

NORTH CAROLINA BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS

February 23, 2011

Raleigh, North Carolina

Board Chair Glenn Haynes gaveled the North Carolina Board of Examiners into session at 9:05 a.m. to convene its regular order of business for the Board. Board members present were:

Present:

J. Glenn Haynes, PLS, Chair
David L. Pond, PE, Vice Chair
Elizabeth W. Riley, Public Member, Secretary
Nils W. Joyner, Jr., PLS
Teresa Helmlinger Ratcliff, PE, PhD,
Willy E. Stewart, PE
Gary W. Thompson, PLS
Linda A. Thurman, Public Member
John S. Tunstall, PE

Absent:

1. Ethics Awareness and Conflict of Interest Reminder - Chair

To initiate the meeting, Chair Haynes read the ETHICS AWARENESS & CONFLICT OF INTEREST REMINDER and asked if any member of the Board had any known conflict of interest or appearance of conflict with respect to any matters coming before the Board at the meeting. The Chair advised that if any board member had such a conflict, that member should identify the conflict or appearance of conflict and refrain from any undue participation in the particular matter involved. Mr. Tunstall noted that he had a conflict with the consent agenda.

Mr. Haynes presented Dr. Ratcliff with a gift from the Board in appreciation for her service as Chair in 2010.

2. Consent Agenda – Executive Director

Ms. Thurman requested Items 2, 3, 5 and 11 (M.G. Newell Corporation, Infinity LC, D.B.A. On-Line Classes.Com, Write-Logic Incorporated and Centrestar, Inc.) from the list of CPC sponsors seeking sponsor approval be removed from the consent agenda. Mr. Tunstall recused himself from discussion and voting. Mr. Pond made a motion to approve the consent agenda. Mr. Thompson seconded the motion.

The Board voted and the consent agenda was unanimously approved. The consent agenda included Requests for Board Authorized Case Openings, Comity Applications, CPC Sponsor Recommendations, Firm Applications for 34 Professional Corporations, 21 Professional Limited Liability Companies, 6 Business Firms, 1 Chapter 87 Corporation; 5 Firm Name Change Requests; 1 Request to be Resident Licensee of Multiple Firms, 4 Requests to Use Individual's Name in Company Title and 2 D/B/A Requests; Minutes, Review Committee Recommendations, Settlement Conference Recommendations and Requests for Retired Status.

3. Appointment of 2011 Board Committees - Board Chair

Mr. Haynes announced committee appointments as follows:

Engineering Committee:

Mr. Willy E. Stewart, PE, Chair
Mr. David L. Pond, PE
Dr. Teresa Helmlinger Ratcliff, PE
Mr. John S. Tunstall, PE

Ms. Elizabeth W. Riley, Public Member

Surveying Committee:

Mr. Nils W. Joyner, Jr., PLS, Chair

Mr. J. Glenn Haynes, PLS

Mr. Gary W. Thompson, PLS

Ms. Linda A. Thurman, Public Member

CPC Committee:

Ms. Linda A. Thurman, Public Member, Chair

Mr. Gary W. Thompson, PLS

Mr. John S. Tunstall, PE

4. Board Legislation – Executive Director

In light of changes at the General Assembly and the referral of Boards and Commissions by the Governor to the General Assembly for study, Mr. Ritter presented for discussion an Executive Summary of the proposed statute changes previously approved by the Board. The Board is asking for 13 revisions to the Engineering and Surveying Act. Of those, five are considered to be housecleaning changes, five are to bring the NC Engineering and Surveying Act to align more closely with the National Model Law and three are considered substantive changes. The Board discussed the climate at the General Assembly, the consolidation and elimination of Boards and Commissions and the questions arising about the DOT case. Dr. Ratcliff made a motion to designate staff to move forward on legislation that has been drafted with some exception to unlicensed practice and anything to do with fee structure contingent on advice from advocates and the committee to be put together. Mr. Stewart seconded. It was clarified the committee would have the authority to run with as many of the changes as they can and delete a change if needed. A vote was taken and the motion passed unanimously. The Committee will consist of Messrs. Ritter, Stewart, Thompson and Dr. Ratcliff. Mr. Ritter will contact representatives of PENC, NCSS and ACEC to seek assistance in promoting the legislation. Representative Mitch Gillespie and Senator Brunstetter were mentioned as possible bill sponsors, depending on committee assignments. Mr. Joyner expressed if there are any concerns over increasing the civil penalty for surveyors from \$2,000 to \$5,000, it should be removed. The CPC sponsor renewal fee will definitely be pulled.

The meeting recessed at 10:05 a.m. for committee meetings. The meeting gavelled back in at 12:30 p.m.

5. Committee Reports

Engineering Committee: Mr. Stewart informed the Board of the following activities:

- The Engineering Committee decided a letter should be sent to Mr. Kline that the services mentioned in his email are not within the guidelines of incidental storm water system design or within the practice of surveying. Mr. Joyner expressed some concerns. After discussion, it was decided Mr. Tuttle would write a short letter and it would be revisited.
- From their web site, it appears that t3 Automation may be offering services for system design. The Committee requested staff get additional information from t3 about what they mean by some of the things on their web site before a final decision can be made. Because of the complexity of the issue, it is not clear.
- It was asked if plans for a utility encroachment need to be signed and sealed by a PE. The statute states plans for utility encroachments do need to be signed and sealed by a PE. A letter will be drafted to this effect.
- A meeting was held with the Executive Director of the Home Inspector Board. The Committee edited and proposed language for one of their rules. The Home Inspector Board has taken it back to present to their board. The Committee is awaiting their response.
- Mr. Stewart stated a PE at Stewart Engineering has done research on whether zip lines and elevated recreational structures are being signed and sealed by a PE. So far, he has found they are being signed and sealed by a PE. Mr. Stewart and the PE from Stewart Engineering, who is doing

the work, will review all the information and will propose policy language to bring to the Engineering Committee, then to the Board for final approval.

- There was a question about whether DENR was going forward with revisions to the Solid Waste Rules and will require a resolution supporting language that refers to a PE requirement. DENR decided they will not do so at this time. It was the opinion of the Committee that what the Committee was asked to review was engineering. If something comes to the Board, it will be a violation if it is not signed and sealed by an engineer.
- The Committee is waiting for the Federal Aviation Administration to send additional information.
- Older policies will be reviewed at the next committee meeting so they can be posted to the web site.
- The Committee hopes to do cross training with CPC at the May meeting. If there is a hearing in May, the training will be at the March meeting.
- There will be meetings with ACEC (American Council of Engineering Companies) on March 22 and a meeting with PENC (Professional Engineers of North Carolina) on April 8.
- A meeting was held with the NC State Construction Office. Mr. Tuttle and Mr. Thompson will be presenting at the State Construction Conference on March 24.
- Our Board and the NC Board of Landscape Architects are awaiting responses from the Office of the Attorney General with respect to the requests for advisory opinion letters. This item will be left on the agenda and the status will be checked.

Surveying Committee: Mr. Joyner informed the Board of the following activities:

- Mr. Joyner made a motion to adopt the Easement Creation and Staking Policy. Clarification was made to the policy. The Board voted and the policy passed unanimously.
- Mr. Joyner made a motion to adopt the revised Survey Tie Guidelines to make necessary changes for technology and rule changes. The Board voted and the policy passed unanimously.

CPC Committee: Ms. Thurman informed the Board of the following activities:

- Licensees can submit more than one log to meet CPC requirement.
- The Licensee Renewal Form is being clarified regarding carryover of hours.
- There have been suggestions that board members should receive PDHs for serving on the Board. After discussion, Mr. Pond made a motion to move forward with rule making changes related to boards and commissions. Mr. Thompson seconded the motion. After discussion, it was decided this is a concept and the wording needs to be worked through for the rule making process. The Board voted and the Board voted unanimously in favor of the motion.
- Audits were discussed. Staff has assured there will be no problem in meeting the usual number of audits in the future. Fifteen to twenty sponsors and about 300 individual licensees are audited each year.

6. Request from NCSS Education Foundation for the Board to contribute to the Trig Star program.

Mr. Ritter presented a letter from Larry Greene, PLS requesting a contribution to NCSS Education Foundation for the Trig Star program. Mr. Ritter stated this is a contribution that is a budgeted amount. Dr. Ratcliff made a motion to continue the Trig Star contribution. Ms. Riley seconded the motion. The motion passed unanimously.

7. Settlement Conference – Executive Director
(Surveying – Joyner, Riley) 2/15/2011

The Board considered the recommendation of the Settlement Conference Committee on one case conducted on February 15, 2011 at 10:00 a.m. with Mr. Joyner and Ms. Riley. Mr. Thompson recused himself from discussion and voting. Dr. Ratcliff made a motion to accept the recommendation of the Settlement Conference Committee. Ms. Thurman seconded the motion. A vote was taken and the motion was approved unanimously. The Settlement Conference Committee recommendation resulted in one reprimand.

8. Review Committees – Executive Director

The Board considered the recommendation of the Land Surveying Review Committee on two cases conducted January 5, 2011 at 10:00 a.m. with Mr. Joyner. Mr. Thompson recused himself from discussion and voting for the entire Review Committee Agenda. Mr. Pond made a motion to accept the recommendation of the Review Committee. Mr. Tunstall seconded the motion. A vote was taken and the motion was approved unanimously. The Review Committee recommendation resulted in two (2) suspensions.

The Board considered the recommendation of the Land Surveying Review Committee on one case conducted February 14, 2011 at 2:00 p.m. with Mr. Thompson. Mr. Haynes recused himself from discussion and voting for the entire Review Committee Agenda and passed the gavel to Vice Chair Pond. Ms. Riley made a motion to accept the recommendation of the Review Committee. Mr. Thompson seconded the motion. A vote was taken and the motion was approved unanimously. The Review Committee recommendation resulted in two closed cases.

The Board considered the recommendation of the Engineering Review Committee on one case conducted February 14, 2011 at 10:00 a.m. with Mr. Stewart. Mr. Pond and Mr. Tunstall recused themselves from discussion and voting. Dr. Ratcliff made a motion to accept the recommendation of the Review Committee. Ms. Riley seconded the motion. A vote was taken and the motion was approved unanimously. The Review Committee recommendation resulted in two (2) suspensions.

9. NCEES Activities - Executive Director

- The United Arab Emirates (UAE) is interested in pursuing the licensing process and using NCEES (National Council of Examiners for Engineering and Surveying) exams. A high level contingent of five from UAE will be visiting NCEES in Clemson to discuss the exam process. They requested to visit a licensing board that they can pattern themselves after to set up their licensing system. Jerry Carter, Executive Director of NCEES asked if the NC Board would be interested in having the group visit to learn about how a state board functions. Board members welcomed the opportunity for the group to visit the NC Board of Examiners. On March 23, they will be shown staff functions including the application process, renewal process and paper and computer systems. Mr. Pond and Dr. Ratcliff will meet with the group during the day and Mr. Stewart will join the group for dinner on the 23rd. Mr. Ritter will inform the Governor's Office and the NC Economic Development.
- NCEES acknowledged receipt of the application for Mr. Henry Liles for the Distinguished Service award.
- Registration is online for Southern Zone Meeting in Austin on April 28-30. The Board will pay for Wednesday through Saturday nights.
- Mr. Ritter and Mr. Haynes attended the Board Presidents Assembly in Atlanta. Mr. Haynes informed the Board that dropping the industrial exemption from Model Law was discussed. The issue received favorable feedback except from Canada and Puerto Rico.
- Gene Dinkins is running for NCEES President.
- The campaign materials are ready for Dr. Ratcliff as she runs for Assistant Vice President of the Southern Zone. Board members will have campaign responsibilities in Austin.
- David H. Widmer, PLS. from Pennsylvania is a candidate for Treasurer.
- Mr. Ritter presented the UNC-Charlotte brochure that Ms. Thurman and Mr. Thompson put together promoting PLS licensure. The Board is given credit. (This item should have been in the informational section.)
- Mr. Evans was recognized for writing the December cover story with the second part appearing in the February edition of the NCEES Licensure Exchange.
- Mr. Ritter has been asked to go back to Saudi Arabia to proctor the PE exam. Board members agreed for Mr. Ritter to go.

