

MINUTES
South Carolina State Board for Registration of Professional Engineer and Surveyors
9:30 a.m., November 10, 2014
Synergy Business Park, Kingstree Building
110 Centerview Drive, Room 105
Columbia, SC

Call To Order

Chairperson Rickborn called the meeting to order at 9:40 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 person, 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; Theresa Hodge, PE; Jeffrey Mulliken, Ph.D., PE; and Nancy W. Cottingham.

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 Cooke, Office of Investigations and Enforcement.

Others present included: Pat Gambill, Brian Bonds, Sid Shrum, Kenneth Johnson, Melvin Williams, Marguerite McClam, Zach McGhee, Rick Inman, Richard Warder, Jesse Burke, Jeratt Merrell, Dennis Johns, and Matt Cooke.

Approval of Meeting Minutes

MOTION: Correct the motion on page four of September 23, 2014 minutes to read, "to be granted licensure, Mr. Goff must take one of the electrical and computer examinations offered by NCEES, he may not take the software engineering exam." Approve minutes with correction. Hodge/Fallon/approved.

Review of Agenda

Chairperson Rickborn asked if there were any proposed changes to the agenda for the November 10, 2014 meeting agenda.

MOTION: To move item 13a before item 8. Love/Hodge/approved.

Reports

- a. Office of Investigations and Enforcement – Mrs. Miles reported 45 cases were received in the Office of Investigations and Enforcement since January 1, 2014, and a total of 44 cases have been closed since January 1, 2014. The oldest active case is 233 days.

- b. Investigative Review Committee Report – Mrs. Miles reported there was no IRC report.
- c. Office of Disciplinary Counsel Report – Mrs. Baldwin provided a more thorough ODC report at the Board’s request. She reported she is currently monitoring the status of the 2010 case, mentioned at the last meeting, on a weekly basis. She reported as of October 31, 2014, there were currently 13 open cases in the Office of Disciplinary Counsel. Nine cases are pending action. One case is pending a Consent Agreement or Memorandum of Agreement. Two cases are pending board hearing. One case is pending expert review. Five cases have been closed. Mrs. Hodge asked if there was the possibility to add an additional section to the report to note the actions being taken on cases older than 180 days. Mrs. Baldwin indicated she would be able to add that information to the next report.
- d. Administrative Reports – Mrs. Miles reported as of November 3, 2014, there were a total of 27,812 active licensees. The September cash balance was \$2,840,266.48 and the Education and Research fund was \$374,985.22. Mrs. Miles added she contacted Finance regarding the POL Office of Business Service percentage adjustment. Finance made changes in the way the percentages were calculated. The change created some unintentional calculations that had to be reversed. Mrs. Miles explained the correct split should be 3.75%, and the corrected percentage would reflect on the October financial statements and the money is being re-allocated. Mrs. Miles reported staff is currently conducting Continuing Education audits. Audit notices were mailed on October 9, 2014 with a response deadline of October 27, 2014. Second notices were sent on November 7, 2014 for those that had not responded. The final response is due by November 24, 2014. One hundred thirty (130) licensees were selected in the audit and so far the response has been very good. Mrs. Miles reported Section 23-43-20 of the South Carolina Code of Laws, Modular Buildings Construction Act, was amended to revise the definition of the term “approved inspection agency.” The change requires that an approved inspection agency retain a building construction oriented South Carolina registered Engineer or Architect to ensure compliance. Mr. Love asked if there was a good response to renewals. Mrs. Miles said the responses were good and that the renewal period is now over. Mrs. Miles reported that the FE and FS direct registration was implemented effective October 21, 2014. All school liaisons were notified, via email, to disseminate the information to their students. She noted in the October/November CBT testing window there were 59 exams scheduled and 39 delivered. There are currently no examination statistics for the October/November testing window. Mrs. Hodge asked if the POL-OBS incorrect percentage was applied to all boards. Mrs. Miles said she was unsure. Mrs. Hodge requested that a representative from Finance come to the next meeting to give additional details and make a formal report. Mr. Rickborn requested an institution report for the next board meeting to track FE registrants by schools.

