mr. Jones noted the previous version was long and contracted. The current version is much shorter and to the point. Mr. Jones explained that most of the changes from S. 497 to S. 410 are formatting. Mr. Jones added that Section 40-22-10(H)(1)(2) has been completely stricken because the section is no longer needed. Mr. Jones noted that there may be a challenge to the term "engineer" as defined in the proposed section of 40-22-20(11). Mr. Jennings asked if there was a change in the definition of emeritus engineer or surveyor as proposed in 40-22-20(9). Mr. Jones explained that there was no change, but that the definition was moved to one part of the legislation and stricken from another part. On page 6, Section 40-22-20(25), Mr. Jones noted the definition of "practice of engineering" is the same and just has some grammar changes. The word "commissioning" has also been added. Mr. Jones asked Mr. Dinkins if the proposed language in section 40-22-30(D) which reads, "It is unlawful to broker or coordinate engineering services, surveying services, or both, for a fee," is sufficient. Mr. Dinkins said it was. Mr. Jones noted section 40-22-35 is the QBS language and has not changed from the version in S. 497. Mr. Dinkins noted he spoke with Representatives Kenny Bingham and Nelson Hardwick, they both recommended changing the title of 40-22-35. Mr. Dinkins said it

is good the changes were made. Mr. Jones noted that "he" is in 40-22-110(B), and he thought it was the board's decision to make the law gender neutral, but apparently, it was overruled by the writers. Mr. Jones added that there is a word missing from 40-22-220(3)(i). Mr. Rickborn noted the current language says "a specific record after graduation of four or more years of progressive experience in engineering work of a character satisfactory to the board." Mr. Jennings notes that the phrase "progressive experience that must be supervised by a licensed engineer," adds a new requirement. Mr. Jones noted they may have put that phrase in the wrong place. Mr. Jennings asked if there was any alternative language the board wanted to suggest. Mr. Dinkins suggested adding "or experience satisfactory to the Board," and take out the term "character". Mr. Dinkins suggested that it should read, "Or progressive engineering experience satisfactory to the board." The board agreed.

MOTION: To adopt proposed language of Section 40-22-220(3)(c)(i) to read, "Supervised by a licensed engineer or progressive engineering experience satisfactory to the board."
Dinkins/Fallon/approved.

Mr. Dinkins noted that in section 40-22-222(A) and 40-22-222(B) "EAC" should be added to read "EAC/ABET accredited." Mr. Jones added S. 497 had the same language. Dr. Fallon referred to Section 40-22-220(D)(2)(b) and asked if the language requires the master's degree program to be EAC/M-ABET accredited. Mr. Jennings asked if the board agreed with the language. Dr. Fallon explained that most of the engineering programs in South Carolina are not M-ABET accredited and this can be a potential problem for individuals using their master's degree as their base degree for licensure. Mr. Dinkins said in the past, applicants were required to make up their deficiencies, or come before the board for approval. Dr. Fallon added that in his experience if they have received an applicant with a degree from a non M-ABET accredited program, he would accept the degree as the qualifying degree, and take the experience from four years beyond. Mrs. Hodge added that was her understanding as well. Mr. Rickborn noted that it was what the board agreed upon at some point. Mr. Dinkins added that if that was the case, their education would be deficient. Mrs. Miles referred to the South Carolina Regulations Section 49-200, which states, "the board would recognize the degrees of Master of Engineering or Master of Science in Engineering in a program accredited by EAC/ABET at either the baccalaureate or masters level as fulfilling the education requirements in satisfaction of the qualifications detailed in section 40-22-220." Mr. Jennings noted that both the statute and the regulation should read the same, and that there should be no conflict between the two. He added that section 40-22-220(D)(2)(b) should be revisited to ensure that it does not conflict with the regulations. Mr. Love said that if this statute is passed, then the regulations must be revised to go along with the statute. Mrs. Beeson asked if there was a current conflict between the statute and the regulations. Mr. Dinkins said there was. Mrs. Beeson noted that the process of cleaning up the regulations will begin once the statute has passed. Mrs. Hodge added they are getting more applicants that do not meet the M-ABET master's degree requirement and a change in the statute has to be made to address this issue. Mr. Love suggested that they take that specific part out of the statute and let it remain in the regulations. Mr. Love added that the M-ABET accreditation requirement limits their ability to license individuals that may be qualified. Mr. Dinkins noted that he does not feel that requiring the M-ABET accredited Masters' degree is the way to go. He added that the board needs to decide whether they want to accept the Masters' degree or require an education evaluation on an individual

basis. Mr. Dinkins added that the statute is more in line with the model law. He suggested that the board defer the decision until later in the meeting. Mr. Jennings suggested that a three member subcommittee be formed to compose language and present to the board for review. Mr. Rickborn asked Mr. Dinkins if he would be interested. Mr. Dinkins said he would.

