

MINUTES
SC Soil Classifiers Advisory Council Meeting
September 14, 2021 at 10 a.m. by Virtual Video/Teleconference

Call to Order and Introduction of Council Members and All Other Persons Attending

Chairman Thorp called the meeting to order at 10:12 a.m.

Other members participating included Chris J. Fincham, Vice-Chairman; M. Lance Brewington; and Dennis DeFrancesco.

Staff attending included Abhi Deshpande, Director of Finance and Procurement; Donnell Jenkins, Esq., Office of Advice Counsel; Pam Dunkin, Administrator; Johnnie Rose, Program Coordinator; and Sherri Moorer, Program Assistant.

Others attending included David Vaughan, SC Department of Health and Environmental Control; Renee Shealey, SC Department of Health and Environmental Control; Tim Stanley, SC Department of Health and Environmental Control; Mark Mann, Southern Environmental Consultants; Tyler Sgro, Davis Horizons; and Amanda Creel (Creel Court Reporting).

Statement of Public Notice

Mr. Thorp stated that Public notice of this meeting was properly posted at the S.C. Soil Classifiers Advisory Council 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. The meeting is being held via video and teleconference. Members of the public who wish to attend may do so by telephone or the Internet. For login information, please email Contact.Soil@llr.sc.gov

Approval of Agenda

MOTION: To approve the agenda, with Item 11b on reciprocity registration with North Carolina withdrawn. DeFrancesco/Fincham/approved.

Chairman's Remarks

Mr. Thorp said he was glad to see a high level of participation in the meeting. The Council needs to continue their work to keep the licensure program strong and intact.

Approval of Minutes

Mr. Thorp asked a motion to approve the minutes of the March 16, 2021, meeting.

MOTION: To approve the minutes of the March 16, 2021, meeting. DeFrancesco/Fincham/approved

Finance Presentation

Mr. Deshpande gave Council an update from his original presentation at the September 24, 2019, presentation with Director Emily Farr. The Council voted for a fee increase due to the cash deficit, which was taken to the General Assembly in 2020. The request was withdrawn because there were changes in priorities due to COVID-19. The fee increase will be presented in the 2023 Legislative Session. The current revenues are not able to sustain expenditures, so a \$200,000.00 cash transfer was made to the Council to bring them into a positive balance. Mr. Deshpande projects that this cash transfer will keep

the Council in a positive balance for the next three years, however, they might need to approve more increases in the future. He will update his analysis of the Council's funds and will present it to them next year.

Administrative Report

Mrs. Dunkin gave the Administrative Report:

- The Council currently has 43 licensed soil classifiers.
- The Council had a cash balance of –(\$)132,511.41 as of August 31, 2021.
- There are no cases in the Office of Investigations and Enforcement.
- There is no Investigative Review Committee Report.
- There are no cases in the Office of Disciplinary Counsel.
- The Senate LCI Committee will be considering [S.295](#). S.295 is similar to [S.689](#) that was filed, but did not pass, in 2019. It amends Chapter 1 of Title 40 and applies to all of the professional and occupational licensing boards.
Section 40-1-75 of the bill states that a board or commission may not solely, or in part, deny a license to an applicant because of a prior criminal conviction, unless the criminal conviction directly relates to the duties and responsibilities of the occupation or profession for which the applicant is seeking a license. The bill further requires the board or commission to provide applicants with a comprehensive list of criminal convictions that are specific and directly-related to the duties and responsibilities of the occupation or profession, and then sets forth the factors the board or commission may consider in determining whether to deny a license, requiring that they apply a clear and convincing standard of proof in that evaluation. Should the applicant have a criminal conviction that disqualifies him from licensure, the disqualification shall not last longer than five years from the date of conviction, provided that the conviction is not for a violent crime or criminal sexual conduct and that the applicant has not been convicted of another disqualifying crime during that five-year period. Finally, the section allows an applicant to submit the criminal record for review of his record to determine if it will disqualify him from eligibility for licensure.
Section 40-1-77 requires board and commissions to issue licenses to applicants who have successfully completed the eighth grade, completed an apprenticeship approved by the US Department of Labor, and successfully passed an exam, if required by the board or commission.
- The Soil Science Society has launched the Soils Fundamentals and Professional Practice exams as continuous testing. Registration is open at <https://www.soils.org/certifications/exam-information> . There is a delay of one business day for examinees to receive the link to schedule their exam, and the scheduling must be done at least 24 hours in advance of when they would like to take the exam. This is a policy of the remote proctoring company. The CSSE Exam testing window for November 17-23, 2021, is still open for IBT and remote proctoring. The deadline to register for this testing window is October 8, 2021.
- The Soil Science Society is looking for volunteers to serve on a Soils Professional Practice Exam Committee to review and update the Professional Practice exam. Meetings will be done online using

GoToMeeting or by conference call. Please let Mrs. Moorer know if you are interested in serving on this committee.

- The next Council meeting will be on March 15, 2022.

Mr. DeFrancesco said he is in favor of the Senate Bill, and the exam transitioning to continuous testing.

