

MINUTES
South Carolina Board of Registration for Professional Engineers and Surveyors
Board Meeting
9:30 a.m., November 10, 2009
Synergy Business Park
110 Centerview Drive, Kingstree Building, Room 204
Columbia, South Carolina

Call to Order – Chairman Gene L. Dinkins, P.E. and L.S., called the meeting to order at 9:33 a.m. Board Members present were Anderson Kinghorn, Jr., P.E.; Nancy Cottingham, Public Member; Theresa Hodge, P.E.; Miller L. Love, Jr., P.E.; Thurl Amick, L.S.; Charles Joye, P.E.; and Cecil O. Huey, Ph.D., P.E. Also present were Jan Simpson, Board Administrator; Melissa Jones, Program Assistant; Todd Bond; Investigator, OIE; Sharon Dantzler, LLR Attorney; and Sandra Dickert, Administrative Assistant.

Administrator Simpson stated the **public notice** of the meeting was properly posted at the Board office and provided to organizations and news media in compliance with Section 30-4-80 of the S.C. Freedom of Information Act. A quorum was present at all times.

Review Agenda – In public session, Administrator Simpson reviewed the agenda.

Representative Don C. Bowen – Reconsideration of the Board’s acceptance of the Consent Agreement for Steven Branyon and Branyon Land Surveying – Representative Bowen spoke in the matter of Mr. Branyon. He noted Mr. Branyon paid the \$3,000.00 fine on his credit card. He asked the Board to waive or reduce the fine and place a document in his file that if he is not in compliance or if he has another violation, the fine would be upheld. Representative Bowen asked the Board for leniency in Mr. Branyon’s case.

Discussion in this matter ensued and included, but was not limited to, Mr. Branyon’s decision to enter a Consent Agreement rather than appear for a hearing. The initial preliminary fine of \$25,000, determined by using a Board-approved formula, was reduced to \$3,000.00.

MOTION

Mr. Amick made a motion the Board enter executive session. Mr. Love seconded the motion, which carried unanimously.

MOTION

Mr. Love made a motion the Board return to public session. Mr. Kinghorn seconded the motion, which carried unanimously.

Mr. Dinkins stated the Board would keep the reconsideration open and asked that Mr. Branyon appear before the Board in order that the Board may hear his testimony.

Application Hearings – Byron Berry and Hassig Engineering, Inc. – Between 10:00 a.m. and 11:50 a.m., the Board heard application hearings regarding Byron Berry and Hassig Engineering, Inc.

Approval of October 13, 2009 Board Meeting Minutes

The following corrections/changes were made to the October 13, 2009 meeting minutes:

On page one, change ~~Mr.~~ Hodge to Ms. Hodge in two places.

On page four, under "Interpretation of Statute of Repose," the first paragraph was rewritten to read:

Mr. Joe Jones stated Regulation 16-3-40 states that a 'case against real property may be brought within eight years after substantial completion of improvement'. He noted an effective date of July 1, 2005 was placed in the code of laws. In his opinion the language should read after July 1, 2005 since everything before that date would remain under the thirteen year statute of repose.

The second paragraph under Interpretation of Statute of Repose was removed.

MOTION

Mr. Joye moved to approve the minutes of the October 13, 2009 meeting as modified. Mr. Amick seconded the motion, which carried unanimously.

Election of Board Officers – Mr. Amick made a motion the current officers continue for another year. Mr. Joye seconded the motion, which carried unanimously.

Mr. Dinkins – Chairman
Anderson Kinghorn – Vice Chairman
Theresa Hodge – Secretary

SCSU – USC Joint Engineering Curriculum – Progress Report – Dinkins – Over several years, the Board has been working diligently with SC State University and the USC Board of Engineering to allow SC State students to take engineering courses at USC to supplement the Engineering Technology courses offered at SC State. Upon successful completion of the coursework, students would be considered by the Board to have the substantial equivalent of an EAC/ABET-accredited degree in civil engineering. The Board tasked Dr. Walt Castro with reviewing SC State's curriculum as well as USC's curriculum for the civil program and bringing a list of course offerings to the Board which SC State students had to take to reach substantial equivalency. Dr. Castro has completed his review and made the presentation to the Board members. He noted the next step would be for USC to agree and go to the registrar, financial office and/or provost to work out the details of admitting the SCSU students to USC. Dr. David Waugh, interim Dean of the Engineering School, has so far been non-responsive; however, he recently indicated he is willing to review the course curriculum.