MOTION: To amend section 40-22-220(D)(2)(b) to read, "A master's degree in engineering from an EAC/ABET accredited engineering undergraduate program." Hodge/Love/approved.

Mrs. Hodge added that applicants who have a master's degree from an EAC/ABET accredited school would meet the requirements if the bachelor's degree program is accredited from that institution. Mr. Love added that he interprets the provision to read that if an individual has a master's degree, that they are required to obtain three years of experience, as opposed to four. Dr. Fallon said he understood it as the master's degree would be considered the qualifying degree, and four years of experience would be required from that point. Mr. Dinkins noted that the board should think about this decision and continue discussion later in the meeting.

MOTION: To rescind previous motion. Hodge/Love/approved.

MOTION: To accept proposed amendment to section 40-22-220 (C)(2)(c) to read, "a non-EAC/ABET bachelor's degree, evaluated and approved by the Board's Education Consultant, and holding a Master of Engineering or Master of Science in Engineering from a school or college that offers an EAC/ABET accredited undergraduate degree in the same field of study and establishes a specific record after graduation of four or more years of progressive experience in engineering work supervised by a licensed engineer or progressive experience in engineering work of a character satisfactory to the board, indicating that the applicant is competent to practice engineering." Johnson/Love/approved.

The board continued reviewing proposed legislation. Mr. Jones referred to section 40-22-225 (D)(1), and asked if the term, "Surveying In Training" was the correct term to use in regards to NCEES testing. Mr. Dinkins said it should read the "NCEES Fundamentals of Surveying Examination" and Surveyor in Training should be stricken. Mr. Jones referred to section 40-22-280(B)(2) and noted that the amendment would be forthcoming. Mr. Rickborn added that he emailed the proposed amendment to David Blackwell, Office of State Fire Marshal, for his review. Mr. Rickborn noted that the proposed amendment reads, "If drawings and specifications are signed by the authors with the true title of their occupations, this chapter does not apply to the preparation of plans and specifications for: (1) farm buildings not designed or used for human occupancy; (2) buildings and structures not requiring a permit by the authority having jurisdiction, except buildings and structures classified as assembly, business, educational, factory and industrial, high hazard, institutional, mercantile, storage and utility occupancies, or uses in the International Code Series as adopted by the State of South Carolina regardless of size or area are not exempt from the provisions in this chapter; and (3) One and Two family dwellings in compliance with the prescriptive requirements of the International Residential Code as adopted by the state of South Carolina. All other building structures classified as residential occupancies or uses in the International Code Series are beyond the scope of the International Residential

Code exempt from provisions in this chapter." Mr. Rickborn noted that Sections two (2) and three (3) were changed to eliminate the current conflict between the engineers' law and the building code. He added when the 2000 I-codes were published, they specify when a design professional is required. He explained that the Building Officials in the coastal counties are in favor of the proposed legislation and will take it to the Building Officials of South Carolina for full support. Mr. Jones asked if there is conflict with the proposed legislation and the architect's language. Mr. Rickborn explained that the Architectural Examiners Board has been unsuccessful in getting their language passed two previous times. He added that Stephen Russell of the Architectural Examiners Board said they would welcome the change to the Engineers statute with the proposed language. Mr. Rickborn noted that the Board brought up several issues over the course of the year and two of those items should be addressed statutorily. Those issues were (1) the ability of the board to use education and research funding for scholarships and (2) the proposal of language in the statute that gives the Board authority to propose legislation. Mr. Love asked how the board would determine who received the allocated scholarships. He noted that the board would not want to be in the position of taking applications and selecting recipients. He added that it would be beneficial to inform the engineering schools of South Carolina to recommend a deserving individual who is facing a financial hardship. Mr. Dinkins noted that he does not see an issue with using the funds for scholarships and that the State of Alabama uses three out-of-state judges to determine the recipient of their allocated funds. He added that whatever procedures the board decides to adopt there should be full transparency and that all interested individuals know the funds are available. Dr. Fallon noted that there may be more applicants than the board is prepared for and it may be complicated to discriminate the need of the students. Mr. Dinkins said that while he agrees with moving forward with awarding need-based scholarships, there needs to be a clear set of guidelines in place. Mr. Rickborn added that he believes that the current statute gives the board authority to delegate funds, which was the main question. He noted that if the board decides to move forward with it in the future, the guidelines would have to be set forth. Mr. Rickborn asked the board if they wanted to include proposed language that gives them the ability to make statutory revisions. He noted that the Panel for Massage and Bodywork, Real Estate Commission, South Carolina Real Estate Appraisers Board, and the Panel for Dietetics all have language that gives them authority to make statutory revisions. Mr. Love added that the board members are most qualified to make those revisions. Mr. Rickborn agreed. Mr. Jennings added it is very important they have the authority to develop statutory changes.

