

MINUTES
South Carolina Board for Registration of Professional Engineer and Surveyors
9:30 a.m., May 17, 2016
Synergy Business Park, Kingstree Building
110 Centerview Drive, Room 105
Columbia, SC

Call To Order

Chairperson Rickborn called the meeting to order at 9:36 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; Dr. Dennis Fallon, Ph.D., PE, Vice-Chairman; John P. Johnson, PE, PLS, Secretary; Gene L. Dinkins, PE, PLS; Dr. Johnston Peeples, PE.; Miller L. Love, Jr., PE; and John Baker Cleveland, III. Mr. D. Mack Kelly, Jr. was introduced as a new member of the board. Mr. Kelly fills the seat vacated by board member Theresa Hodge.

Staff members present included Lenora Addison-Miles, Administrator; Britton Jenkins, Program Assistant; Donnell Jennings, Esq., Advice Counsel; Erin Baldwin, Esq., Office of Disciplinary Counsel; Sharon Wolfe, Office of Investigations and Enforcement; Sharon Cooke, Office of Investigations and Enforcement; Holly Beeson, Office of Communications and Governmental Affairs; Rebecca Leach, Office of Communications and Governmental Affairs; Andrew Rodgers, Assistant Deputy Director; and Dean Grigg, Deputy Director.

Others present included: Adam Jones, Allison King, Joe Jones, Brian Bonds, Lewis Driskell, Matthew O'Connor, Ryan Hull, Frank Smith, Greg Walker, and Jill Vickers (Creel Court Reporting).

Approval of Meeting Minutes

The board reviewed minutes from the March 15, 2016 board meeting.

MOTION: To replace "Mr." with "Dr." on page two. Sentence should read, "Dr. Peeples entered the meeting at 9:55 a.m."

MOTION: To approve minutes with changes. Dinkins/Love/approved.

Review and Approval of Agenda

The board reviewed the agenda. Mr. Johnson suggested moving agenda item 8a. behind 8c. Dr. Fallon requested to move agenda item 11g. before item 7a.

MOTION: To approve agenda with changes. Dinkins/Love /approved.

Reports

- a. Office of Investigations and Enforcement – Mrs. Wolfe reported there were a total of seven complaints received from January 1, 2016 through May 11, 2016. There are 17 active cases. Eleven cases have been closed.
- b. Investigative Review Committee Report- Mrs. Wolfe presented the May 4, 2016, IRC report. Cases 2015-33, 2015-50, 2016-13, and 2016-22 were recommended for dismissal. Cases 2015-30, 2015-47, 2016-4, and 2016-7 were recommended for dismissal with Cease and Desist. Cases 2015-49, 2015-55, 2015-56, and 2015-68 were recommended for formal complaint. Case 2015-44 was recommended for Letter of Caution. Case 2014-2 was recommended for reconsideration of dismissal, and case 2012-16 was recommended for reconsideration of Letter of Caution.

MOTION: To accept IRC recommendations as presented. Dinkins/Peeples/approved.

- c. Office of Disciplinary Counsel – Mrs. Erin Baldwin presented the ODC report. Mrs. Baldwin reported that there were 19 open cases in the Office of Disciplinary Counsel. She added that three cases had been closed since the report was generated, and one pending case should be received May 17, 2016 for review by the Chairman.
- d. Administrative and Financial Reports –Mrs. Miles reported that as of April 28, 2016, there were 29,850 active credentials. There were 4,559 in-state engineers active in renewal and 730 active. There were 9,513 out of state engineers active in renewal and 1,679 active. There were 551 in-state surveyors active in renewal and 56 active. There were 384 out of state surveyors active in renewal and 65 active. Active in renewal licensees have an expiration date of June 30, 2016. Mrs. Miles reported that the board has received a total of 547 Early PE exam applications. Two hundred thirty-four (234) applicants have passed the exam. She added that the April 2016 PE/PS exam summary shows a total of 278 exam candidates were approved for the PE, four for the PS, 15 for the 16-hour Structural, and four for the state specific. The results are pending. Mrs. Miles added the January through March testing report shows that 114 FE exams have been scheduled and 108 have been delivered. Mrs. Miles reported that the cash balance for March 2016 was \$2,359,111.31. The Education and Research balance for March 2016 was \$324,645.22. Mrs. Miles added the renewal period for professional engineers is ongoing.
- e. The board met with Mr. Dean Grigg in Executive Session to receive an update on the State-Specific Surveying Exam.

MOTION: To enter executive session for legal advice with Mrs. Miles, Mr. Grigg, and Mr. Rogers participating. Dinkins/Peeples/approved.

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

- f. The NCEES institution reports were addressed in addition to agenda item 8e during executive session.

Funding Requests

- a. Ryan Hull presented a funding request for \$3,000 for the Clemson University Steel Bridge Team.

MOTION: To approve the funding request, for \$3,000, for the Clemson University Steel Bridge Team. Johnson/Love/6 nays/denied.