Council Member Reports

Mr. Thorp asked Mrs. Moorer to explain the requirements for Soil Classifier-In-Training Certification. He had a question from an individual interested in pursuing licensure with the Board. Mrs. Moorer said the requirements for the Soil Classifier-in-Training Certification are that the applicant must meet the education requirement and pass the Fundamentals Exam. The certification is valid for two years.

New Business

- 1. Update on Proposed Regulation Changes for Onsite Wastewater Program.** Mr. David Vaughan gave an update on the proposed regulation changes for the Onsite Wastewater Program. The regulation updates for the 61-56 standards passed and went into effect for a period of four weeks. Concerns came through a representative, and the legislature enacted a proviso to temporarily block the implementation of the updated standards for a period of one year. DHEC was asked to address four concerns:

- Restrictions on subdivision evaluations,
- A proposed fee increase. DHEC is approaching the numbers charged by the private sector, which is a 500% increase,
- A budget request for number of FTE's recurring money and one time funds, and
- The tiered contractor's licensure process.

DHEC published a Notice of Drafting in the State Register on August 27, 2021. The open comment period closes on September 27, 2021. This notice does not address the entire regulation, only the items of concern. DHEC is gathering more information from concerned legislators to get a sense of direction on the budget requests. Interested individuals can submit comments during the open comment period, or contact their representatives.

Mr. Thorp said one area of concern was a reference to Section 40-65-40(7) that allows "a person who practices another licensed trade or profession within the scope of that license" to do site evaluations and applications for septic permits. Mr. Vaughan said the intention is for licensed soil classifiers or people working under their direct supervision to do this work. He realizes this clause has the appearance that DHEC is looking for other people to do this work, but the intention is to guard the profession of soil classifying and prevent unqualified individuals from doing site evaluations and permit applications. Mr. Thorp asked about the baseline qualifications for in-house DHEC individuals to do this work for standard septic systems. Mr. Vaughn said a Bachelor of Science degree, a six to eight month training program, pass written exams and field practicums, and a vetting process. Mr. Thorp said he is willing to help with training and field tours, as he has done in the past.

Mr. Fincham asked if the citation to Section 40-65-40(7) are allowing or disallowing individuals from other licensure programs to do site evaluations and permit applications. How would the Council know if a person licensed by another Board with Labor, Licensing and Regulation is submitting this work to DHEC? Would it be the responsibility of DHEC or the other licensure Board to notify the Council that their licensees are interested in performing these services under the exemption in Section 40-65-40(7)? Mr. Sgro said a number of Professional Geologists submitted soil reports and applications for septic permits during the four-week period that the regulations were in effect. Mr. Jennings said that most practice acts have specific language regarding incidental practice. Mr. Thorp said potential overlap would come from the Geologists. Council will address this if necessary, and rely on good communication with DHEC.

- 2. Reciprocity Agreement with North Carolina.** Mr. Walter Giese, Chairman of the NC Board for Licensing of Soil Scientists, withdrew this request. The Attorney for their Board issued an opinion that the NC Licensing Act does not allow for this type of agreement.

Mr. Thorp asked if South Carolina is able to enter into reciprocity agreements. Mr. Jennings said Section 40-65-36(D) allows the Council to enter into reciprocity agreements with other states that have requirements comparable to our own.

3. Review of 2021 Continuing Education Audits.

MOTION: To accept Walter Boone Ferguson’s continuing education documentation, pending receipt of completion of a one (1) hour ethics course, or a review of the SC Code of Laws and Regulations. Staff is delegated to clear the audit upon receipt of acceptable documentation. DeFrancesco/Fincham/approved

MOTION: To accept continuing education documentation for Paul Glenn Penninger. Fincham/DeFrancesco/approved

MOTION: To accept Emily Mackenzie Harris’ continuing education documentation, pending receipt of completion of a one (1) hour ethics course, or a review of the SC Code of Laws and Regulations. Staff is delegated to clear the audit upon receipt of acceptable documentation. DeFrancesco/Fincham/approved

MOTION: To accept continuing education documentation for Troy Neal Smith. Fincham/DeFrancesco/approved

4. Approval of 2022 Meeting Dates.

MOTION: To approve meeting dates of March 15, 2022, and September 13, 2022. Meetings will be held by webinar/teleconference, or at the SC Department of Labor, Licensing and Regulation, Synergy Business Park, Kingstree Building, 110 Centerview Drive, Conference Room 204, Columbia, SC, and will begin at 10 a.m. DeFrancesco/Fincham/approved

5. 2022 Election of Officers.

MOTION: For John Thorp to continue serving as Chairman, and Chris Fincham to continue serving as Vice-Chairman. DeFrancesco/Fincham/approved

Approval of Excused Absences

MOTION: To excuse Randal Fowler from the meeting due to a schedule conflict. DeFrancesco/Fincham/approved

Notice of Next Meeting

The next meeting of the SC Soil Classifiers Advisory Council will be held on Tuesday, March 15, 2022, and will begin at 10 a.m.

There being no further business:

MOTION: To adjourn. Fincham/DeFrancesco/approved

The meeting adjourned at 12:05 p.m.

Respectfully Submitted,

Sherri Moorer

Sherri F. Moorer, Program Assistant