10. Board Secretary Report - Executive Director and Board Secretary

- Ms. Riley stated expenses are back on track. Legal bills are a lot higher because of the Carpenter and Suttles hearings. Revenue is good. Renewals are up 4%.

The meeting recessed at 1:50 p.m. for a ten (10) minute break; back in session at 2:00 p.m.

11. Violations Activity – Assistant Executive Director

- Mr. Evans stated eighteen (18) cases for the year have been opened. One hundred two cases are on the open sheet; only 27 are being investigated or pending investigation. This is a dramatic reduction in the number being investigated or pending investigation. The training for Tina Curran is going well. Mr. Evans anticipates she will be doing her own case load in March or April.
- Cathy Kirk will fast track the complaint filed by an individual with the Department of Transportation to get to the Review Committee as soon as possible.
- Mr. Evans furnished a pie chart showing the actions on cases closed by the Board this year.
- David Evans and David Tuttle did a presentation for PENC at the McKimmon Center. David Tuttle gave a presentation at the NCSS convention. Will Casey presented to the Easter Chapter of PENC.
- Mark Mazanek has handled six inquiries for non-licensed businesses.

12. Applications

- **Hatch Associates Consultants, Inc.** requests an exception to the Board Rule .0902(b), which requires the names of individuals in company titles to be current or former members of the firm. Although Mr. Hatch was a licensed engineer and a member of several affiliated entities bearing his name, he was never actually a member of the entity requesting to use his name in the company title. Board Rule .0902(b) states:

“A firm may include in its title the name or names of one or more deceased or retired former members of the firm, provided that the firm submits a letter of request and explanation with its application to the Board, and that the Board finds as fact that the use of the name is not misleading.”

Board requested to determine if an exception can be granted to allow Hatch Associates to obtain licensure even though Mr. Hatch was never a Member of the firm.

After discussion, Mr. Pond made a motion for an exception to be granted to Hatch Associates Consultants, Inc. to obtain licensure. Ms. Thurman seconded the motion. A vote was taken and the motion passed unanimously.

- **Post, Buckley, Schuh & Jernigan, Inc. (F-0326)** requests an exception to Board Rule .0902(b) to change its name to Atkins North America, Inc. Mr. Atkins was never a member of this firm. Board Rule .0902(b) states:

“A firm may include in its title the name or names of one or more deceased or retired former members of the firm, provided that the firm submits a letter of request and explanation with its application to the Board, and that the Board finds as fact that the use of the name is not misleading”

Board requested to determine if an exception can be granted to allow Atkins North America, Inc. to obtain licensure even though Mr. Atkins was never a Member of the firm.

Mr. Stewart made a motion to approve. Mr. Thompson seconded the motion. A vote was taken and the motion passed unanimously.

- **Seminars for Engineers, LLC** has requested the Board to allow them to register with the NC Secretary of State with the above name. The entity advises they do not and will not perform any engineering as defined in the General Statutes. The entity will identify topics that engineers

would be willing to pay more to learn about and then they would hire individuals to teach a course on the topic. After discussion, Mr. Stewart made a motion to approve. Mr. Joyner seconded the motion. A vote was taken. Messrs. Pond, Joyner, Stewart, Tunstall and Haynes and Ms. Riley and Ms. Thurman voted in favor. Mr. Thompson and Dr. Ratcliff opposed. The motion passed.

13. Old Business – Executive Director

- The Board approved Rules for submission in December. Mr. Ritter presented two rules with tweaked language to make provisions for the Assistant Executive Director to serve in lieu of the Executive Director on the Review Committee and Settlement Conference Committee if designated by the Executive Director. Dr. Ratcliff made a motion to approve as revised. Mr. Tunstall seconded the motion. A vote was taken and the motion passed unanimously. The remaining Rules as proposed were confirmed.
- Mr. Ritter presented to the Board a report showing that \$37,500 was paid by licensees for civil penalties in 2010. This money is sent to the State of North Carolina to the general fund and is routed to the county school system where the offense took place.
- Mr. Ritter presented a thank you letter for his presentation at UNC-Charlotte
- Mr. Ritter and Mr. Thompson visited the Computer Testing Site at Appalachian State University and gave a presentation to students in Appalachian's GIS program.
- The Board was well represented at the NCSS (North Carolina Society of Surveyors) Annual Meeting. Seminars were given by Mr. Thompson and Mr. Tuttle. Mr. Ritter presented the statistics that he had delivered in his talk at the meeting for information of the board members.
- Mr. Thompson reported that the Provost at NC A&T is enthusiastic and sees potential in the Geomatics program. The program is being moved from the College of Engineering to the College of Technology. NC DOT (Department of Transportation) has given the school one and one-half million dollars to educate right of way agents.
- The Charlotte Certificate Ceremony was cancelled because response was so low. The Raleigh ceremony numbers were down with slightly less than 100 people attending of which about 35 were licensees. Dr. Ratcliff gave a terrific speech and the ceremony went well in Raleigh. After discussion, the Board decided to have one certificate ceremony each year in February in Raleigh and one in Charlotte. Because of the February, 2011 Charlotte ceremony cancellation, the Board agreed to sponsor a summer certificate ceremony the end of July or the early part of August in Charlotte.

14. New Business - Executive Director

- Mr. Ritter presented a Request for Board Authorized Case Opening dated February 23, 2011 for approval. Mr. Thompson recused himself from discussion and voting. Dr. Ratcliff made a motion to approve. Ms. Riley seconded motion. The Board voted and the motion was unanimously approved.
- Board members congratulated Mr. Thompson on his appointment to the National Geospatial Advisory Committee. A letter of recommendation was sent from the Board on his behalf.

15. Informational Items – Executive Director

- Mr. Ritter presented a letter of appreciation that was received for the courteous and helpful assistance that Dawn Taylor extended to an applicant.
- Mr. Ritter stated that the Governor in Texas is eliminating the Board of Professional Land Surveying and furnished an article from "Chron", a Houston newspaper. One hundred thousand dollars was needed by the Texas Board from the General Assembly. There is speculation the Board will not be eliminated, rather they will be taken over by the Texas Board of Professional Engineers.
- Mr. Pond is on the NCEES Sustainable Building Design Task Force. He provided a copy of the PowerPoint presentation from the task force meeting for the board books. Mr. Pond stated the entire task force is focused on engineered systems.

- The Suttles hearing is scheduled for the next meeting beginning on Wednesday. This is not a certainty for March. If the hearing occurs in March, board members need to be prepared to go as long as it takes on Wednesday to get the hearing done in 1 ½ days and have time for the board meeting on Thursday.
- New shirts are ready to go to press for board members. Board members need to see Lou Ann Buck before they leave for order information.

The Board formally adjourned on Wednesday, February 23, 2011 at 3:25 p.m. The Board is next scheduled to meet on Thursday, March 31, 2011.

Respectfully submitted,



Elizabeth W. Riley
Public Member

Approved by the Board in Session

Date 3/31/11

NORTH CAROLINA BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS

March 31, 2011

Raleigh, North Carolina

Board Chair Glenn Haynes gavelled the North Carolina Board of Examiners into session at 11:50 a.m. to convene its regular order of business for the Board. Board members present were:

Present:

J. Glenn Haynes, PLS, Chair
David L. Pond, PE, Vice Chair
Elizabeth W. Riley, Public Member, Secretary
Nils W. Joyner, Jr., PLS
Teresa Helmlinger Ratcliff, PE, PhD,
Willy E. Stewart, PE
Gary W. Thompson, PLS
Linda A. Thurman, Public Member
John S. Tunstall, PE

Absent:

1. Ethics Awareness and Conflict of Interest Reminder - Chair

To initiate the meeting, Chair Haynes read the ETHICS AWARENESS & CONFLICT OF INTEREST REMINDER and asked if any member of the Board had any known conflict of interest or appearance of conflict with respect to any matters coming before the Board at the meeting. The Chair advised that if any board member had such a conflict, that member should identify the conflict or appearance of conflict and refrain from any undue participation in the particular matter involved. No conflicts or appearance of conflicts were noted.

2. Consent Agenda – Executive Director

Chair Haynes asked if there was any discussion regarding the consent agenda. Hearing none, he entertained a motion. Mr. Thompson made a motion to approve the consent agenda. Ms. Riley seconded the motion.

The Board voted and the consent agenda was unanimously approved. The consent agenda included Requests for Board Authorized Case Openings, Comity Applications, CPC Sponsor Recommendations, Firm Applications for 10 Professional Corporations, 11 Professional Limited Liability Companies, 1 Business Firm, 1 Chapter 87 Corporation; 6 Firm Name Change Requests; 3 Requests to Use Individual's Name in Company Title and 1 D/B/A Request; Minutes, Review Committee Recommendations, Settlement Conference Recommendations and Requests for Retired Status.

3. Committee Reports

Engineering Committee: The Committee did not meet; however, a report was given on the meeting with ACEC.

- Dr. Ratcliff and Messrs. Pond, Stewart and Ritter met with ACEC (American Council of Engineering Companies) to inform them about the new statute changes and respond to their request to discuss Mini-Brooks. Their complaint was one staff has heard many times – municipalities are not complying with Mini-Brooks. Mr. Ritter stated ACEC and PENC (Professional Engineers of North Carolina) need to go to the Association of County Commissioners and the League of Municipalities to educate them on Mini-Brooks. Mr. Pond stated licensees have the right to file suit against a municipality and together with APWA (American Public Works Association) approach the League of Municipalities about what can be done about Mini-Brooks violations. The Board has no authority over municipalities.

Mr. Tuttle stated the Architectural Board requested an Advisory Opinion from the Attorney General's Office asking if a project can be exempted after a RFP has been sent out. The response was basically that local government can do pretty much what they want to do. Mr. Tuttle will be attending a meeting about the implications of the AG Advisory Opinion letter and what can be done. He stated much of this will go back to the professional societies.

Surveying Committee: The Committee did not meet.

CPC Committee: Ms. Thurman informed the Board of the following activities:

- The sponsor application for Write-Logic Incorporated was not approved. (Applications shown on the CPC Committee Agenda for Infinity LC, D.B.A. On-Line.Class.Com; Centrestar, Inc.; MBP Carolinas, Inc.; and Golder Associates, Inc. were approved on the consent agenda.)
- Ms. Thurman made a motion on behalf of the Committee to approve the CPC exemption for Steve Worthington. The Board voted and the motion was unanimously approved.

4. Settlement Conferences (Surveying – Haynes, Thurman)
Executive Director 3/09/2011

The Board considered the recommendation of the Settlement Conference Committee on a case conducted on March 9, 2011 at 10:00 a.m. with Mr. Haynes and Ms. Thurman. Mr. Thompson recused himself from discussion and voting. Dr. Ratcliff made a motion to accept the recommendation of the Settlement Conference Committee. Mr. Joyner seconded the motion. A vote was taken and the motion was approved unanimously. The Settlement Conference Committee recommendation resulted in the licensee being cited to hearing. (Combined with next case.)

The Board considered the recommendation of the Settlement Conference Committee on a second case conducted on March 9, 2011 at 10:00 a.m. with Mr. Haynes and Ms. Thurman. Mr. Thompson recused himself from discussion and voting. Mr. Pond made a motion to accept the recommendation of the Settlement Conference Committee. Mr. Tunstall seconded the motion. A vote was taken and the motion was approved unanimously. The Settlement Conference Committee recommendation resulted in the licensee being cited to hearing. (Combined with previous case.)

