

MINUTES
South Carolina Board of Registration for Foresters
Board Meeting
10:00 A.M., April 11, 2013
Synergy Business Park
Kingstree Building
110 Centerview Drive, Conference Room 204
Columbia, South Carolina

Meeting Called to Order

Charles Sibley, chairman, of Chapin, called the meeting of the SC Board of Registration for Foresters to order at 10:00 a.m. Other Board members participating in the meeting included: Ronald Byrd, of Hartsville; Robert Drummond, of Columbia; William Moody, of Lexington; James Hendricks, of Columbia; Amy McFadden, vice chairman, of Georgetown; and Eric Smith of Greenwood.

Staff members participating during the meeting included: Lenora Addison-Miles, Administrator; Theresa Garner, Program Assistant; and Holly Beeson, Counsel to the Office of Communications and Governmental Affairs.

Mr. Sibley announced that public notice of this meeting was properly posted at the S. C. Board of Registration for Foresters office, 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.

Pledge of Allegiance

All participants recited the Pledge of Allegiance, which was followed by the invocation.

Approval of Excused Absences

There were no absences to be excused.

Approval of the October 11, 2012 Meeting Minutes

MOTION

Mrs. McFadden made a motion to approve the October 11, 2012 minutes. Mr. Byrd seconded the motion which carried unanimously.

Chairman's Remarks – Charles Sibley

There were no remarks by the chairman.

Administrator's Remarks – Lenora Addison-Miles

Mrs. Miles reported there were currently 719 Foresters registered through June 30, 2013. As of fiscal year July 1, 2012 through June 30, 2013, the board issued four new licenses as of April 5th. Renewal notices will be sent out the beginning of May. The cash balance report for February 2013, which is fiscal year 2013, was a negative \$11,307.46. As previously reported we ended fiscal year 2012 with a balance of \$19,757.34. Mrs. Miles said the board would get revenue once the board starts the renewal process. She reminded members to electronically file their Statement of Economic Interest forms with the State Ethics Commission prior to April 15th. She also provided them with information regarding the ASBORF 20th Annual Meeting to be held May 8th through the 10th, in Vicksburg, Mississippi. Mrs. Miles said if the board wants to send a representative; the board would need to have an official vote on record. She said she has confirmed with our budget director that funding will not be an issue since the board will be generating revenue starting in May.

MOTION

Mr. Byrd made a motion to approve a travel request for Vice-chair, Amy McFadden, to attend the ASBORF annual meeting in Vicksburg, Mississippi on May 8th. Mr. Hendricks seconded the motion which carried unanimously.

Unfinished Business

There was no unfinished business.

Mrs. Miles stated at the last meeting, the board requested information regarding the use of questions for a State Specific Exam, and the information will be provided at the next meeting.

New Business

Governor's Regulatory Review Task Force

Holly Beeson, Counsel to the Office of Communications and Governmental Affairs, introduced herself to board members.

She wanted to appear before the board to talk to them about the inconsistency of the way their statute and regulations are written when it comes to licensure renewals. She stated she is a task member on the Governor's Office's Regulatory Review Task Force.

Mrs. Beeson stated she was certain the board through their Legal Counsel, Georgia Lewis, was familiar with the Governor's Regulatory Review Task Force. She asked the board to review their statutes, regulations, and policies to determine if any of them have an impact on commerce in our state. She questioned some of the statutes that were still in existence, and asked if they still applied. She said one of the questions she had was Section 48-27-70, Bond and Salary of the Secretary. She asked was there any portion of the section that was still current. She stated it appeared this section was outdated and suggested this section be removed.

Mr. Sibley said two years ago, the board went through the practice act and tried to remove unnecessary verbiage that did not apply. Mrs. Miles said the board had discussed cleaning up the regulations and statutes, but those sections were never removed. Mrs. Beeson stated that if Mr. Sibley could identify some of those; it would help with the cleanup. She said also Section 110 discusses records the board keeps; the last sentence states "Annually, as of June thirtieth, the Board shall submit to the Governor a report of its transactions of the preceding year." She suggested the board remove the last sentence. She said Section 190, is where the language will change from annual to biennial licensing. Section 210 says there is a three dollar charge for the replacement of licenses. Mrs. Miles said the correct amount is ten dollars. Section 220, Roster of Registered Foresters, Mrs. Miles said the board no longer prints and mails copies of rosters. Individuals may submit a Licensee List Request form in compliance with the SC Family Privacy Protection Act, and a ten dollar fee to receive a list. Mrs. Beeson asked board members if they had any of the statutes they wanted to discuss for consideration in cleanup.

Mrs. McFadden said Section 240, Receipts and Expenditures by Board. It all goes through LLR now. Mr. Sibley said he and George Chastain had gone through the statutes and made the changes, and he has a copy at home and will forward to Mrs. Beeson.

Mrs. Miles noted Section 150, Examinations and Re-examinations. She said the board uses a national exam, and the current language does not apply.