ALTA Survey Coordinators – Follow up Report – Simpson, Dantzler – Ms. Simpson stated Ms. Dantzler has done a good bit of research on this report. Ms. Dantzler said it appears some of the companies or entities were legitimately fronting for other people as brokers and were not presenting themselves as surveyors or as being capable of doing the work. However, there are other companies or entities that appeared to be on the line or crossing the line by offering services and not making it clear that the company could not be the provider of those professional surveying services. Discussion ensued regarding ALTA being a "gold standard" of surveying across the nation. An ALTA survey is clearly a boundary survey.

Board Reports

Engineer Technology Review Committee: Alfred McPeters and Jeremy Brickey (structural), John M. Jones (electrical), and Steven E. Snell, David G. Pearce, and Gregory R. Brandon (mechanical) – Ms. Simpson briefed the Board regarding the candidates reviewed by the Engineer Technology Review Committees and reported that all candidates were recommended for licensure as authorized by Section 40-22-222 of the SC Code of Laws. She noted that Pierre Coiron was not part of the report, as noted on the agenda.

MOTION

Mr. Love made a motion the Board approve the candidates. Ms. Hodge seconded the motion, which carried unanimously.

Administrative Reports

Administrator's Report – Jan Simpson

Licensure Statistics as of November 3, 2009

LICENSE TYPE	# IN-STATE	# ADDED SINCE LAST REPORT	# ADDED SINCE 07/01/2009	# LICENSED VIA THE PORTFOLIO PROCESS	TOTAL # OF LICENSEES
DUALS (ENGINEER & SURVEYOR)	140	0	0	0	180
ENGINEER	4915	46	194	25	14,026
ASSOCIATE ENGINEER	11	0	0	0	15
LAND SURVEYOR – A	563	1	1	0	877
LAND SURVEYOR – B	26	0	0	0	34
GEODETIC SURVEYOR	1	0	0	0	16
GEOGRAPHIC INFORMATION SYSTEM SURVEYOR	20	0	0	0	52
PHOTOGRAMMETRIC SURVEYOR	3	0	0	0	126
CERTIFICATE OF AUTHORIZATION	921	17	77	0	2581
EMERITUS – ENGINEER	26	0	0	0	48
EMERITUS – SURVEYOR	3	0	0	0	7
RETIRED – ENGINEER	534	0	0	0	1140
RETIRED – SURVEYOR	62	0	0	0	111

Date of Last Report: **September 30, 2009**

I observed the administration of the PE exams in Columbia in October. Susan Thrift, NCEES Director of Scoring, also observed the morning session then went to Charleston for the FE exam administration on Saturday at The Citadel.

Wanda Cooke has joined our staff and will be responsible for PE applications, the portfolio process, and other licensure-related duties. She previously worked with the Board of Engineers and Surveyors and the Board of Architecture. *[End of Administrator's Report]*

Investigative Report – Todd Bond – Mr. Bond briefed the Board regarding the two cases reviewed by the IRC during the October 27, 2009, meeting. Case #2009-32 is being recommended for dismissal with a Cease and Desist Order to be issued; case #2009-15 is being recommended as a formal complaint.

Discussion ensued regarding complaints and cases. The Board asked to speak with Steve Freshley during the next meeting in order to ease the Board's concerns regarding the complaint process, the decision process and time frame involved, and grounds for not opening a case on a complaint.

MOTION

Mr. Kinghorn made a motion the Board accept the October 27, 2009, IRC report. Mr. Amick seconded the motion, which carried unanimously.

Report on Consent Agreements related to application issues – Melissa Jones – Ms. Jones briefed the Board regarding the consent agreements processed since the last Board meeting.

Request for Board consideration:

Redraft of Policy for Interpretation of Statute of Repose – Ms. Simpson stated she believes she needs to add language from Section 15-3-40 and Regulation 49-420 to the policy. Mr. Dinkins recommended adding a statement to the effect that the Board recommends the records be kept indefinitely; however, the Board will not consider it as a disciplinary matter.

MOTION

Mr. Love made a motion the Board adopt the Policy for Interpretation of Statute of Repose. Mr. Amick seconded the motion, which carried unanimously.

Draft Policy for Engineers' Signature on Record Drawings – Ben Christensen, PLS, asked the Board to review a letter from DHEC that requires an as-built survey signed by either a South Carolina licensed surveyor or professional engineer. Chairman Dinkins noted Mr. Christensen is asking the Board for guidance in this matter because engineers do not seal surveys. The Board reviewed the NCEES policy (PS 31) on Certification of Record/As-Built Drawings as well as the Tennessee Board of Engineers' policy as background information.

