

MINUTES
South Carolina Board for Registration of Professional Engineer and Surveyors
9:30 a.m., May 27, 2015
Synergy Business Park, Kingstree Building
110 Centerview Drive, Room 108
Columbia, SC

Call To Order

Chairperson Rickborn called the meeting to order at 9:50 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; John P. Johnson, PE, PLS, Secretary; Gene L. Dinkins, PE, PLS; Miller L. Love, Jr., PE; Theresa Hodge, PE; Dr. Johnston Peebles, Ph.D., PE, was introduced as a new board member. Mr. Rickborn noted that board member James Baker Cleveland, III was in traffic and would arrive momentarily.

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

Other members present included: Federico E. Maisch, Travis Dahuff, Esq., Jared McMullan, Keith Cannon, Adam Jones, Joe Jones, Sid Shrum, Kristin Levy, Ken Atkinson, Tilden Hilderbrand, Marguerite McClam, Mark Grevas, Kenneth Gonzalez, Josh Henderson, Richard Brooks, Mike Douglas, Brian Keys, and Abdulhakim Bayyoud.

Mr. Dinkins congratulated Mrs. Hodge on her election of NCEES Southern Zone Vice President.

Approval of Minutes

MOTION: To approve minutes for March 9, 20015 meeting. Hodge/Love/approved.

Review and Approval of Agenda

Mr. Rickborn noted that the agenda was updated to add items 10d, 14e, and 14f. A copy of the revised agenda was distributed to members of the board.

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

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

Mr. Cleveland entered the meeting at 10:26 a.m.

Reports

- a. Office of Investigations and Enforcement – Mrs. Baldwin reported that as of January 1, 2015, the Office of Investigations and Enforcement had received a total of 11 cases. Three of those cases are active investigations, two have been opened and six are pending board action. Four cases have been closed since January 1, 2015. Mrs. Baldwin added that the oldest case is 313 days.
- b. Investigative Review Committee Report - Mrs. Baldwin presented the May 6, 2015 Investigative Review Committee Report.

MOTION: To dismiss cases 2014-27, 2014-34, 2014-35 on the Investigative Review Committee Report. Johnson/Love/approved.

MOTION: To accept “dismiss-cess and desist” recommendation for case 2014-32 on the Investigative Review Committee Report. Johnson/Hodge/approved.

MOTION: To accept “formal complaint” recommendation for case 2014-49 on the Investigative Review Committee Report. Johnston/Peebles/approved.

MOTION: To accept “letter of caution” recommendation for case 2014-33 on the Investigative Review Committee Report. Dinkins/Johnson/approved.

- c. Office of Disciplinary Counsel - Mrs. Baldwin reported there are 15 open cases in the Office of Disciplinary Counsel as of May 15, 2015. Five Consent Agreements are pending signature from the board chair. Mrs. Baldwin added she is hoping to bring one or two cases before the board at the next scheduled two-day board meeting.
- d. Administrative and Financial Reports - Mrs. Miles reported that as of May 18, 2015, there are 28,555 active licensee credentials. Mrs. Miles added that she has provided the Board with a breakdown of licensees who are in state, out of state, and in retired or emeritus status, as well as a summary of the FE and FS exams from April 2013 to November 2014. She reported that in 2013, there were a total of 951 FE and 27 FS exams. In 2014, when exams transitioned to computer-based format, there were 288 FE and one FS examinees. Mrs. Miles added since the implementation of the early PE exam, there have been 258 applications and 53 candidates have taken and passed the exam. There are 2,770 COAs and 814 branches that are renewed and current through March 30, 2017. There are still 145 COAs and 72 branches active in renewal. The third and final set of renewal notices were sent the week before to remind those that have not renewed. Mr. Dinkins noted that there has been a tremendous drop in the number of FE and FS examinees since the exams transitioned to computer-based testing. Mrs. Miles reported that the April 2015 financial report showed a balance of \$2,804,609.41. The Education and Research fund balance as of April 2015 was \$375,955.22. Mrs. Miles noted the Board received a request from the Jasper County Registrar of Deeds. The South Carolina Clerk of Court and Register of Deeds Organization is planning a yearly conference in Charleston, SC this fall. The organization is requesting a guest speaker to review laws and policies of land surveyors that affect the filing

offices. Mr. Rickborn asked Mrs. Miles to contact the organization to get a specific date of the conference, and that the board will discuss sending a representative when the date is final.

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

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

Funding Requests

- a. Adam Jones, of SCSPE presented a funding request of \$25,000 for the South Carolina Engineering Conference and Trade Show.

MOTION: To approve \$25,000 funding request for the South Carolina Engineering Conference and Trade Show.

- b. The board reviewed a funding request of \$4,100 for the Structural Engineers' Association 9th Annual Conference and Trade Show, held July 10, 2014. There was no representative from the organization present.

It was noted the request was submitted on March 15, 2015. Mr. Rickborn suggested the request be rejected because it was not submitted timely for consideration. The board agreed to reject the request.