MOTION: To approve the funding request, for \$1,500, for the Clemson University Steel Bridge Team. Johnson/Peeples/approved.

- b. The board reviewed a funding request for \$18,700 for the SCSPLS Convention and Technical Conference.

MOTION: To approve the funding request, for \$18,700 for the SCSPLS Convention and Technical Conference. Johnson/Dinkins/approved.

- c. Adam Jones presented a funding request, for \$30,000 for the South Carolina Engineering Conference.

MOTION: To approve funding request, for \$30,000 for the South Carolina Engineering Conference. Johnson/Dinkins/approved.

Disciplinary Hearings

- a. The disciplinary matter of Mr. Ben Coker was continued to the next scheduled board meeting.
- b. Gregory Walker appeared before the board for a Disciplinary Hearing. He was represented by Mr. Frank Smith, Esq. There were no witnesses. This matter was recorded by a court reporter to provide a verbatim script, should one be necessary.

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

The board recessed for lunch from 12:42 to 2:01 p.m.

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

MOTION: To accept Memorandum of Agreement. To issue a public reprimand. To impose a \$5,000 civil penalty for cost of investigation and disciplinary fine. Mr. Walker is required to take and pass the NCEES PE Structural examination before practicing in that discipline.

Mr. Walker was cautioned that he must be qualified in the disciplines he practices and to keep all records according to statute.

Application Hearings

- a. Michael Bennett appeared before the board for an Application Hearing. He was not represented by Counsel. Mr. Robert Henderson and Mr. Matt Atkins served as witnesses. Mr. Dinkins was recused from the hearing and left the meeting at 2:08 p.m. to attend the subcommittee hearing. This matter was recorded by a court reporter to provide a verbatim script, should one be necessary. The hearing was closed to the public due to confidential medical information.

MOTION: To enter executive session or legal advice. Johnson/Fallon/approved.

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

MOTION: To grant PE licensure. Mr. Bennett is required to undergo an evaluation by the Recovering Professionals Program. Johnson/Love/approved.

- b. Mr. Lewis Driskell appeared before the board for an Application hearing. He was not represented by Counsel. There were no 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/Love/approved.

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

MOTION: To grant reinstatement of PE licensure upon payment of all lapsed license fees. Peeples/Love/approved.

- c. The application hearing for Jeff Gawronski was continued to the next scheduled meeting date.
- d. Mr. Matthew O'Connor appeared before the board for an Application Hearing. He was not represented by Counsel. There were no witnesses. This matter was recorded by a court reporter to provide a verbatim script, should one be necessary.

MOTION: To accepted amended application. To approve for licensure in consideration of amended application. Fallon/Johnson/approved.

Unfinished Business

- a. The board reviewed action items from the March 15, 2016, board meeting. Mr. Rickborn noted that most items have been completed or are on the May 17, 2016, agenda. Mrs. Miles reported that the recognition plaque for Charles Ido is in the process of being made. She asked if the board would like to request Mr. Ido's attendance at the next board meeting for presentation. Mr. Rickborn asked Mrs. Miles to request Mr. Ido's attendance to present the plaque at the licensing ceremony next month.

- b. The board reviewed an email from Mr. David Stokes, building official in Oconee County. Mr. Stokes requested clarification from the board regarding whether the services of a design professional were required for a particular structure in excess of 5,000 square feet. Mr. Rickborn reported that during the summer of 2015, there was a Task Force, composed of representatives from the Architectural Board, Engineers and Surveyors Board, and Building Codes Council, to study the Building Officials Manual. The Task Force was unable to come up with an agreement on the definition of incidental practice. Mr. Rickborn asked Mrs. Miles to attempt to establish a meeting for the committee to reconvene this summer. Mr. Jennings noted that he would work with the Chairman to draft a response to address Mr. Stokes concern.
- c. The board discussed the draft of the Ethics Exam. Mr. Jennings reported that he prepared the exam based on the structure of North Carolina's ethics exam, while Mr. Cleveland did a breakdown of the questions and what areas they pertained to. Mr. Cleveland explained that he would use past disciplinary hearings as a base for questions on the exam and there will be approximately 40-50 questions. Mr. Cleveland asked the board to provide any topics they wish to cover on the exam. He added a draft for the exam will be provided at the July meeting. Mr. Rickborn noted that this exam could be used as a part of the disciplinary process or as a pre-requisite for licensure.
- d. Mr. Rickborn spoke with the board about EIT certifications. He noted that some applicants that apply for PE licensure do not have a South Carolina EIT certification. He added that this conflicts with section 40-22-220 (A) which states in part, "A person having the necessary qualifications prescribed in this chapter to entitle him to registration is eligible for licensure. A person must be certified as an engineer in training as a prerequisite to licensure." The board reviewed questions by staff regarding the conflict. After review, the board decided it would be in the best interest to keep the policy as is.
- e. The board discussed the expiration of Category B licensure notifications. Mr. Jennings noted that he has been working with Mr. Rickborn to draft a letter notifying individuals of the impending expiration date. They will continue working together to draft the letter and disseminate to licensees.
- f. The issue of PE Stamp on P&ID's Inquiry was continued to the next scheduled board meeting.
- g. The board received an update on the statute revisions. Mr. Joe Jones reported that the House Labor, Commerce, and Industry subcommittee was meeting later that day. Mr. Jones added that Ralph Norman, from York County, is expected to introduce an amendment from AGC which could possibly genericize the term "engineer." Mr. Jones requested support of the full board to prevent generalization of the term. He added the full LCI committee would meet next week. Mrs. Beeson reported that she would be at the subcommittee meeting on behalf of the agency. Mr. Dinkins added that he would be attending the subcommittee meeting, representing the board, as well. Mr. Rickborn noted that the board's position is that it is against a generic definition of "engineer". Mr. Dinkins asked Mr. Jones what the procedure would be if the bill was approved in the subcommittee meeting. Mr. Jones noted the bill would then go to the full committee for a vote. Mr. Rickborn later noted that the hearing was postponed until May 18, 2016.