MOTION: To enter executive session for legal advice and to discuss the State Specific Survey Exam. To allow Mr. Sid Shrum, Mr. Stuart Hardwick, Esq., and Mrs. Miles to participate in executive session discussion. Johnson/ Fallon / approved.

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

Review of Licensure Recommendation- Portfolio Review Committee

- a. Troy K. Johnson, Jr. (Civil) was recommended for licensure by the Portfolio Review Committee.

MOTION: To approve the Portfolio Review Committee recommendation and grant licensure to Mr. Johnson. Fallon/Hodge/approved.

- b. Jeratt A. Merrell (Civil) was not recommended for licensure by the Portfolio Review Committee. Mr. Merrell was in attendance. Mr. Jennings added that Dr. Fallon chaired the review committee, and had a report of the committee findings. Dr. Fallon noted the committee unanimously denied his request based on concerns that Mr. Merrell lacked design experience and he did not meet the requirements in the statute in regards to experience.

MOTION: To approve the Portfolio Review Committee recommendation and deny licensure to Mr. Merrell. Dinkins/Love/approved.

- c. Michael J. Milkovitz (Civil/Structural) was recommended for licensure by the Portfolio Review Committee.

MOTION: To approve the Portfolio Review Committee recommendation and grant licensure to Mr. Milkovitz. Hodge/Johnson/approved.

The board recessed for lunch from 12:30 p.m. to 1:00 p.m.

Disciplinary Hearings

- a. Terry Stogner appeared before the board for a disciplinary hearing. Mr. Stogner was represented by Richard Warder, Esq. Matthew Stogner, Phil Hunt, Kent Cox, and Kevin Tollinson served as 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/Fallon/approved.

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

Mr. Dinkins reported that based on the testimony, the board found Mr. Stogner in violation of South Carolina Code Section §40-1-110(1)(a), in which he used a false, fraudulent, or forged statement or document or committed a fraudulent, deceitful, or dishonest act or omitted a material fact in obtaining licensure under this article. Mr. Stogner is also in violation Section §40-1-110(1)(h), in which he has been convicted of or has pled guilty to or nolo contendere to a felony or a crime involving drugs or moral turpitude.

MOTION: To accept the Memorandum of Agreement with those changes. Impose a public reprimand and \$1000 fine. Mr. Stogner was given the stipulation that if he is convicted in the future of DUI he must immediately report back to the board for further action.
Dinkins/Johnson/approved.

- b. Mrs. Baldwin presented a Consent Agreement for Raymond Perkins. Mrs. Baldwin noted the case was originally opened under the name Raymond Perkins, but should have properly been brought against the company Perkins Contractors & Engineers, LLC. Mr. Perkins was not in attendance or represented by counsel. 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/Hodge/approved.

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

MOTION: To accept Consent Agreement. Johnson/Dinkins/approved.

MOTION: To enter executive session for legal advice with the participation of the IRC members, Mrs. Baldwin, Mr. Hardwick, and Mrs. Miles. Dinkins/Cottingham/approved.

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

Mr. Rickborn requested that a discussion of IRC member terms, appointment of a fifth IRC member, and alternates be added to the January agenda.

Application Hearings

- a. The board conducted an application hearing for Mr. Jeremy Hohnbaum for Professional Engineering licensure in South Carolina by comity. Mr. Hohnbaum was not in attendance or represented by counsel. This matter was recorded by a court reporter to produce a verbatim script, should one be necessary.

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

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

MOTION: To deny Professional Engineering licensure by Comity. Hodge/Johnson/approved.