The Board considered the recommendation of the Settlement Conference Committee on a case conducted on March 9, 2011 at 1:00 p.m. with Mr. Haynes and Ms. Thurman. Mr. Joyner recused himself from discussion and voting. Ms. Riley made a motion to accept the recommendation of the Settlement Conference Committee. Dr. Ratcliff seconded the motion. A vote was taken and the motion was approved unanimously. The Settlement Conference Committee recommendation resulted in a reprimand and a civil penalty of \$500.00.

5. Review Committees (Surveying – Joyner) (Engineering – Tunstall)
Executive Director 3/15/2011 3/16/2011

The Board considered the recommendation of the Land Surveying Review Committee on eleven cases conducted March 15, 2011 at 8:30 a.m. with Mr. Joyner. Mr. Thompson recused himself from discussion and voting for the entire Review Committee Agenda. Mr. Tunstall made a motion to accept the recommendation of the Review Committee. Ms. Riley seconded the motion. A vote was taken and the motion was approved unanimously. The Review Committee recommendation resulted in five (5) closed cases, two (2) reprimands, one (1) reprimand, civil penalty of \$2,000 and course, one (1) reprimand, civil penalty of \$1,000, one (1) reprimand, civil penalty of \$1,000 and courses, one (1) suspension and civil penalty of \$2,000.

The Board considered the recommendation of the Engineering Review Committee on ten cases conducted March 16, 2011 at 10:00 a.m. with Mr. Tunstall. Mr. Joyner recused himself from discussion and voting for the entire Review Committee Agenda. Dr. Ratcliff made a motion to accept the recommendation of the Review Committee. Mr. Thompson seconded the motion. A vote was taken and the motion was approved unanimously. The Review Committee recommendation resulted in seven (7) closed cases, one (1) cease and desist and two (2) continue investigations.

Meeting recessed for 30 minutes at 12:05 p.m. for lunch. Meeting gaveled back in at 12:40 p.m.

6. NCEES Activities

- Mr. Ritter updated board members on the visit of the delegation from Abu Dhabi. After visiting NCEES, the delegation visited the North Carolina Board to learn about our law and how we do things. Presentations were given by staff regarding various functions of the Board. Dr. Ratcliff and Messrs. Pond and Thompson joined the group later in the day.
- The Bahamians have been working with NCEES for the past three years seeking to administer the NCEES exams in the Bahamas. At this time, they do not have sufficient numbers beyond the first exam. They want to have a licensure model based on the NCEES exams and they are interested in becoming the central base for the Caribbean area. Jerry Carter, Executive Director of NCEES contacted Mr. Ritter to verify that North Carolina does not have a residency requirement for taking the NCEES exam. Mr. Ritter confirmed there is no residency requirement in North Carolina. He was told most engineers in the Bahamas have attended US schools, have ABET degrees and gain their experience under PEs. Mr. Ritter presented to the Board for discussion. The requirement that the Bahamians do not meet is the experience requirement working under a PE or for a US owned company. Part of the new statute change is the Board would consider applicants who have foreign country experience. The best case scenario is the statute would pass this summer after which the Board can consider applicants with foreign experience. Applications would have to be read and the entire package considered. This could be a dramatic increase in applications for review by the Engineering Committee. The deadline for applications would be August 1 to be reviewed at the September meeting.
- Mr. Thompson informed the Board that NCEES has selected an electronic testing company for delivery of the Fundamentals of Engineering and Fundamentals of Surveying exams. The time line has not been set up yet. Mr. Thompson explained details and answered questions regarding how computer based testing will work. There will be a full report at the annual meeting.
- Dr. Ratcliff reported the UPNLG Committee was not able to reach a comprehensive definition of "authoritative".
- Board members discussed election of officers at the NCEES Zone Meeting in Austin, Dr. Ratcliff's candidacy for Assistant Vice President of the Southern Zone and board member campaign assignments.

7. Board Secretary Report – Executive Director and Board Secretary

Ms. Riley reported revenue is up; the Board is three per cent over budget. She stated expenses are running slightly over budget but that will even out over the course of the year. Mr. Ritter stated "the shoe will drop on the costs of hearings". Twenty thousand dollars were budgeted for expected legal fees. The remaining legal fees will come out of restricted funds. The fund for unexpected legal fees was set at \$300,000. Outside counsel told Mr. Ritter she has been working full time for the Board. Large bills are forthcoming. As the Board is receiving a motion almost every day from Mr. Carpenter, Ms. Shields is going to ask the Judge to ask Mr. Carpenter for a stay on the paper work he is sending.

8. Violations Activity – Assistant Executive Director

- Mr. Evans reported 37 cases have been opened this year. Nineteen cases have been opened since the last board meeting with 107 on the open sheet. Progress is being made on the turn-around time. Tina Curran's training is going great and she should be working her own case load by the end of the month. Mr. Evans thanked Mr. Haynes for taking time to work with Ms. Curran on survey training.
- Mr. Evans gave a presentation to the NW Chapter of PENC (Professional Engineers of NC). David Tuttle and Mr. Thompson presented at the State Construction Office Conference. Mr. Tuttle gave two sessions on Mini-Brooks with about 1,200 attending. He stated this is an excellent opportunity to talk about Mini-Brooks with governmental entities. He also suggested that it would be beneficial for the Board to be well represented at this conference in the future.

9. Applications

1. Mr. Brian Trilli requests the Board to allow them to register with the NC Secretary of State using the name *Small Business Engineering*. Mr. Trilli advises that the firm does not offer engineering services and that his "vision is *Teaching Entrepreneurs how to Engineer a Business that's Profitable without Them*. Someone looking for mechanical, electrical, computer, architectural, industrial, chemical, civil or any other engineering discipline would not at all be misled. I have been operating the business under this name in other states without any confusion thus far." See Blog for additional - <http://ethicalbusinessbuilder.com/>.

Ms. Thurman made a motion to deny the request. Dr. Ratcliff seconded the motion to deny the request. After discussion, a vote was taken and the motion passed unanimously to deny the request.

2. Mr. Curt Winbourne requests the Board to allow him to register with the NC Secretary of State using the name Engineered Fluid Systems, LLC. Mr. Winbourne advises that the firm does not offer or provide engineering services and that he is a manufacturer's representative for underground preinsulated piping systems. He indicates he sells pipe and related accessories that are "engineered" much like a car salesman who assures his customers his products are "engineered" to instill a sense of quality. See Letter for additional.

Dr. Ratcliff made a motion to approve the request. Mr. Joyner seconded the motion. A vote was taken and the motion passed unanimously.

3. Board previously considered this next matter and rejected the request at their October 2010 meeting. A response was sent to the firm based on the Board's review and they have been working with David Tuttle and made changes and are now requesting the Board for approval to again use the name Engineered Controls International.

Previous Information: Requested to register with the Secretary of State using the name Engineered Controls International, Inc.

Mr. Pond made a motion to approve. Mr. Joyner seconded the motion. After discussion, a vote was taken and the motion passed unanimously.

10. Old Business - Executive Director

- Mr. Ritter furnished the surveying exam results in the board books. The PLS1 pass rate was very high. Pass rates on the FE exam were down about 10%.
- Mr. Ritter reported Linda Sharp has filed a suit against the Town of Kitty Hawk, NC, et al. The Board and the NC Board of General Contractors are two of the 59 other defendants. Denise Stanford and Carson Carmichael are counsel for the Board of General Contractors. They have handled the law suit for both Boards requesting that both boards be carved out of the law suit and that the case be dismissed against both boards. As far as we know, the case is over for this Board.
- Mr. Ritter stated the recommendation of the Review Committee for the issue with Department of Transportation and the gentleman who was accused of the unlicensed practice of engineering was approved on the Consent Agenda earlier in the meeting. As there has been much publicity about this issue and cases regarding non-licensed practice are not confidential, board members were informed of the decision.
- Mr. Ritter will be leaving for Saudi Arabia April 7 and will return to Raleigh April 11. He will be available by email and cell phone.
- Mr. Ritter read a letter from Governor Perdue changing Executive Order No. 34 to say she recognizes extreme circumstances may have made this order difficult for some to follow and they should make every effort to attend 75% of all board meetings.

11. New Business - Executive Director

- Mr. Ritter presented a Request for Board Authorized Case Opening dated March 30-31, 2011 for approval. Chair Haynes recused himself from discussion and voting. Mr. Haynes passed the

gavel the Vice Chair Pond. Dr. Ratcliff made a motion to approve. Mr. Tunstall seconded motion. The Board voted and the motion was unanimously approved. Vice Chair Pond passed the gavel back to Chair Haynes.

- Mr. Ritter thanked all the board members for their time and effort with the long hearing the previous day. Dr. Ratcliff stated "if there was ever a case that demonstrated that we have got to move forward with the recommendations from three years ago about employing more technologies to optimize our time in deliberating something like that". Mr. Ritter said that now that the Board is in better financial standing, he will look at the space planning and technology before the Board attends the Southern Zone Meeting. Mr. Ritter stated he's gotten mixed signals. Some want the surveys in their hand; some want technology.
- Dr. Ratcliff stated the meeting with ACEC was so important; she would like the Engineering Committee to commit to having a meeting with PENC. Mr. Ritter will get possible dates for a meeting with the Executive Committee of PENC. Mr. Ritter will also look at scheduling a meeting for the Surveying Committee with NCSS.
- Board members agreed to meet for a one day meeting on Wednesday, May 18 for the next board meeting.

The Board formally adjourned on Thursday, March 31, 2011 at 2:40 p.m. The Board is next scheduled to meet on Wednesday, May 18, 2011.

Respectfully submitted,



Elizabeth W. Riley
Public Member

Approved by the Board in Session

Date May 18, 2011

NORTH CAROLINA BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS

May 18 & 19, 2011

Raleigh, North Carolina

Board Chair Glenn Haynes gavelled the North Carolina Board of Examiners into session at 9:05 a.m. on Wednesday, May 18, 2011 to convene its regular order of business for the Board. Board members present were:

Present:

J. Glenn Haynes, PLS, Chair
David L. Pond, PE, Vice Chair
Elizabeth W. Riley, Public Member, Secretary
Nils W. Joyner, Jr., PLS
Teresa Helmlinger Ratcliff, PE, PhD,
Willy E. Stewart, PE
Gary W. Thompson, PLS
Linda A. Thurman, Public Member

Absent:

John S. Tunstall, PE

1. Ethics Awareness and Conflict of Interest Reminder - Chair

To initiate the meeting, Chair Haynes read the ETHICS AWARENESS & CONFLICT OF INTEREST REMINDER and asked if any member of the Board had any known conflict of interest or appearance of conflict with respect to any matters coming before the Board at the meeting. The Chair advised that if any board member had such a conflict, that member should identify the conflict or appearance of conflict and refrain from any undue participation in the particular matter involved. No conflicts or appearance of conflicts were noted.

2. Consent Agenda – Chair

Chair Haynes asked if there was any discussion regarding the consent agenda. Hearing none, he entertained a motion. Ms. Riley made a motion to approve the consent agenda. Mr. Thompson seconded the motion.

The Board voted and the consent agenda was unanimously approved. The consent agenda included, Comity Applications, CPC Sponsor Recommendations, Firm Applications for 15 Professional Corporations, 18 Professional Limited Liability Companies, 5 Business Firms, 1 Chapter 87 Corporation and Firm Requests for 1 Request to be Resident Licensee of Multiple Firms, 1 Request to Use Individual's Name in Company Title and 2 D/B/A Requests; Minutes, Review Committee Recommendations and Settlement Conference Recommendations.