MOTION: To propose an amendment that gives the board authority to make statutory revisions. Love/Dinkins/approved.

MOTION: To authorize the board chairman or vice-chairman to call upon a member of the board to give testimony to State committees and subcommittees pertaining to the Practice Act. Dinkins/Love/approved.

MOTION: To accept proposed amendment to section 40-22-60 to read, "The board may advise and recommend action to the department in the development of statutory revisions, and such other matters as the department may request in regard to the administration of this chapter." Dinkins/Fallon/approved.

Mr. Jennings referred to section 40-22-230(A) in which the words "made under oath" are stricken from the proposed language. Mrs. Miles added that licensure applications are not notarized. The new Affidavit of Eligibility has to be notarized. Mrs. Miles explained that a member of Advice Counsel recommended that a notary section be added to the application to comply with verification regulations. Mr. Jennings asked if the board was aware of why the phrase "made under oath" was stricken from the language. Mrs. McClam said that the only rationale she could think of was that it was stricken to accommodate the application being transitioned to electronic. Mr. Rickborn agreed that computer based applications was the only possible reason.

MOTION: To advise Mr. Joe Jones that the phrase "made under oath" should remain in section 40-22-230(A) of the proposed legislation. Dinkins/Love/approved.

- c. Mr. Jennings spoke with the board about drafting an expungement policy. He explained that the Nursing Board has one and the Board of Engineers has the authority to establish one. Mr. Johnson noted that according to the Board of Nursing's expungement policy, staff has the authority to expunge the Board's ruling. Mr. Jennings said that the Board of Nursing is currently updating their policy to reflect that the expungement should be carried out by the Board. Mrs. Hodge asked how the process of expungement would conflict with NCEES's enforcement exchange. Mr. Dinkins noted that they would have no control over whether NCEES would expunge actions carried out by the Board. Mr. Rickborn asked what the time frame would be to be eligible to expunge. Mr. Dinkins and Mr. Johnson suggested one year. Mr. Rickborn asked Mr. Jennings to continue to gather information for a future meeting.
- d. Mr. Rickborn asked Mrs. Hodge if she needed any assistance from the board for her campaign as NCEES Southern Zone Vice-President. Mrs. Hodge said that she would have an update for the board at the March meeting. Mr. Rickborn said that the board is there to offer her any assistance that she would need.

Other Business

Mrs. Hodge asked if comity applicants, who have passed the PE and have sufficient experience should come before the board for an FE Waiver. Mr. Dinkins said that his opinion is that they should not have to come before the board for an FE Waiver. Mr. Rickborn said that if they do not meet the experience requirements, the individual board member should have the authority to deny the FE waiver.

MOTION: To give authority to individual board members to waive the FE requirement of PhD. applicants and applicants with 15 years of experience or 12 or more years of PE licensure in another jurisdiction pursuant to the Regulations Section 49-200C(b).

Mrs. Miles asked the board if individuals who have failed the exam two times should submit a new application for board approval. She explained previously there was a policy of a two year waiting period before allowing applicants to re-apply for the exam. Mrs. Miles noted that policy was changed and candidates are now required to submit a certificate of study. Mrs. Miles added that currently staff is requiring applicants to update information. Mr. Rickborn said he believes applicants should complete a new application and that the previous application should be submitted for review as well.

Mr. Rickborn addressed the board about a non-resident who has taken and failed the 16-hour structural exam in another state, and recently applied in South Carolina to take the exam. He asked if the board should accept this application. Mrs. Hodge said that she received a similar application from a non-resident, and she was instructed that board members are not allowed to ask why the applicant has chosen to take the exam in South Carolina.

Mrs. Miles announced that due to reorganization in the agency, Sherri Moorer is no longer a staff member with the Board. She is unsure if another staff member will be hired to replace her.

MOTION: To enter executive session for legal advice with Mrs. Miles to participate.
Hodge/Johnson/approved.

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

Notice of Next Meeting

The next meeting of the SC Board of Registration for Professional Engineers and Surveyors will be held on Tuesday, March 17, 2015 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.

There being no further business:

MOTION: To adjourn. Fallon/Hodge/approved.

The meeting adjourned at 4:20 p.m.

Respectfully Submitted,

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

Britton S. Jenkins, Program Assistant