- c. Robert Padilla, of the Clemson ASCE Student Steel Bridge Team, presented a funding request of \$9,000 for travel expenses to the ASCE National Steel Bridge Competition.

MOTION: To approve funding for registration fees in the amount of \$1,400 for the ASCE National Steel Bridge Competition.

Disciplinary Hearings

- a. Federico E. Maisch, on behalf of Greeley and Hansen, LLC appeared before the board for a disciplinary hearing. Mr. Maisch was represented by Travis Dayhuff, 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 executive session for legal advice. Dinkins/Johnson/approved.

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

MOTION: To accept Memorandum of Agreement with a fine of \$2,000 and a public reprimand. Issue COA immediately upon payment of fine. Johnson/Cleveland/approved.

Application Hearings

- a. Jared McMullan appeared before the board for an application hearing. Mr. McMullan was not represented by counsel. Keith Cannon, Tilden Hilderbrand, and A.C. Arnn served as

witnesses. This matter was recorded by a court reporter to provide a verbatim script, should one be necessary.

MOTION: To approve Professional Engineer licensure to Jared McMullan. Johnson/Dinkins/approved.

- b. Kristin Cox Levy appeared before the board for an application hearing. Ms. Levy was not represented by counsel. Mr. Ken Adkinson served as a witness. This matter was recorded by a court reporter to provide a verbatim script, should one be necessary.

MOTION: To approve Professional Engineer licensure to Kristin Cox Levy. Dinkins/Hodge/approved.

- c. The board reviewed Mr. Cole's application packet. Mr. Cole was not present nor represented by counsel.

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

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

Mr. Rickborn noted the matter of Mr. Cole will be tabled to a future meeting when Mr. Cole is able to attend.

- d. Kenneth Gonzalez appeared before the board for an application hearing. Mr. Gonzalez 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 approve Professional Engineer licensure to Mr. Gonzalez. Johnson/Dinkins/approved.

Application Review

- a. The board reviewed an application for Abdulhakim Bayyoud for an FE waiver. Mr. Bayyoud was present. He was not represented by counsel. There were no witnesses.

MOTION: To approve FE Waiver. Hodge/Love/approved.

COA License Renewal Request

Mrs. Miles noted that Mr. Joe McCullough has requested to reschedule his request for COA licensure renewal for the July 14, 2015 board meeting.

Unfinished Business

- a. The board reviewed action items from the March 17, 2015 meeting. Mr. Rickborn noted everything on the spreadsheet has been completed since the last meeting or is on the May 27th agenda. He added that he is still working on the Successor Surveyor/Engineer policy and should have a draft by the July meeting.

- b. Mr. Rickborn noted the State Specific Surveyor Exam issue had been discussed in a previous executive session.

MOTION: To nominate Sid Shrum as committee chair, Bob Vannerson, Ben Christensen, Mark Mills, Brian Bonds, Kent Hudson, Elliotte Quinn, and Henry Dingle to the state specific surveyor exam writing committee. Dinkins/Hodge/approved.

Mr. Peoples left the meeting at 2:46 p.m.

- c. Mr. Brian Keys spoke to the board about the SCDOT Deed Surveying Recording Issue. Mr. Keys noted that in 2014, he came before the board to inquire about exhibits prepared by SCDOT attached to deeds for right of way. Mr. Keys added that Aiken County raised questions regarding the validity of those exhibits and refused to accept SCDOT's deeds for acquisitions of rights of way. Mr. Keys requested clarification on whether the representation was considered a plat. He added that as a result of this discussion, the Board recommended SCDOT develop new policies and processes regarding how the surveys are conducted. Mr. Keys noted that some changes and improvements have been made. He referred to a memo given to the board which was disbursed to SCDOT staff internally. Mr. Keys added the new recommendation is to add a "property monuments found" section which has never been added to plans. He added that they have always had the "property monuments found" in the information and shown in the drawings, but never specifically identified. Mr. Keys explained that having this information on record would be helpful to individuals wanting to identify where a property was at one time. He added this would be a great help to the surveying community. Mr. Dinkins thanked Mr. Keys and SCDOT for working with the board regarding the issue. He advised Mr. Keys that counties have the discretion to accept or deny whatever documents they choose as long as it meets or exceeds the Board's statutes and regulations. Mr. Dinkins added that he reviewed SCDOT's exhibit and advises it is not considered a plat or property survey.

- d. The board reviewed the appeal of Matthew F. Cooke, Memorandum of Understanding.

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

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

MOTION: To reject proposed Memorandum of Understanding for the appeal of Matthew F. Cooke. Hodge/Dinkins/approved.