3. Committee Reports

Engineering Committee: Mr. Stewart informed the Board of the following activities:

- Solid Waste Rules - The Engineering Committee put together a Resolution on behalf of NC Department of Environment and Natural Resources (DENR) – Division of Waste Management (DWM). Last year the committee reviewed some of their rule changes. One of the changes was omitted. A letter was sent to the Board apologizing for the oversight with a request that the Board consider the change and issue a resolution to that effect regarding requiring a Professional Land Surveyor to perform surveying work as part of the permitting process of DWM. Mr. Stewart made a motion to approve the Resolution for the NC Department of Environment and Natural Resources / Division of Waste Management. Mr. Thompson recused himself from discussion and voting. A vote was taken and the Resolution was unanimously approved.

- SE Designation - The Board was asked if a North Carolina licensee can use in addition to PE the "SE" designation. North Carolina is not a state that recognizes the "SE" designation. Virginia agreed it was okay to use this designation on the individual's business cards, etc. After discussion, the Committee compromised saying it is okay for the individual to use the "SE" designation followed by the state in parenthesis in which the licensee is recognized.
- Computer Programming - The Committee received a request from a professor at NC State regarding the installation of a chamber facility. The controls and system will be designed by a PE. The question was "Does the computer software need to be designed by a PE?" The Committee responded that as long as the system is designed by a PE, the software does not have to be designed by a PE.
- Measurement and Verification Services - A professor from NC A&T sent a letter with questions regarding energy audits, LEEDs and commissioning. The Committee determined LEEDs is not considered engineering. Architects are doing LEED certifications. Energy audits and commissioning must be done by a Professional Engineer. A response letter will be written with reference to any policies that NCEES has on commissioning.
- Proposed Statute and Rule changes received a final okay by the committee.
- Home Inspector Rules - A meeting was held with the Executive Director of the Department of Insurance (DOI). There is language in the DOI Rules that in the opinion of the committee may allow home inspectors to go beyond the point of inspecting and, in fact, assessing what could be potential structural damage or any other system deficiency. The inspectors tell the client there's something wrong and give an opinion about the issue, which requires engineering knowledge. The Committee made a proposal to modify the rule language and sent it to DOI. The Department Of Insurance decided they were not ready to make the changes in their Rules but they would keep the proposal for consideration for the future. In the meantime, they will add mandatory continuing education courses about this subject. The Department of Insurance is aware of where this Board stands. Now that the issue is being addressed from a different perspective, the Committee is okay with where it now stands.
- A presentation will be given at the next meeting on zip lines and what is happening in NC.
- After review, the Committee postponed posting several policies to the website. Committee members agreed to post the Responsible Charge for Equipment Policy.
- It will be a priority to meet with the Professional Engineers of North Carolina (PENC). The American Council of Engineering Companies (ACEC) and PENC are having a joint meeting the second week in August. Mr. Stewart made a motion for the Board to approve paying the expenses of two people to attend this joint meeting. The Board voted and the motion was approved unanimously.

Surveying Committee: Mr. Joyner informed the Board of the following activities:

- The Tie Guidelines Policy was revised to pull out the Report of Survey. The Report of Survey was set up as a separate appendix and an example was added.
- The Committee set up the positional accuracy formulas to be added to the web site.
- Exam matrixes for the state portion of the exam were discussed.
- There is no solution to the reports that realtors have been using maps. Mr. Thompson is writing an article to be placed in the realtors' newsletter.
- The Committee discussed Senate Bill 212 approving recording of cemetery maps without a surveyor's seal.
- Mr. Ritter has been tasked with setting up a meeting with the Corps of Engineers.
- Mr. Ritter suggested that Kris Kline's request be discussed by the full Board for interpretation as to whether a PLS can site a residential building on a lot in a subdivision, select a finished grade for the house and design grading and driveway for the house. After discussion, members of the Board mutually agreed the answer to Mr. Kline's questions should be "In response to your question, the answer is yes". Board members agreed the board policies on engineering surveys and drainage should be researched and compared to Model Law then reviewed at the Fall Planning Session.

CPC Committee: Ms. Thurman informed the Board of the following activities:

- The Virginia Association of Surveyors is using an evaluation for their CPC and they didn't want their licensees to duplicate their work by also completing our form. Committee members agreed as long as they incorporate our questions into their evaluation; we have no problem with them distributing their own evaluation. Ms. Thurman commented that since we are now requiring sponsors to obtain evaluations we will most likely receive similar questions from other states. The committee is in the process of deciding where the line will be regarding who can use their own evaluations and who needs to use ours. As South Carolina requested to use their form; we requested they incorporate our questions into their evaluation.

4. Settlement Conferences (Surveying – Thompson, Riley)
Executive Director 4/19/2011
- (Engineering – Stewart, Thurman)
5/10/2011
- (Engineering – Stewart, Thurman)
5/10/2011

The Board considered the recommendation of the Settlement Conference Committee on a case conducted on April 19, 2011 at 1:00 p.m. with Mr. Thompson and Ms. Riley. Chair Haynes recused himself from discussion and voting. He passed the gavel to Vice Chair Pond. Mr. Stewart made a motion to accept the recommendation of the Settlement Conference Committee. Dr. Ratcliff seconded the motion. A vote was taken and the motion was approved unanimously. The Settlement Conference Committee recommendation resulted in a reprimand. Vice Chair Pond passed the gavel back to Chair Haynes.

The Board considered the recommendation of the Settlement Conference Committee on two combined cases conducted on May 10, 2011 at 10:00 a.m. with Mr. Stewart and Ms. Thurman. As Mr. Tunstall was not present, there were no recusals on this case. Ms. Riley made a motion to accept the recommendation of the Settlement Conference Committee. Mr. Thompson seconded the motion. A vote was taken and the motion was approved unanimously. The Settlement Conference Committee recommendation resulted in closing the cases based on corrective action and assurance of future compliance.

5. NCEES Activities – Executive Director

- Dr. Ratcliff was elected Assistant Vice President for the Southern Zone. She received accolades from her fellow board members for her speech expressing her passion for the future. Dr. Ratcliff will be awarded the NSPE award. This is the highest award given by the National Society of Professional Engineers.
- The question was asked “when will North Carolina host the Southern Zone Meeting?” Mr. Ritter stated there are different calendars running. One shows 2016 and the other 2018.
- Mr. Haynes will be the funded delegate for the NCEES Annual Meeting in Rhode Island. Board members should have received a post card for the August 24-27 meeting in Rhode Island.
- Mr. Ritter presented a Summary of April 2011 Exam Activities. Five per cent were no shows for the exams which is the norm.
- Mr. Ritter presented a motion from SME (Society for Mining, Metallurgy & Exploration) against B+30 for informational purposes.
- Mr. Ritter presented an information sheet that came in since the last board meeting from Gene Dinkins who was running for NCEES President.

6. Board Secretary Report – Executive Director and Board Secretary

Ms. Riley reported revenue is on track. Expenses are 7 ½% over budget based on legal fees. A normal legal year of \$20,000 was budgeted as the auditor suggested. Over \$70,000 has been spent over budget on legal fees. The board expects to spend \$100,000 for legal fees this fiscal year. This has been a very expensive year for hearings with still another upcoming hearing. We will be increasing the reserve for legal fees. The auditor suggested encumbering an additional \$50,000 of undesignated general funds to be

legal reserve funds over the \$200,000 already designated. Ms. Riley made a motion to add \$50,000 to restricted funds for legal fees. The reason being the board is \$65,000 over budget for legal fees and the board is facing three hearings this year. Dr. Ratcliff seconded the motion. A vote was taken and the motion was approved unanimously.

There was discussion about the increased number of settlement conferences and the time required of public members for settlement conferences. Ms. Riley proposed that the licensee should propose what they want and a suggested alternative. After discussion Mr. Ritter stated that he and Mr. Tuttle would discuss ideas that would be ready for the Board Planning Session.

Mr. Pond reported on the meeting that he and Ms. Riley had with the auditor. The board received a clean audit. The suggestions included in the management letter were similar to those in the past that included:

1. Should have the person who does the books have an accounting background or be an accountant. The auditors place this comment in board audits but don't expect boards to do so for financial reasons.
2. Corrected a few line entries that were entered incorrectly.
3. Made recommendations about how we book deferred revenue related to exam fees. Programming changes are being made to software to allow this to happen.
4. Recommended we create an accounting policy and procedure manual. This is on Mr. Ritter's to do list.
5. Recommended we implement a whistle blower policy. Mr. Pond explained this is customary in today's business environment. This will be presented soon at a future meeting for approval.

Mr. Pond gave an update on an issue that this board has along with several other boards relating to the retirement account. Several years ago the law firm that administered the account gave bad legal advice resulting in a violation. Two years ago the boards admitted the account was administered incorrectly. The matter has been pending a resolution for two years. Legal counsel is representing these boards. At some point there will probably be a resolution. There could be a financial implication to this board when that happens. If there is a penalty, a complaint would be filed against the law firm that rendered the bad advice. Mr. Pond stated, "There is a little bit of exposure. We've known about it a few years but I don't see anything we need to worry about at this point and time".

Meeting recessed at 10:15 a.m. for committee meetings and lunch. Meeting gaveled back in at 12:40 p.m.

7. Violations Activity – Assistant Executive Director

- Mr. Evans reported 47 cases have been opened this year. Thirty-four per cent are for non-licensed practice which is much higher than the figure of 13% for last year. Ninety-five cases are on the open sheet. Forty cases are in the investigator's hands. Fifty-eight cases have closed this year. About half of those have resulted in some sort of action.
- Tina Curran completed her training and is working on her own cases. Her CLEAR investigator training is finished.
- Four presentations have been done since the last meeting. David Tuttle met with the Triangle Chapter of the Society of Surveyors. David Evans met with the Johnston County Chapter of the Society of Surveyors, American Society of Triangle Engineers, NC A&T Mechanical Engineering Students and the Wake Forest University Chapter of IEEE in Winston-Salem.

8. Applications

- A. Mr. Charles LaVerdiere requests to form a new company called Stonewall ENG, PLLC. In an e-mail to Mr. LaVerdiere, he was asked to provide the origin of the proposed name. His initial response was:

"The use of "Stonewall" fulfills a twofold purpose. Firstly, Thomas "Stonewall" Jackson is one of my heroes. He was a godly, Christian man who put his trust in the Lord's providence.

Additionally, he was an extremely devoted husband to his wife to whom he wrote many endearing letters during his time at war.

The second purpose is that the name also has a structural sound to it.

Uniting the two purposes, I see it to be appropriate to call on the nickname of this man for the name of my engineering company that I hope to build up and pass down to my own son one day, passing on a legacy not only of quality engineering but also preserving the name of a godly role model to be associated with future generations of my family."

Upon informing Mr. LaVerdiere that the name did not meet Board Rule .0902(c), he wrote:

"I would ask you to please approve my application as is without special oversight by the Board for the following reasons.

1 - Part of the services offered by my company will be engineered retaining walls. The name "Stonewall" certainly describes a service I plan to offer in a non misleading way to consumers. After all, I'm not trying to name my company "Stonewall Jackson Engineering."

2 - The name "Stonewall ENG, PLLC" would not lead consumers to assume that Stonewall Jackson was somehow a member of my firm. The man died nearly 150 years ago.

3 - The name "Stonewall" was not even a proper surname, it was a nickname. I am not applying for "Jackson Engineering", as I would understand how that is clearly a violation of the Board Rules you stated. "Jackson" does not describe what I do, nor does it name anyone in my company.

4 - To deny the use of a man's nickname (which also clearly describes one of my services) you'd have to deny the formation of a company called "Steel Structures, PLLC" if there happens to be a man somewhere in history with a nickname like John "Steel" Bensen for example, even if this proposed company designed steel structures as part of their services.

Please let me know your thoughts on the above matters. I have been going back and forth for quite awhile now with so much paperwork between the NC Board and the CA Board and I'm trying to get this application through as quickly as possible. I need to start working as soon as I can and needless delays are financially hurting my family at this point. If you can, please make the call to approve my application."