- b. Mr. Matthew Cooke appeared before the board for an application hearing for Professional Engineering licensure in South Carolina by comity. Mr. Cooke was not represented by counsel. This matter was recorded by a court reporter to produce a verbatim script, should one be necessary.

MOTION: To deny Professional Engineering licensure by Comity. Mr. Cooke does not meet the educational requirements. Dinkins/Hodge/approved.

- c. The board conducted an application hearing for Mr. Angel Gray for Professional Engineering licensure in South Carolina by comity. Mr. Gray was not in attendance or represented by counsel. This matter was recorded by a court reporter to produce a verbatim script, should one be necessary.

MOTION: To deny Professional Engineering licensure by Comity. Mr. Gray does not meet the education requirements. Dinkins/Johnson/approved.

Mr. Rickborn noted that Mr. Rafik Gerges withdrew his application hearing and will appear at a later date.

Unfinished Business

- a. The board reviewed action items from the September 22-23, 2014 meetings. Mr. Rickborn noted that all items were either completed or are on the current agenda.
- b. Mrs. Hodge presented the spreadsheet and formulas used to calculate fines. She explained the calculation is based on the average cost of projects completed while in lapsed, suspended, or unlicensed status. Mr. Dinkins explained that sometimes surveyors may complete a number of projects, but it would not total the \$5,000 range and it may skew the results. He suggested developing a separate category for calculating fines for surveyors. Mr. Dinkins suggested setting the cut off at \$1,000 for surveyors if the average cost is less than \$1,000. Mrs. Hodge asked for some of the past cases to use as a basis for calculating surveyor fines. Mrs. Baldwin suggested case information would be best to come from staff for record keeping purposes. Mr. Dinkins asked Mrs. Hodge to create the additional surveyor category, and come back to the next meeting to present it so the board can determine if it is reasonable.
- c. The board deferred the issue of Successor Engineer/Successor Surveyor Policy until the next scheduled board meeting to give board members time to research the issue.
- d. Mr. Rickborn discussed the issue of reinstatement of lapsed licenses. He explained the topic was discussed at the previous meeting, but a resolution was never established. Mr. Rickborn added he has an applicant who was previously licensed in South Carolina, the license has lapsed, and he has applied for licensure by comity without reinstating the lapsed license. Mr. Rickborn requested guidance on how to move forward with this application and how the board should handle issues like this in the future. Mr. Fallon noted that if the applicant has a lapsed license, they should take the necessary steps to reinstate it. Mr. Rickborn inquired why lapsed licensees are not displayed on Licensee Lookup. Mrs. Miles explained that is an ongoing issue within the agency and that she would discuss with IT the possibility of displaying those names. Mrs. Miles asked the board for clarification of the board's decision regarding lapsed licenses. She explained staff may be challenged on the issue of individuals wanting to apply by comity as it states in Regulation. Mr. Rickborn explained if they have a license in the state of South Carolina, they are ineligible for licensure by comity. He added if the license is lapsed, they must reinstate. Mr. Rickborn asked that there be clarification on the Frequently Asked Questions page as to when the long or short reinstatement form is required. Mrs. Miles said she would update the page.
- e. Mr. Joe Jones spoke with the board to update them on statutory revisions and South Carolina Legislative Report. He reported that Senate Bill 497, which was introduced in 2013, will be reintroduced in the 2014-2015 Legislative Session. Mr. Jones reported they are looking to pre-file the bill, as well as the Practice Act, in December.

MOTION: To enter executive session for legal advice with Joe Jones allowed to participate.
Dinkins/Fallon/approved.

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

Mr. Rickborn noted that during Executive Session, they had a lengthy discussion and that he and Mr. Jennings will have a discussion with Holly Beeson regarding additional issues and make a decision on how to proceed.