MOTION: To go on record supporting the current version of S.685. The board is opposed to any revisions to the bill. Dinkins/Love/approved.

New Business

- a. Mr. John Sayle Lewis spoke with the board regarding sealing of digital structural models and whether the practice was considered a violation of the Practice Act. Mr. Lewis explained that in 2016, the AISC code of standard practice has acknowledged and recognized the use of three dimensional digital models in contract models. Mr. Rickborn noted that while it was not a violation of the Practice Act, it is a topic that should be reviewed for further clarification. Dr. Peoples volunteered to review the topic with the assistance of Mr. Rickborn and Dr. Fallon.
- b. The board voted on the NCEES Annual Meeting Funded Delegates. The NCEES Annual Meeting will be held August 24-27 in Indianapolis, Indiana. The board selected Mr. Rickborn and Dr. Fallon as funded delegates. There was no motion or vote on the matter.
- c. The board discussed making a recommendation that previous board member, Theresa Hodge be recognized as an emeritus board member, so that she could continue her service with NCEES.

MOTION: To recognize Theresa Hodge as Emeritus board member. Johnson/Love/approved.

- d. The board discussed composing a foundation repair policy statement. Mr. Rickborn noted that this stems from advertisements from foundation repair companies after the October 2015 flooding. He added that some companies are installing their products and there are questions regarding who designed them, and if the services they provide is the practice of engineering. Mr. Rickborn explained North Carolina recently composed a policy statement regarding foundation repair company guidelines. Mr. Rickborn asked the board if there was a need for a similar policy statement regarding foundation repair, and when these services require an engineer. Mr. Johnson noted that he would prefer that the geotechnical engineers and the structure repair companies open the dialogue to this issue as opposed to the board. Mr. Rickborn said that he would follow up with some individuals in the industry for additional feedback.
- e. The board discussed establishing the emergency assistance committee. Mr. Rickborn explained that the agency became aware of a provision from the Department of Revenue that waives licensing requirements of individuals who wish to volunteer their services in South Carolina during a state of emergency for up to 30 days. Mr. Rickborn added that the issue of how staff would address this provision became a concern. As a result, he drafted a script to aid staff in screening any individuals who contacted the board with the intent to volunteer their services. Mr. Rickborn added that it would be helpful to form a committee of board members to assist Mrs. Miles and Mr. Jennings in reviewing the script and formalizing it for staff to use in the future. Mr. Kelly and Dr. Fallon volunteered to serve on the committee.

Other Comments

Mr. Love referred to South Carolina Code of Regulations §49-600, regarding CEUs and the ability to carry over 15 hours from the previous renewal period. Mr. Love added that the renewal form does not give that information. Mr. Love explained that questions may arise from licensees that the regulations authorize carry over hours, but it is not documented in any type of database. Mrs. Miles noted that the South Carolina board does not maintain records of continuing education hours and it would be at the burden of the licensee to provide documentation for carryover hours if selected for a CE audit.

Dr. Peebles added that it would be helpful to establish guidelines regarding funding for student organizations versus professional organizations and associations.

Mr. Burke announced that the Structural Engineers Association will hold their annual conference on July 21, 2016. He requested the attendance of Mr. Jennings to do a presentation on the proposed ethics exam. Mr. Jennings asked Mr. Burke to follow up with an e-mail request.

Notice of Next Meetings

The next meeting of the SC Board of Registration for Professional Engineers and Surveyors will be held on Tuesday, July 19, 2016 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 9:00 a.m.

There will be a special meeting to conduct a disciplinary hearing on Wednesday, July 20, 2016 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 8:30 a.m.

There being no further business:

MOTION: To adjourn. Johnson/Love/approved.

The meeting adjourned at 4:55 p.m.

Respectfully Submitted,



Britton S. Jenkins, Program Assistant