Mr. LaVerdiere was again advised that the matter would need to be reviewed by the Board and could not be administratively approved. He wrote:

"It's clearly cut and dry that the use of the word "Stonewall" in an engineering company's name describes a service provided by that company (as pertaining to the design of retaining wall structures). I understand you may be an administrative worker and might not be familiar with specific engineering terminology. Therefore, do you have anyone on staff there with an engineering background who could verify this for you?"

If not, I'd like to take this up with your supervisor as to avoid waiting until the next Board meeting before this issue is decided. Please provide me with your supervisor's name and contact information. Please don't take this personally, I'm only pushing the matter because the drawn out approval process is hurting my family financially -- I mailed my application to you on April 16th.

If you are indeed the top rung of the bureaucracy and there is nobody in authority above you who can make an actual call on this or someone who could explain the engineering terminology to you, then please let me know when the Board will meet to hear my case. I wish to be present to defend using "Stonewall ENG, PLLC" as my company name."

Dr. Ratcliff made a motion to approve. Mr. Pond seconded the motion. A vote was taken and the motion passed unanimously.

- B. Thomas James Civil Design Group, Inc. requests to obtain licensure with the Board. The legal name of the firm contains the first and middle name of Mr. Thomas James Baber, PE (NC-037746). Additionally, the firm wishes to also use a d/b/a of Thomas Graham Civil Design Group. Mr. Thomas Graham, PE (MT) used to be an owner and employee of the firm and has since retired.

- Need Board to determine if the use of the first and middle name of Mr. Thomas James Baber is misleading for the legal firm name?
- Need Board to determine if the use of the first name of one engineer and the last name of another engineer in the d/b/a is misleading?

Mr. Pond made a motion to approve. Ms. Thurman seconded the motion. A vote was taken and the motion passed unanimously.

9. Old Business - Executive Director

- Mr. Ritter reported that our bill was introduced under House Bill 616 by Representative Mitch Gillespie. The bill received unanimous support from the Committee and the House. It has been referred to the Committee on Commerce in the Senate side and is awaiting their vote. The bill is moving along quite nicely. The effective date of the bill will be immediately upon passing. Mr. Ritter will keep board members updated as it progresses.
- Mr. Ritter will check with NCEES to see if there is any flexibility in their date for Mr. Stewart being funded as a first time appointee.
- The Exam Writing Workshop is Wednesday, May 25, 2011 at UNC in Charlotte. Six people have responded they will attend. The Raleigh notice will go out May 20th for the June workshop
- Exam results came in last week. For the first time the Board utilized NCEES services to notify the applicant electronically if they passed or failed the exam if an email address was furnished upon registration. The results were sent along with a notice and an attachment from the NC Board. The NC Board will follow up with the usual letter. The new method was extremely efficient and drastically reduced the number of phone inquiries.
- A hearing is scheduled for July. The meeting will be a full two day meeting with the hearing being the first day, July 27. Mr. Haynes, Ms. Thurman and Mr. Thompson are recused.

10. New Business - Executive Director

- Mr. Ritter presented a Request for Board Authorized Case Opening dated May 18, 2011 for approval. Mr. Thompson recused himself from discussion and voting. Ms. Riley made a motion to approve. Dr. Ratcliff seconded the motion. The Board voted and the motion was unanimously approved.

11. Informational – Executive Director

- Mr. Ritter presented a letter of gratitude for the service provided by Laura R. Parham to an individual during the licensing application process.
- Mr. Ritter furnished a letter from Leo C. Grosser expressing his appreciation for the recognition by the Board upon retirement with the board letter and certificate showing Professional Engineer, Retired.

12. Public Comment for Proposed Board Rule Changes

Mr. Ritter stated receiving any public comments and having the public hearing on May 19, 2011, are the two remaining requirements before the Rules can be submitted to the Rules Review Commission for approval.

Mr. Tuttle stated that the one comment received to date during the public comment period pertained to the statute change. The question was since the Board is going to forgive the renewal fee and continuing education for the Armed Forces individuals who are serving active duty could the rule be changed to state "serving on active duty in the Uniformed Services of the U.S.". This would be expanded to include U. S. Public Health Service and the National Oceanic and Atmospheric Administration. Mr. Tuttle replied to the individual thanking those who serve in this capacity for their service and explained that the statute that requires this board and all boards to make the change only addresses the active duty of the "Armed Forces". The individual expressing concern was fine with Mr. Tuttle's reply and was appreciative for Mr. Tuttle's recognition of his service and thanked him for the response.

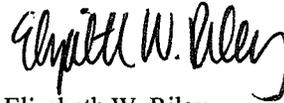
Mr. Tuttle stated the Rules will be submitted to the Rules Review Commission by June 20th and they should be effective August 1st.

Meeting recessed at 2:05 p.m. until 9:00 a.m. on Thursday, May 19, 2011. Meeting gaveled back in at 9:00 a.m. on Thursday, May 19, 2011 via a teleconference call.

Mr. Haynes called the meeting to order for the public hearing on the proposed Board Rules revisions. Messrs. Haynes, Pond, Thompson, Tunstall, Joyner, Dr. Ratcliff and Ms. Riley responded to the attendance call for those joining in the teleconference call. There being no individual from the public in attendance for the public hearing, each board member reconfirmed by roll call to go forward with the Rules.

The Board formally adjourned on Thursday, May 19, 2011 at 9:10 a.m. The Board is next scheduled to meet on Wednesday, July 27, 2011.

Respectfully submitted,



Elizabeth W. Riley
Public Member

Approved by the Board in Session

Date 7/27/11

NORTH CAROLINA BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS

June 16, 2011

Raleigh, North Carolina

Board Chair Glenn Haynes called a *teleconference call* meeting of the North Carolina Board of Examiners into session at 9:00 a.m. to formally adopt the Rules. Board members on the conference call were:

Present:

J. Glenn Haynes, PLS, Chair
David L. Pond, PE, Vice Chair
Nils W. Joyner, Jr., PLS
Gary W. Thompson, PLS
Linda A. Thurman, Public Member

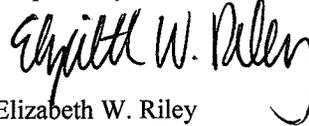
Absent:

Elizabeth W. Riley, Public Member, Secretary
Teresa Helmlinger Ratcliff, PE, PhD,
Willy E. Stewart, PE
John S. Tunstall, PE

Mr. Tuttle explained that the comment period was officially over June 14, 2011. The only comment received was a comment regarding the proposed statute change as previously discussed at the May 18th board meeting. This comment related to the proposed statute changes, not the Rules. As a result of the comment period now being officially over, the Board needs to formally adopt the proposed changes to the Rules. Mr. Thompson made a motion to adopt the proposed rule changes. Mr. Joyner seconded the motion. A vote was taken and the Board agreed unanimously to adopt the proposed rule changes.

The Board formally adjourned on Thursday, June 16, 2011 at 9:07 a.m. The Board is next scheduled to meet on Wednesday, July 27, 2011.

Respectfully submitted,



Elizabeth W. Riley
Public Member

Approved by the Board in Session

Date 7/27/11

NORTH CAROLINA BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS

July 27, 2011

Raleigh, North Carolina

Board Chair Glenn Haynes gavelled the North Carolina Board of Examiners into session at 9:10 a.m. on Wednesday, July 27, 2011 to convene its regular order of business for the Board. Board members present were:

Present:

J. Glenn Haynes, PLS, Chair
David L. Pond, PE, Vice Chair
Elizabeth W. Riley, Public Member, Secretary
Nils W. Joyner, Jr., PLS
Teresa Helmlinger Ratcliff, PE, PhD,
Willy E. Stewart, PE
Gary W. Thompson, PLS
Linda A. Thurman, Public Member
John S. Tunstall, PE

Absent:

1. Ethics Awareness and Conflict of Interest Reminder - Chair

To initiate the meeting, Chair Haynes read the ETHICS AWARENESS & CONFLICT OF INTEREST REMINDER and asked if any member of the Board had any known conflict of interest or appearance of conflict with respect to any matters coming before the Board at the meeting. The Chair advised that if any board member had such a conflict, that member should identify the conflict or appearance of conflict and refrain from any undue participation in the particular matter involved. No conflicts or appearance of conflicts were noted.

2. Consent Agenda – Executive Director

Mr. Ritter presented the Consent Agenda for approval. Chair Haynes asked if there was a motion to approve the consent agenda. Dr. Ratcliff made a motion to approve the consent agenda. Mr. Tunstall seconded the motion. The Board voted and the consent agenda was unanimously approved.

The consent agenda included: Recommendations for Board Authorized Case Openings; Comity Applications; CPC Sponsor Recommendations; Firm Applications for 15 Professional Corporations, 21 Professional Limited Liability Companies, 7 Business Firms, 7 Chapter 87 Corporations, Firm Requests for 4 Name Changes, 2 Requests to be Resident Licensee of Multiple Firms, 12 Requests to Use Individual's Name in Company Title and 3 D/B/A Requests; Minutes; Review Committee Recommendations; Settlement Conference Recommendations; and Requests for Retired Status.

3. Committee Reports

Engineering Committee: Mr. Stewart informed the Board of the following activities:

- The Committee reviewed and edited a draft Foundation Repair Company Guidelines that will be placed on the web site.
- There has been a question whether PEs can sign documents for monitoring regarding certain DENR work. DENR asked the Chair of the NC Board of Geologists. Ann Borden responded that any data that includes soil boring logs and the interpretation / impact of hydrogeology on the interpretation must be signed by a professional geologist (indicating that PEs cannot do the work). It is the opinion of the Engineering Committee that as long as an engineer is practicing in his area of competency, that the engineer should be able to sign and seal these drawings, data or other documents; therefore, the Committee will send an opinion to DENR, copying the Geologist and the gentleman who initiated the request, that PEs should be able to do the work.
- The Committee reviewed old items. Mr. Stewart will review three truss policies for the web site.

- NCEES will be adopting some commissioning policies. The Committee agreed to adopt the same Model Law Policies upon completion by NCEES.
- Discussion regarding incidental street and storm sewer design by Professional Land Surveyors has been conducted between the Engineering and Surveying Committees. The Engineering Committee decided to appoint Messrs. Pond and Tunstall to meet with two people from the Surveying Committee to come to a mutual agreement.

Surveying Committee: Mr. Joyner informed the Board of the following activities:

- The Committee has reviewed the Intermap Technologies web site. Mr. Joyner stated the file has been given to Mark Mazanek and the Engineering Committee may want to review as well.
- The Committee discussed a rule change to 21-56.1602 that is pending and approved deleting two words as requested by the Rules Review Commission.
- Mr. Thompson is working on a news article for a real estate publication conveying how the public is not protected when realtors reuse old property surveys.

CPC Committee: Ms. Thurman informed the Board of the following activities:

- The Committee gave an exemption to a surveyor who will do his PDHs and advise when he is ready to renew.
- A sponsor was offering a “verbal judo” course with 7.5 PDHs. The Committee denied this course for surveyors for required PDH credit and made suggestions about how the sponsor might go about offering this course.
- The Committee has decided not to pursue requiring licensees to take continuing education from sponsors only.
- The Committee decided not to pursue requiring ethics training as part of the annual PDH requirement.
- The Committee decided that board members would receive some type of PDH credit for their work serving on settlement conferences or review committees. Ms. Thurman stated that Mr. Tuttle is being asked to prepare a draft to allow board members to obtain PDHs for their work serving as board members for Settlement Conference Committees and Review Committees. The committee discussed allowing two PDHs for that, not for board meetings but for retreats or other more technical events in education.
- Audits are on track.
- Progress is being made on the CPC Portal.