New Business

- a. Mr. Rick Wilson spoke with the board regarding the Recovering Professional Program (RPP). Mr. Wilson explained he was involved in the early stages of development of the contract between LLR and RPP when he recognized there was a responsibility of the boards to protect the public from impaired professionals. Mr. Wilson explained there was a joint effort with the South Carolina Medical Association to create a professional program that would be able to provide proper recovery for professionals serving the community. Mr. Wilson explained the first step in the process is an assessment in which the professional bears the financial responsibility. If it is determined there is a substance abuse issue, it is the professionals' responsibility to seek treatment. Mr. Wilson added that RPP recommends the individuals to the programs that would best meet their needs. Mr. Wilson referred to the questionnaire that presented a list of options of care provided to RPP. He requested that the board approve the set of answers so that all individuals are served in a consistent manner. Mr. Wilson further requested that the board make a decision on whether to recommend the inpatient care option to its licensees. Mr. McCoy from RPP explained there are different areas to consider when determining the fee. He noted a case management fee ranges from \$5 to \$50 monthly, per client. There is an additional average cost of \$100 per month for drug testing. During the evaluation phase, if individuals choose the outpatient option, the average cost is several hundred dollars. The inpatient three to five day evaluation option averages from \$2,500 to \$3,500. During the treatment phase, individuals may also choose inpatient or outpatient care. Outpatient care is usually handled on a sliding fee scale. The 90-day inpatient care usually ranges between \$20,000 and \$40,000. Mr. Wilson requested the Memorandum of Agreement also be approved by the board. Mr. Love noted the board had previously entered into an agreement with RPP. Mr. Rickborn added that Mrs. Miles researched and found in 2008, the board initially entered into the agreement and he is not sure why the agreement was not fully executed. Mr. Wilson added, during that time, there was an issue in the funding which is probably why the agreement was not fully executed.

MOTION: To enter the Memorandum of Agreement between the Recovering Professional Program and the South Carolina Board of Professional Engineers and Land Surveyors as submitted.
Dinkins/Mulliken/approved.

Mr. Love added he would like a status report when the agreement is fully executed.

- b. The board deferred the issue of Education Qualifications for the FE Exam to the next meeting.

- c. The board deferred the issue of Reviewing Portfolio Review Committee Volunteers to the next meeting.
- d. The board deferred the issue of Section 300 of the Building Official Manual and Overlap of Practice to the next meeting.
- e. The board deferred the issue of the Early PS Exam to the next board meeting.
- f. The board elected officers for the 2015 term.

MOTION: To nominate Timothy Rickborn for a second term as chairman of the South Carolina Board of Professional Engineers and Land Surveyors. Cottingham/Fallon/approved.

MOTION: To nominate Dennis Fallon, Ph.D., for a second term as Vice Chairman of the South Carolina Board of Professional Engineers and Land Surveyors. Hodge/Cottingham/approved.

MOTION: To nominate Johnny Johnson, for a second term as Secretary of the South Carolina Board of Professional Engineers and Land Surveyors. Hodge/Cottingham/approved.

Mr. Love left the meeting at 5:36 p.m.

Other Business

Mr. Mulliken announced he will not seek reappointment as a board member due to personal reasons. He thanked the board for the opportunity to serve.

Notice of Next Meeting

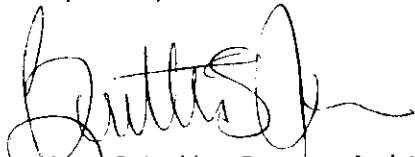
The next meeting of the SC State Board of Registration for Professional Engineers and Surveyors will be held on Tuesday, January 20, 2015 at the SC Department of Labor, Licensing, and Regulation, Synergy Business Park, Kingtree Building, 110 Centerview Drive, Room 108, Columbia, SC and will begin at 9:30 a.m. Mr. Rickborn asked Mrs. Miles to check for available meeting dates for December.

There being no further business:

MOTION: To adjourn. Johnson/Fallon/approved.

The meeting adjourned at 5:51 p.m.

Respectfully Submitted,



Britton S. Jenkins, Program Assistant