Mrs. Beeson said since there were no more changes to the statutes, they would review the regulations. She said she thought a few of them were updated last summer.

She pointed out Sections 53-3 Meetings, and 53-4 Quorum. She said those two issues are governed by our FOIA Act. How the board schedules regular meetings, special call meetings require ten days notice. Also, Section 53-7, Application for Registration would be accompanied by check or money order. She said the board might want to add credit card payments since the Board will be able to receive payments that way. Mrs. Beeson said Section 53-16 Fees for Registration and Renewal have not been changed since 1986. Mrs. Miles stated the current application fees are \$50.00, and Biennial registration fees are \$130.00. Mrs. Beeson said she likes to have the board review and vote on the final revisions before they are submitted. She asked were there any regulations the board members felt should be changed or were subject to the executive order, or were a burden on the industry. Mrs. Beeson said if Mr. Sibley could provide her with the changes to the statutes and regulations, she would have a draft to present at the next meeting.

Annual/Biennial Licensing

Mrs. Beeson stated that in 2012 the regulations were undated to reflect the fact that the board renewed their license biennially, every two years.

MOTION

Mr. Hendricks made a motion to amend the statute to reflect biennial licensing. Ms. McFadden seconded the motion which carried unanimously.

Election of Officers

MOTION

Mr. Smith made a motion to re-elect Mr. Sibley as board chairman. Mrs. McFadden seconded the motion which carried unanimously.

MOTION

Mr. Byrd made a motion to re-elect Mrs. McFadden as vice-chair. Mr. Drummond seconded the motion which carried unanimously.

MOTION

Mr. Byrd made a motion to re-elect Mr. Hendricks as secretary. Mrs. McFadden seconded the motion which carried unanimously.

Public Comments

Mr. Tres Hyman, a registered Forester, and President of the South Carolina Chapter of the Association of Consulting Foresters, appeared before the board. He provided comments from the ACF Chapter that has developed a position statement and a policy statement, one is a general statement about Forestry registration law credentialing and licensing and the Practice Act. The other comment is in direct response to former Director Templeton's report last year recommending possible abolition of the Forestry Board. The ACF has studied this for some time and their position is they would prefer that either the Act be done away with or transformed into a credentialing type statute and regulation as opposed to a Forestry Practice Act.

Mr. Hyman stated the ACF is a private sector group which brings about a perspective that is unique from the typical registrants in that they are in private businesses and most of the statutes and regulations impact the private sector. They certainly do not affect federal foresters registered in South Carolina, nor state foresters or academic foresters that are registered. ACF brings to the table a good insight and lots of experience and stands ready to work with the board to make sure that whatever changes they discuss today do not negatively impact their profession.

Mr. Michael R. Wetzel, a registered Forester in South Carolina, appeared before the board to comment on LLR Director, Holly Pisarik's letter, dated March 4, 2013. Mr. Wetzel stated Title 40, Chapter 1 of the S. C. Code of Laws, reads in part, "The right of a person to engage in a lawful profession, trade, or occupation of choice is clearly protected by both the Constitution of the United States and the Constitution of the State of South Carolina. The State cannot abridge this right except as a reasonable exercise of its police powers. In enacting this law which sets up the state's regulation of professions and occupations, the members of the General Assembly acknowledged that the right to work, and by extension, the right to practice a profession or trade of one's own choosing are fundamental natural human rights. As such rights they exist prior to and outside and independent of the state."

Mr. Wetzel continued by saying "The Professions and Occupations Law provides for 'reasonable exercise' of the state's police powers when necessary. In the second paragraph of the law, though, the General Assembly emphatically reminds us that 'No statute or regulation may be imposed under this article upon a profession or occupation except for the exclusive purpose of protecting the public interest.' "

Mr. Wetzel stated "Just as the rights to work and pursue a profession and trade must be exercised within the bounds of public order, state laws and regulations must be exercised within these same bounds. The state regulation must not unnecessarily and without justification interfere with the exercise of these rights."

Mr. Wetzel continued by stating "The Forester Registration Law does unnecessarily and without justification interfere with the exercise of these rights. First, the Law prevents individuals who do not have designated credentials, but who may have the necessary skills from offering forestry services to members of the public. Second, the Law compels individuals who do have the designated credentials to obtain what is essentially a 'work permit' from the state in order to offer forestry services to members of the public."

Mr. Wetzel stated "In the absence of evidence that the Registration Law preserves the bounds of public order or protects the common good, the law is an unnecessary and even unjust violation of the rights of individuals."

He concluded by stating "there is something deeply distasteful and unsettling about using the power of the state to determine who may and may not provide forestry services to members of the public who may want to purchase those services."

Executive Session

The Board did not enter into executive session.

Adjournment

There being no further discussion the meeting was adjourned at 11:06 a.m.

The next meeting of the SC Board of Registration for Foresters is scheduled for July 11, 2013.