4. Request from Michelle Gomez, PE, Professional Engineers Board, Commonwealth of Bahamas - Executive Director

- Mr. Ritter presented a request from Ms. Michelle Gomez of the Bahamas. As discussed at a previous meeting, the Bahamas want to administer the NCEES exam. The issue is that NCEES has set criteria for the minimum number of candidates required before the Bahamas can give the exam in their country. The Bahamas does not have the number of candidates required by NCEES to give the exam in their country. Based upon the suggestion of NCEES, the Bahamas contacted North Carolina about allowing their candidates to take the exam in North Carolina as NC does not have a residency requirement. North Carolina cannot proctor the exam in the Bahamas as NCEES does not allow any states to proctor exams for other states.

The easy request is if a Bahamian candidate meets North Carolina criteria for licensure. They would sign up as a NC candidate, be licensed as a NC licensee and live in the Bahamas. Their goal is to have these individuals set up as PEs, having taken the NCEES exam. In this case, they would be a NC PE and the Bahamas PE Board would give them a license.

The harder question is if the applicant does not meet NC criteria and they want to be able to come to NC to take the test. In this scenario, NC would seat the applicant; the individual would take the exam then NC would report to the Bahamas Board as pass-fail; and if they pass, the candidates

would be licensed in NC and through reciprocity they would be licensed in the Bahamas. As there is no ABET criteria in the Bahamas, these individuals will be seated with four years of experience and possibly without an ABET approved degree as required for licensure in NC. Concerns were voiced about allowing this exception.

Ms. Gomez is asking for a two part Memo of Understanding in writing. The first part is if applicants meet NC criteria, they can come to NC to take the test. The second part is, if their applicants do not meet NC criteria, but meet the Bahamas PE Board criteria, NC will proctor the exam for them and report the results in pass-fail. Licensure in the Bahamas is up to the Bahamas Board. (In five years computer based testing will eliminate this need.) Dr. Ratcliff made a motion to enter into a MOU (Memorandum of Understanding) with the Bahamas PE Board that this Board will extend both services; however, for those who meet the Bahamas criteria but not ours they elect to pay all administrative costs to take the exam to include taking the exam in a separate room. Mr. Tunstall seconded the motion. A vote was taken and the motion was unanimously approved. Mr. Ritter stated a Memo of Understanding will be drafted for approval at the September meeting. He will develop the costs. The earliest exam will be in the spring of 2012.

5. Review Committees (Surveying – Haynes)
6/16/2011

Executive Director

The Board considered the recommendation of the Land Surveying Review Committee on eleven cases conducted June 16, 2011 at 8:30 a.m. with Mr. Haynes. Mr. Joyner recused himself from discussion and voting on the entire Review Committee Agenda. Dr. Ratcliff made a motion to accept the recommendation of the Review Committee. Mr. Tunstall seconded the motion. A vote was taken and the motion was approved unanimously. The Review Committee recommendation resulted in one (1) reprimand, one (1) reprimand with civil penalty of \$1,000 and ethics course, one (1) reprimand with civil penalty of \$2,000 and ethics course, one (1) suspension, exam and ethics course, two (2) cease and desist letters and five (5) cases closed.

6. NCEES Activities - Executive Director

- Mr. Ritter presented the Schedule of Events for the NCEES Annual Meeting. He had reviewed the 271 page Annual Report for important issues deferring any matters for the committees that Dr. Ratcliff and Mr. Thompson are on to them. He stated the only significant item is that NCEES has their own motion whereby NCEES can take responsibility for invalidating the exam score of a candidate who violates any item listed on a list of criteria created by NCEES (i.e. having a cell phone, improper calculator, being late for the exam, etc.). There is no gray on the list. This has been done by the individual states. States having insufficient funds to investigate violations has left many applicants in limbo. Mr. Ritter has received favorable support on this issue. Mr. Thompson stated the only matter coming out of his committee is that the PS Exam will go closed book in 2013.
- Mr. Ritter furnished the Notice of Meeting and agenda for the Colonial States Board of Surveyor Registration to take place at the NCEES Annual Meeting.
- Exam results were provided. Two hundred ninety (296) people took the PE exam in April with a 66% pass rate which is very high. The FE exam pass rate of 72% was also significantly higher.

Meeting recessed at 10:00 a.m. for committee meetings and lunch. Meeting gaveled back in at 12:45 p.m.

7. Board Secretary Report - Executive Director and Board Secretary

- Ms. Riley stated the revenues are good. Expenses are over budget because of the legal fees which have been discussed all year. Eleven thousand (\$11,000) was budgeted year to date for legal fees and \$88,000 has been spent year to date which will be pulled out of legal reserves. There will be two hearings before the end of the year. Mr. Ritter stated the Board usually averages one hearing

every eighteen months and there have been three unrelated disciplinary cases within the past nine months.

Mr. Ritter stated the Board needed to go into closed session to discuss a personnel / potential legal issue. Ms. Riley made a motion that the Board go into closed session to discuss a personnel / legal issue. Mr. Thompson seconded the motion. The Board voted and approved to go into closed session to discuss a personnel / legal issue.

The Board went into closed session at 2:20 p.m. to discuss personnel and a potential legal issue. The meeting gavelled back in at 2:40 p.m.

8. Violations Activity – Assistant Executive Director

- Mr. Evans stated sixty-seven (67) cases have been opened this fiscal year. This is in line with last year's numbers. Thirty per cent (30%) of the case load has been against non-licensed individuals or firms. Last year thirteen (13%) of the case load was against non-licensed individuals or firms which was an extremely low figure. There are 103 cases on the open sheet, 42 of which are in the investigators' hands. Seventy (70) cases have been closed to date this year. Twelve (12) cases are pending review committees. Mr. Evans has given presentations to the PENC Central Chapter and NC DENR (Raleigh). Mr. Tuttle and Mr. Evans gave a half day presentation to the Society of Surveyors in Fayetteville.

Mr. Ritter added that there was a period of about a week when all settlement conferences had been done. Now there are just two settlement conferences scheduled for August that were postponed. Mr. Ritter thanked everyone for their effort in making this happen.

9. Applications

- Engineering Committee to review 18 applications (FE, PE and Comity).
- Surveying Committee to review applications.

10. Old Business - Executive Director

- Mr. Ritter presented the thank you letter that he wrote to Representative Mitch Gillespie for introducing and supporting the board statute changes. The board bill passed. The statute changes were effective immediately. This information is on the web site.

The Rules Review Commission had issues with two Rules. All the Rule changes except .1602 and .0701 will be effective August 1. Rules .1602 and .0701 will have to go back before the Rules Review Committee and should be effective September 1. The Survey Committee reviewed and approved two requested changes for .1602. Rule .0701 has already been resolved.

A Laws and Rules Handbook will be sent to the printer as soon as all the Rules are approved. We anticipate by the September meeting, the handbook will be at the printer.

- One of the rules revisions that was adopted eliminates the Associate's degree as a path to be licensed. A gentleman who applied under the old Rule and is already in the pipeline notes that when the new Rules go into effect he will not qualify to be licensed. Since he applied under the old Rule, he has requested to be grandfathered. The recommendation from staff is that people who applied and are already in the pipeline, being processed under the old criteria, would not be kicked out of the licensure process. Mr. Tuttle stated that by Board rule, effective in 2016, a person who has been admitted to the Principals and Practice Exam would be allowed to continue to take the exam until required to re-apply. The applicant is already required to complete a new application after three failures if they have not passed under the original application. Mr. Ritter added there is a requirement if the Board does not hear from an individual in twelve months, they also have to reapply. Dr. Ratcliff made a motion that this gentleman be waived in the process given all that

Mr. Tuttle articulated. Ms. Riley seconded the motion. A vote was taken and the motion passed unanimously.

- Mr. Ritter brought to the attention of board members that the Colorado Board passed a new law stating that active duty military does not have to do CPC while in the military.

11. New Business - Executive Director

- Mr. Ritter presented a Request for a Board Authorized Case Opening dated July 27, 2011 for approval. Mr. Pond recused himself from discussion and voting. Mr. Thompson made a motion to approve. Dr. Ratcliff seconded the motion. The Board voted and the motion was unanimously approved.
- Mr. Ritter stated that Mr. Thompson, as Committee Chair, attended the NSPS Board of Registration Forum in San Diego. As a Committee Chair, it has been the custom of the Board to pay for the trip. Mr. Ritter requested retroactive approval to cover Mr. Thompson's trip expenses to San Diego. Mr. Stewart made a motion to pay retroactive reimbursement to Gary Thompson for expenses he incurred as the board representative to the Forum in San Diego. Ms. Riley seconded the motion. A vote was taken and the motion was approved unanimously.
- Dr. Ratcliff and Mr. Ritter will be attending the PENC/ACEC Summer Conference. Mr. Ritter has been asked to give a presentation on the DOT case as part of a panel discussion.
- The State has raised the allowable per diem rates. Each meal has increased by 25 cents. The hotel rate was lowered.

12. Informational Items – Executive Director

Mr. Ritter recognized the thank you received by the Board from a recent comity licensee for Laverne Barbour's interactions and the out of sequence comity exam.

13. Board Member Hearing Checklist – Outside Counsel & Board Counsel

Denise Stanford and David Tuttle presented a training session for board members on hearings. They reviewed and gave explanations regarding the updated Board Member Checklist for Hearing and gave board members an opportunity to ask questions.

Dr. Ratcliff moved to adjourn. Mr. Thompson seconded the motion. The Board formally adjourned on Wednesday, July 27, 2011 at 3:05 p.m. The Board is next scheduled to meet on Wednesday, September 14, 2011.

Respectfully submitted,


Elizabeth W. Riley
Public Member

Approved by the Board in Session

Date _____

NORTH CAROLINA BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS

September 14 & 15, 2011

Raleigh, North Carolina

Vice Board Chair David Pond gaveled the North Carolina Board of Examiners into session at 9:13 a.m. on Wednesday, September 14, 2011 to convene its order of business for the Board. Board members present were:

Present:

David L. Pond, Presiding
Nils W. Joyner, Jr.
Teresa Helmlinger Ratcliff
Elizabeth W. Riley
Willy E. Stewart
John S. Tunstall

Recused:

J. Glenn Haynes

Recused and Absent:

Gary W. Thompson
Linda A. Thurman

1. Ethics Awareness and Conflict of Interest Reminder – Vice Chair

To initiate the meeting, Vice Chair Pond read the ETHICS AWARENESS & CONFLICT OF INTEREST REMINDER and asked if any member of the Board had any known conflict of interest or appearance of conflict with respect to any matters coming before the Board at the meeting. The Vice Chair advised that if any board member had such a conflict, that member should identify the conflict or appearance of conflict and refrain from any undue participation in the particular matter involved. No conflicts or appearance of conflicts were noted.

2. Consent Agenda – Vice Chair

Vice Chair Pond presented the Consent Agenda for approval. Vice Chair Pond asked if there was a motion to approve the consent agenda. Ms. Riley made a motion to approve the consent agenda. Mr. Tunstall seconded the motion. The Board voted and the consent agenda was unanimously approved.

The consent agenda included: Recommendations for Board Authorized Case Openings; Comity Applications; CPC Sponsor Recommendations; Firm Applications for 19 Professional Corporations, 14 Professional Limited Liability Companies, 2 Business Firms, 3 Chapter 87 Corporations, Firm Requests for 4 Name Changes, 5 Requests to Use Individual's Name in Company Title and 3 D/B/A Requests; Minutes; Review Committee Recommendations and Settlement Conference Recommendations.

Disciplinary Hearing – Case V2011-038

The Hearing for Hood Richardson, PE, PLS began at 9:20 a.m. The Hearing concluded at 3:15 p.m. after which the Board deliberated.