- e. Mr. Rickborn noted the board discussed the matter of the spreadsheet for calculating fines in a previous executive session.
- f. The board discussed proposed legislation. Mr. Joe Jones noted that bill S.685 was carried over in subcommittee. He added that the definition of engineering was discussed more than the issue of qualification-based selection (QBS). Mr. Jones said that there is a lot of work to be done between now and January 2016. He noted that the definition of the term engineering may be a big issue the board would need to address in the future. Mr. Love added that it is vitally important to get something in writing that explains exactly what QBS is. Mr. Jones

agreed. He added that there has been a lot of misinformation, and that getting a clear definition on QBS is something that needs to happen in the next six months. Mr. Love suggested that Mr. Jones propose a fact sheet about the subjects, send it to the bill sponsor and subcommittee chair, and ask for their support and favorable vote. Mr. Dinkins noted that it is imperative for many supporters to be present and vocal about the bill for it to pass. Mr. Jones added that it would be important to start a dialogue about this at the South Carolina Engineering Conference in June.

- g. The board discussed the upcoming South Carolina Engineering Conference scheduled for June 11, 2015. Mr. Rickborn noted the board recently invited LLR Director Richele Taylor to speak about the direction of the agency. They also reached out to Erin Baldwin to present information on disciplinary procedures, in addition to a brief presentation by the board. Mr. Jones said the board's recommendations are good, but he would prefer them start a dialogue on the proposed legislation. Mr. Dinkins noted that if there is only an hour allotted for time, at least 30 minutes of that time should be devoted to proposed legislation. Mrs. Hodge added that the groups that attend the conferences should be aware of this legislation. Mr. Dinkins noted that the leadership of these organizations is familiar with the legislation, but the membership is not always aware. Mrs. Baldwin said that she could compose a handout with information regarding the disciplinary process. Mr. Dinkins suggested that Director Taylor attend the conference to meet with attendees as opposed to speaking.

New Business

- a. The board discussed the issue of Education Consultant Successor in a previous executive session.
- b. The board reviewed the ASCE Position Statement regarding ASCE's position on early taking of the PE Exam. Mr. Rickborn suggested the board take the statement as information only.
- c. The board selected Dr. Fallon and Mr. Rickborn as the NCEES Annual Meeting Funded Delegates.
- d. Michael Douglas, Ricky Brooks, and Josh Henderson of Express Oil Change/Tire Engineers spoke with the board regarding the use of the term "tire engineers" in its name. Mr. Douglas explained that Express Oil Change is a 36-year old company who recently purchased Tire Engineers in 2013. Mr. Douglas explained that at the time of purchase, the company was unaware that there were state statutes that regulated the use of "engineers" in business names. Mr. Douglas added they have been looking at using the term in other states. He added that they have met with Texas, Mississippi, Alabama, Tennessee, and Florida. He noted Tennessee and Florida have approved the use of the name "tire engineers." Mr. Douglas said that by using the phrase "tire engineers," the company does not believe they are conveying to the public that they are providing engineering services. Mr. Brooks, owner of Express Oil Change/Tire Engineers added the company has four stores in the Columbia, South Carolina area that are in the process of being co-branded as Express Oil Change/Tire Engineers. Mr. Rickborn referred to South Carolina statute 40-22-30(A)(2) and 40-22-30(C) as applicable sections. Mr. Douglas requested the Board give the company permission to use "engineers" in its name and determine that it is not a violation in the board's opinion to use

the term. He added that in previous litigation in Florida it was determined the term is generic and as long as an individual is not holding themselves out as an engineer or conveying the impression that they are an engineer, it is ok to use it.

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

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

MOTION: Per section 40-22-30(C) the use of "engineer" in the company name Express Oil Change/Tire Engineers would violate the laws of South Carolina. The board does not authorize use of the term "engineers" in the company name. The board shall not issue a letter of permission to use the term. Cleveland/Dinkins/approved.

- e. Mr. Rickborn spoke with the board regarding a foundation repair inquiry received by staff. The individual was requesting guidance on whether an engineer was required in several aspects of foundation repair. Mr. Rickborn added there are specific requirements and evaluation reports which say that structural calculations and drawings prepared by registered design professionals must be submitted to the code officials. Each project must be based on accepted engineering principles as described in IBC section 1604.4. Mr. Dinkins said that an engineer is not required to determine whether a foundation has failed. He added that if the foundation fails, it should be referred to a professional engineer for repairs. Mr. Dinkins noted that Section 40-22-23 in the South Carolina Code answers what services should be provided by an engineer. He noted the board should not come up with a new policy to address this, but refer to the definition of engineering if there are any questions.

- f. Mr. Rickborn announced the Cooper River Bridge Anniversary Event will be held on July 18-19, 2015.

Public Comments

Mr. Mark Grevas, licensed engineer in South Carolina, thanked Mr. Love for directing him to Dr. Castro for an education evaluation. Mr. Grevas asked the board what would happen to Category B licensure on the expiration date. Mr. Rickborn said that the Category B licensure will expire and no other license will be granted.

Notice of Next Meeting

The next meeting of the SC Board of Registration for Professional Engineers and Surveyors will be held on Tuesday, July 14, 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 is a tentative meeting scheduled for Monday, July 13, 2015.

There being no further business:

MOTION: To adjourn. Johnson/Hodge/approved.

The meeting adjourned at 4:50 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' and a distinct 'S'.

Britton S. Jenkins, Program Assistant