Discussion ensued; it was agreed that terms need to be better defined. It was suggested that record drawings could be for a structure or a site, professional engineers can get elevations and locations and prepare a record drawing of constructed work. A meeting with DHEC on this matter could be useful. The following language was suggested as part of a Board policy, "An engineer is not to prepare property surveys; however, an engineer is qualified to prepare record drawings depicting as-built conditions." It was further suggested that DHEC's letter might be revised to state: "A record drawing signed and sealed by a South Carolina licensed surveyor or

professional engineer should be submitted for The City of Aiken for the structure on the site. The as-built record drawing should show grades, contours, and so forth. The record drawing must be accepted by The City of Aiken before a Notice of Termination (NOT) can be submitted to the Department.”

MOTION

Mr. Joye made a motion that a letter be prepared for the Chairman's signature asking DHEC to modify standard form letters to reflect that Professional Engineers in South Carolina are not allowed to seal surveys and to include language to incorporate record drawings in lieu of as-built surveys. Mrs. Hodge seconded the motion, which carried unanimously.

Web Site Updates (Carried over) – Ms. Simpson stated the changes were made in accordance with the changes in Regulations approved by the Legislature in June 2009. She has reviewed the web site more carefully and has seen more items which needed changing. Mr. Dinkins asked that Ms. Simpson make revisions and bring to Board at the January 19, 2010 meeting.

Funding Request Form – House LCI Chairman Sandifer has suggested that a uniform application form be created for funding requests from the Board's Education and Research Fund. The following recommendations were made: add a check-box for lecture as a type of event; ask for event description in lieu of speaker's name, target audience, specific use of the funding if granted. Event information should be included, and the form for the Board of Engineers and Surveyors should be separate from the Board of Architecture's form.

Taking the FS exam based only on education requirements – Mr. Love stated a college department dean should be able to qualify a student who has taken the surveying curriculum to take the surveyor fundamental exam prior to graduation. He believes is a good idea to allow seniors to take the fundamentals of surveying exam to get more individuals interested in the surveying profession. He thinks the Board can have a policy in effect until a legislative change is made to allow the certification of a student to take the exam prior to graduation. He noted the allowance to take the exam prior to graduation would be based on the dean's certification.

It was noted during the discussion that a certification to take the fundamentals exam would only be for students enrolled in programs for which the Board has approved the surveying curriculum: The Citadel, SC State, the University of South Carolina, and Clemson.

Ms. Dantzler stated the statute would not hinder a student taking the exam prior to graduation. She further stated the regulations do not discuss the issue.

MOTION

Mr. Love made a motion the Board send an official letter to the four Board approved schools that if they have students that can take the fundamentals of surveying exam upon the dean's approval can allow the students to take the exam; however, the LSIT number will not be issued until all criteria have been met. Mr. Amick seconded the motion, which carried unanimously.

Consent Agreements with Expungement clauses – Ms. Simpson noted an increased request for expungement clauses in proposed Consent Agreements. The Board concluded that expungement will be at the discretion of the Board and the individual or firm requesting such much come to a hearing for expungement to be considered. While an order may be expunged from the web site after a period of time, it will remain on the database.

Review of fines formula – Mrs. Hodge stated how the engineering fine fee was set. The fine is set according to the number of projects. She suggested the minimum fine to \$500 from \$1,000.00. She wants to raise the fine back to \$1,000.00.

Ms. Simpson stated staff cannot administer the formula currently in place due to its complexity; while consistency is a defensible goal, a simpler formula needs to be adopted. She opposed changing the minimum fine.

Discussion included the need for guidelines, the ability to list violations according to severity, the possibility of inserting the license expiration date on all sealed projects. Ms. Simpson is to draft typical violations and the Board will rate severity during the January 19, 2010 meeting.

Mr. Dinkins stated he made a presentation during a recent NCEES Board of Directors meeting to request additional funding for the Math Counts Foundation. The NCEES Board agreed to increase the funding from \$5,000 to \$25,000.00 for the nationwide event.

The Board changed the date of the October 2010 Board meeting from October 19 to October 26, 2010. The meeting will be held in conference room 204.

Roundtable Discussion/Training – Review of Applications (Thomas Kutz, Russell Dagon and other files) – The Board deferred this matter to the January 19, 2010 Board meeting.

Adjournment

MOTION

Ms. Hodge moved to adjourn the meeting. Mr. Kinghorn seconded the motion, which carried unanimously.

The November 10, 2009 meeting of the SC Board of Professional Engineers and Surveyors adjourned at 2:40 p.m.

Respectfully submitted


Sandy Dickert