The Board meeting resumed on Thursday, September 15, 2011 at 9:00 a.m. to reconvene its regular meeting for the Board. Board members present were:

Present:

J. Glenn Haynes, PLS, Chair
David L. Pond, PE, Vice Chair
Elizabeth W. Riley, Public Member, Secretary
Nils W. Joyner, Jr., PLS
Teresa Helmlinger Ratcliff, PE, PhD,
Willy E. Stewart, PE
Gary W. Thompson, PLS
Linda A. Thurman, Public Member
John S. Tunstall, PE

Absent:

3. Committee Reports

Engineering Committee: Mr. Stewart informed the Board of the following activities:

- The Department of Transportation (DOT) asked the committee a question regarding electronic certification about how to certify data within a drawing that is electronically imported. As the Committee was unclear of the exact nature of the question, the Committee decided to ask DOT to come and present a real case so the Engineering and Surveying Committees can have a better understanding of what is being asked.
- Mr. Stewart reported tremendous progress has been made on elevated recreational facilities. This includes zip lines, swinging bridges, rope courses, bungee jumping and climbing walls. Sarah Musser, PE from Stewart Engineering gave a presentation on the research she has done. The Professional Rope Course Association and Challenge Course Technology are companies going through ANSI accreditation now. Ms. Musser had contact with one of the three major companies in the United States who are doing this on a bigger scale. They are very interested in how the Board handles. At this time there are no regulations. No other state is known to have a policy at this time. Mr. Tuttle will draft a policy which requires the system design be signed and sealed by a PE and any location data must be done by a PLS. There will be communication with the Department of Insurance and the Department of Agriculture as to how they want to handle maintenance and service on existing companies.
- The Committee is waiting to get dates from Professional Engineers of North Carolina (PENC) to set up a meeting with them.
- Some board policies are being finalized for the web site. National Council of Examiners for Engineering and Surveying (NCEES) just approved a Commissioning Policy at the Annual Meeting. The Committee will review and probably adopt that policy.
- Mr. Stewart will review a Truss Placement Policy.
- The Rules of Professional Conduct and two or three other Rules that come up in violations should be reviewed with a comparison to Model Law for the Planning Session Agenda. Over the next couple of years all the Rules should be reviewed and updated with a comparison to Model Law.

Surveying Committee: Mr. Joyner informed the Board of the following activities:

- The Committee made one modification to the Easement Creation and Staking Policy. Mr. Joyner made a motion to approve the revised Easement Creation and Staking Policy. A vote was taken and the motion was approved 7-0. Dr. Ratcliff briefly excused herself from the table.
- The Committee revised the Positional Tie Reporting Policy to make a minor correction. Mr. Joyner made a motion to approve the revised Positional Tie Reporting Policy. A vote was taken and the motion was approved 7-0. Dr. Ratcliff briefly excused herself from the table.
- Mr. Thompson said an article has been written for the Real Estate Magazine or newsletter to caution realtors about the dangers of removing dates from surveys and reusing or making changes to a survey.
- The Surveying Committee has completed the As-built Policy. It is ready to share with the Engineering Committee for their review.
- The Committee responded no change is needed to Mr. Kline regarding his request to change wording in the Report of Survey Policy.
- Committee members are in the process of reviewing the GIS Inclusions and Exclusions.

CPC Committee: Ms. Thurman informed the Board of the following activities:

- The Committee denied CPC exemption for James K. Eaton for lack of information provided. The Committee will reconsider if he provides additional information about the reason he wishes to be exempt from CPC hours.

- The Committee recommended approval of the reinstatement requested by Laura Dossler-Huntley without the required 30 PDHs. She was unable to complete her CPC hours because of medical issues and surgeries. She has had a stellar record of being up to date. Ms. Thurman made a motion to approve. A vote was taken and the motion was approved unanimously.
- The Committee reviewed the document Mr. Tuttle prepared regarding receiving PDH credit for work while serving this Board. The Committee also wanted to discuss the suggestion that licensees receive 2 PDHs for other professional activities. After discussion, it was decided Mr. Tuttle would craft language within his discretion to add that licensees would receive 2 PDHs for active participation for state, local or federal government offices, boards, commissions and counsels with a maximum of 2 PDHs per Board.
- The sponsor audits are on track thanks to the work of Martha Michalowski.
- The login for tracking PDHs by the licensee is complete on the web site.
- Vincent Miranda is in the final stages of completing the online sponsor application.

4. Settlement Conferences (Engineering – Pond, Riley)
Executive Director 8/17/2011

The Board considered the recommendation of the Settlement Conference Committee on a case conducted on August 17, 2011 at 10:00 a.m. with Mr. Pond and Ms. Riley. Dr. Ratcliff recused herself from discussion and voting. Mr. Tunstall made a motion to accept the recommendation of the Settlement Conference Committee. Ms. Riley seconded the motion. A vote was taken and the motion was approved unanimously. The Settlement Conference Committee recommendation resulted in one reprimand.

5. Review Committees (Engineering – Tunstall)
Executive Director 8/31/2011

(Engineering – Stewart, Tyndall)
9/6/2011

The Board considered the recommendation of the Engineering Review Committee on three cases conducted August 31, 2011 at 10:00 a.m. with Mr. Tunstall. Mr. Pond and Ms. Thurman recused themselves from discussion and voting on the entire Review Committee Agenda. Ms. Riley made a motion to accept the recommendations of the Review Committee. Mr. Joyner seconded the motion. A vote was taken and the motion was approved unanimously. The Review Committee recommendation resulted in two (2) continue investigations and one (1) reprimand and ethics course.

The Board considered the recommendation of the Engineering Review Committee on two cases conducted September 6, 2011 at 10:00 a.m. with Mr. Stewart and Mr. Tyndall as Consultant. Mr. Pond and Ms. Riley recused themselves from discussion and voting on the entire Review Committee Agenda. Mr. Thompson made a motion to accept the recommendations of the Review Committee. Mr. Joyner seconded the motion. A vote was taken and the motion was approved unanimously. The Review Committee recommendation resulted in two (2) closed cases.

6. NCEES Activities - Executive Director

- Mr. Ritter presented the program from the Awards and Installation Banquet for the NCEES Annual Meeting showing Mr. Henry V. Liles, Jr., PE as a recipient of the Distinguished Service Award. Mr. Liles is an emeritus member of the NC Board, serving this Board in many capacities from 2000 to 2010. Mr. Liles was most appreciative for this award.
- Mr. Ritter stated there were no action items of any excitement at the National Meeting. The most informative items took place in the forums.
- Mr. Ritter has a list of the ABET (Accreditation Board for Engineering and Technology) visits that will be made in case any board members are interested.

7. Board Secretary Report - Executive Director and Board Secretary

- Ms. Riley stated the Board is about 3% higher in revenues than budgeted which is good. Expenses were about 7% over budget, the bulk of which is legal fees. There is a new line item for the IRS retirement funding for part timers discussed at the last meeting for \$23,000. If the Board remains on the current track, they will be in the black by \$260,000 by the end of the year.

Mr. Ritter stated currently there is about \$800,000 cash in the bank. This money can only be placed in a guaranteed rate of return. The bulk of the board's income comes in the first eight weeks of the year. Every month expenses total \$200,000. Reserves are now about \$600,000. The hope is to put the \$250,000 in reserves. The Board is staying on budget despite the increased legal fees.

Mr. Ritter stated PE applications are up about 3% (around 340 applications); FE applications are up 8% (around 500 applications). The PS1 numbers are flat and the PS2 numbers are up 215%.

- The Board will elect the new Secretary at the October meeting so the incoming Secretary and the outgoing Secretary can work with Mr. Ritter to create the new budget.

8. Violations Activity – Assistant Executive Director

- Mr. Evans stated 84 cases have been opened to date this fiscal year; 26% are for non-licensees. Seventeen (17) cases have been opened since the last board meeting. As of September 13th there were 29 active or pending investigations, all of which were cases opened this fiscal year. Having a fourth trained investigator has helped to decrease the number of investigations in hand. Ninety-one cases (91) have been closed this fiscal year. Ninety-nine (99) cases are open.

Mr. Tuttle gave a presentation to the NCSS Mecklenburg Chapter in Charlotte. Messrs Thompson, Tuttle and Evans gave a presentation to the NCSS Nantahala Chapter in Franklin. Mr. Evans presented to the ASHRAE Southern Piedmont Chapter in Charlotte.

9. Applications

- **Cole & Associates, Inc.** is requesting licensure using the name of an individual in the firm name who was not an engineer. The firm is only requesting licensure to provide engineering and Mr. Melvin Cole was a Missouri land surveyor and not an engineer. This does not meet the intent of the Board Rule .0902. However, the firm advises that although the name Cole was that of their founder, the company has adopted the logo COLE over the years and considers it to stand for **Civil/Operations/Landscape Architecture/Engineering**. The firm is requesting an exception to allow the firm to obtain licensure using the name Cole Design Group, Inc. because the name Cole & Associates, Inc. was not available for use in North Carolina.

Does not meet the language of Board Rule .0902(b):

21 NCAC 56 .0902 TITLES OF BUSINESS ENTITIES

(a) Companies, partnerships, corporations, limited liability companies or any other business organization providing professional engineering or land surveying services in North Carolina shall not practice under a name that is misleading. Except as provided below, the titles of engineering or land surveying companies, partnerships, corporations, limited liability companies or any other business organization organized primarily to provide such professional services shall not contain the name of an individual not licensed to provide the professional services offered or eligible for licensure under the provisions of G.S. 89C-13.

(b) A firm may include in its title the name or names of one or more deceased or retired former members of the firm, provided that the firm submits a letter of request and explanation with its application to the Board, and that the Board finds as fact that the use of the name is not misleading.

(c) A business organization shall not change its title, or operate under an assumed name, without first applying to the Board for a determination that the proposed title meets the requirements of

Paragraph (a) of this Rule. Requests for name changes shall be made in writing on forms provided by the Board for this purpose.

Dr. Ratcliff made a motion to approve Cole Design Group, Inc. Mr. Pond seconded the motion. After discussion, Dr. Ratcliff amended her motion with the caveat to revise and use the acronym with all caps, not the name "Cole". Mr. Pond accepted the amendment. Mr. Tuttle clarified that instead of using "Cole" they will need to use a d/b/a with all caps. The Board can tell the Secretary of State's office that it will need to be Cole & Associates, Inc. d/b/a COLE Design Group, Inc. A vote was taken and the motion was approved unanimously.

- **Board Staff** requests the Board to determine if the use of the word engineer by a software gaming company, **Binary Hammer LLC** and filing of Annual Reports that state the nature of business as software engineering is misleading or if it appears to be within the IBM case holding, since no engineering expertise is being held out in a setting of protecting the public health, safety or welfare.
<http://www.binaryhammer.com/>
<http://www.binaryhammer.com/about/>
<http://www.binaryhammer.com/services/>
<http://www.binaryhammer.com/portfolio/>
<http://www.secretary.state.nc.us/corporations/Filings.aspx?PItemId=9130788>

Dr. Ratcliff made a motion to deny the request. After discussion, Mr. Thompson seconded the motion. After further discussion, Dr. Ratcliff refined her motion to deny allowing software engineering to be used carte blanche with instructions for staff to inform the Secretary of State and the company that the company cannot represent themselves as software engineers and furthermore, the company must show "gaming software" and make modifications to their website and marketing materials to make certain their customers do not think they are engineers with the understanding that if there is anything staff does not understand this matter will come back before the Board. Mr. Thompson accepted the revised motion. A vote was taken and the Board voted unanimously to approve the motion.

- Applications for the fall exam are complete. There are two applications for the Engineering Committee to review. Mr. Haynes completed the maps for the Surveying Committee.

10. Old Business - Executive Director

- Mr. Ritter furnished a copy of the Memorandum of Agreement with the Professional Engineers Board of the Commonwealth of the Bahamas (PEB) that Mr. Tuttle drafted based on board discussions from the last meeting. The draft has been sent to the Bahamas Board. While Mr. Ritter has not heard from the Bahamas Board, everything in this document has been previously discussed. Mr. Pond made a motion to approve the Memorandum of Agreement. Ms. Riley seconded the motion. A vote was taken and the Board voted unanimously to approve the motion.
- Dr. Ratcliff and Mr. Ritter attended the PENC/ACEC Annual Meeting at Myrtle Beach. Mr. Ritter spoke twice at the meeting, one of which was a round table discussion including the DOT case.
- Mr. Ritter emailed the 2012 draft board calendar to all board members for their review. Mr. Pond added in the off months a teleconference call to handle consent agenda items. This would mainly be to approve cases in the off months. A consent agenda can be approved with five board members. Mr. Ritter requested board members notify Mr. Pond or him if they have conflicts with any of the dates.
- The Board Planning Session will be at the Washington Duke Inn. Board members decided to get together for dinner Tuesday night November 15 and meet on Wednesday, November 16. Mr. Pond agreed to facilitate the meeting with the stipulation that he will have a note taker. Mr. Pond requested board members to send ideas to discuss to Andrew as soon as possible. Dr. Ratcliff requested the ideas be placed on a wiki if possible.

11. New Business - Executive Director

- Mr. Ritter presented Item 1 for a Board Authorized Case Opening. Mr. Pond recused himself from voting and discussion. Ms. Riley made a motion to approve. Dr. Ratcliff seconded the motion. The Board voted and the motion was unanimously approved.
- Mr. Ritter presented Item 2 for a Board Authorized Case Opening. Mr. Pond and Ms. Riley recused themselves. Dr. Ratcliff made a motion to approve. Mr. Stewart seconded the motion. The Board voted and the motion was unanimously approved.

12. Informational Items – Executive Director

- Mr. Ritter noted the nice email received from Liz Riley regarding the work of Shirley Ditt. Mr. Ritter also thanked Shirley for her hard work.
- Mr. Ritter pointed out the complimentary email Laverne Barbour received.
- Mr. Stewart stated that he has been on the Board for 1 ½ years and he has been absolutely impressed by the attitude of the entire staff. He said everyone he has been in contact with here has always been incredibly helpful, pleasant and very professional.

Meeting recessed at 10:20 a.m. for committee meetings and lunch. Meeting gaveled back in at 12:20 p.m. for committee reports.

The Board formally adjourned on Thursday, September 15, 2011 at 1:15 p.m. The Board is next scheduled to meet on Wednesday, October 19, 2011.

Respectfully submitted,



Elizabeth W. Riley
Public Member

Approved by the Board in Session

Date October 19, 2011

NORTH CAROLINA BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS

October 19, 2011

Raleigh, North Carolina

Board Chair Glenn Haynes gavelled the North Carolina Board of Examiners into session at 9:05 a.m. on Wednesday, October 19, 2011 to convene its regular order of business for the Board. Board members present were:

Present:

J. Glenn Haynes, PLS, Chair
David L. Pond, PE, Vice Chair
Elizabeth W. Riley, Public Member, Secretary
Nils W. Joyner, Jr., PLS
Teresa Helmlinger Ratcliff, PE, PhD,
Willy E. Stewart, PE
Gary W. Thompson, PLS
Linda A. Thurman, Public Member
John S. Tunstall, PE

Absent:

1. Ethics Awareness and Conflict of Interest Reminder - Chair

To initiate the meeting, Chair Haynes read the ETHICS AWARENESS & CONFLICT OF INTEREST REMINDER and asked if any member of the Board had any known conflict of interest or appearance of conflict with respect to any matters coming before the Board at the meeting. The Chair advised that if any board member had such a conflict, that member should identify the conflict or appearance of conflict and refrain from any undue participation in the particular matter involved. No conflicts or appearance of conflicts were noted.

2. Consent Agenda – Executive Director

Mr. Ritter presented the Consent Agenda for approval. Chair Haynes asked if there was a motion to approve the consent agenda. Ms. Riley made a motion to approve the consent agenda. Mr. Thompson seconded the motion. The Board voted and the consent agenda was unanimously approved.

The consent agenda included: Comity Applications; Firm Applications for 19 Professional Corporations, 14 Professional Limited Liability Companies, 2 Business Firms and 1 Chapter 87 Corporation; 1 Request to Use Individual's Name in Company Title and 1 D/B/A Request; Minutes; Review Committee Recommendations; Settlement Conference Recommendations; and Requests for Retired Status.

3. Review Committees
Executive Director

A. (Surveying – Joyner)
10/6/2011 at 9:45 a.m.

B. (Engineering & Surveying – Pond, Joyner & Consultant - Alligood) 10/6/2011 at 10:00 a.m.

C. (Engineering – Stewart & Consultant - Nixon)
10/10/2011 at 9:00 a.m.

D. (Surveying – Thompson & Consultant – Greene)
10/10/2011 at 10:00 a.m.

E. (Surveying – Haynes)
10/10/2011 at 1:30 p.m.

F. (Engineering – Tunstall)
10/11/2011 at 5:30 p.m.

- A. The Board considered the recommendation of the Land Surveying Review Committee on one (1) case conducted October 6, 2011 at 9:45 a.m. by telephone with Mr. Joyner. Mr. Haynes and Mr. Thompson recused themselves from discussion and voting on the entire Review Committee Agenda. Chair Haynes passed the gavel to Vice Chair Pond. Mr. Joyner made a motion to accept the recommendation of the Review Committee. Ms. Riley seconded the motion. A vote was taken and the motion was approved unanimously. Vice Chair Pond passed the gavel back to Chair Haynes. The Review Committee recommendation resulted in one (1) closed case.
- B. The Board considered the recommendation of the Engineering and Land Surveying Review Committee on two (2) cases conducted October 6, 2011 at 10:00 a.m. with Mr. Pond, Mr. Joyner and Mr. Gilbert R. Alligood, PE, PLS - Consultant. Mr. Thompson recused himself from discussion and voting for the entire Review Committee Agenda. Dr. Ratcliff made a motion to accept the recommendation of the Review Committee. Mr. Tunstall seconded the motion. A vote was taken and the motion was approved unanimously. The Review Committee recommendation resulted in two (2) closed cases.
- C. The Board considered the recommendation of the Engineering Review Committee on two (2) cases conducted October 10, 2011 at 9:00 a.m. with Mr. Stewart and Mr. Larry D. Nixon, PE, PLS - Consultant. Mr. Pond recused himself from discussion and voting for the entire Review Committee Agenda. Mr. Joyner made a motion to accept the recommendation of the Review Committee. Mr. Thompson seconded the motion. A vote was taken and the motion was approved unanimously. The Review Committee recommendation resulted in one (1) suspension and one (1) reprimand, civil penalty of \$3,000 and course.
- D. The Board considered the recommendation of the Land Surveying Review Committee on nineteen (19) cases conducted October 10, 2011 at 10:00 a.m. with Mr. Thompson and Mr. R. Larry Greene, PLS – Consultant for Item 9. Chair Haynes and Mr. Pond recused themselves from discussion and voting for the entire Review Committee Agenda. Chair Haynes passed the gavel to Secretary Riley. Mr. Stewart made a motion to accept the recommendation of the Review Committee. Dr. Ratcliff seconded the motion. A vote was taken and the motion was approved unanimously. Secretary Riley passed the gavel back to Chair Haynes. The Review Committee recommendation resulted in six closed cases, two (2) cease and desist, two (2) reprimands and courses and one (1) continued investigation.
- E. The Board considered the recommendation of the Land Surveying Review Committee on three (3) cases conducted October 10, 2011 at 1:30 p.m. by telephone with Mr. Haynes. Mr. Thompson recused himself from discussion and voting for the entire Review Committee Agenda. Mr. Tunstall made a motion to accept the recommendation of the Review Committee. Ms. Riley seconded the motion. A vote was taken and the motion was approved unanimously. The Review Committee recommendation resulted in one (1) reprimand, civil penalty of \$2,000 and course and two continued investigations.
- F. The Board considered the recommendation of the Engineering Review Committee on three (3) cases conducted October 11, 2011 at 5:30 p.m. with Mr. Tunstall. Mr. Pond and Ms. Thurman recused themselves from discussion and voting for the entire Review Committee Agenda. Mr. Joyner made a motion to accept the recommendation of the Review Committee. Mr. Thompson seconded the motion. A vote was taken and the motion was approved unanimously. The Review Committee recommendation resulted in two (2) reprimands and one (1) cease and desist letter.

4. NCEES Activities
Executive Director

- Mr. Ritter stated he received a letter from Mr. Jerry Carter, Executive Director of NCEES inquiring if the Board wishes to make any changes to Associate or Emeritus Members listed for the Board. After discussion, Mr. Pond made a motion that Gilbert R. Alligood, PE, PLS; Larry D. Nixon, PE, PLS; Bobby M. Long, PLS; J. Albert Bass, Jr., PE; George T. Paris, PLS and Ronald H. Carpenter, PLS be nominated as Emeritus Members. Dr. Ratcliff seconded the motion. A vote was taken and the motion was unanimously approved.
- Mr. Ritter presented the follow up from the NCEES Annual Meeting. Changes include an increase in exam fees and the need for statute changes. The reference to the eight hour exam and

the exam deadline will need to be removed from the statute and rules. The Board is waiting to hear how many times CBT will give the exam and how universities can be approved for testing sites.

5. Board Secretary Report

Executive Director and Board Secretary

Ms. Riley's report was through the end of September as the bank statement had not come in. Ms. Riley stated the Board is still on track. Ninety-seven percent (97) of the year's revenue is accounted for. The Board is currently at 67% on budgeted travel expenses. In response to a question asked at the last board meeting, Ms. Riley stated the Board has \$896,000 cash on hand and about \$340,000 in CDs. The Board will probably bring in \$90,000 by year end and spend about \$720,000 by year end to leave about \$600,000 in the bank. This is up \$225,000 from last year.

The Ad Hoc Finance Committee will meet prior to the next meeting to prepare the budget to be voted on at the Planning Session.

6. Committee Reports

Engineering Committee: Mr. Stewart informed the Board of the following activities:

- The NC House of Representatives passed House Bill 45 that deals with risks and base remediation of industrial sites. The Board was asked by DENR (NC Department of Environment and Natural Resources) to advise licensees of this Bill. After review of the Bill, committee members feel some parts of the Bill need to be addressed. A lot of it is engineering and not referenced. The Board is not responsible for decimating the information but prefers to leave that to the professional organizations, PENC (Professional Engineers of NC) and ACEC (American Council of Engineering Companies). Mr. Tuttle will draft a letter on behalf of the Committee regarding the concerns about the aspects that are engineering.
- The Surveying Committee referred a letter from Mr. Kent to the Engineering Committee. After discussion, members of the Board mutually agreed that an engineer can do surveying on their own projects, including location and topographic surveys as part of his product. At the end of the job if the owner requires an as-built survey, it must be done by a PLS as the public is depending on it. A letter will be sent to Mr. Kent.
- If an individual is going to testify as an expert witness on engineering and land surveying issues in front of a jury or judge in NC, they must be a licensed PE or PLS in NC. A judge cannot be told who they can call on; however, this is the practice of engineering or surveying in North Carolina. If an individual testifies without being licensed, they have violated a board statute.
- Special inspections and testing began several years ago. Stewart Engineering took a lead role assisting the State Construction Office in writing the policies and guidelines. A Task Force in Nevada has taken the position that any inspections and testing must be under the responsible charge of an engineer. This is different from the policies and guidelines in North Carolina. Mr. Stewart will bring leaders from Stewart Engineering with expertise in this area to the next Engineering Committee meeting to discuss this matter. The changes in Nevada may throw a different view on what special inspections should be in North Carolina.
- The Engineering Committee okayed the response letter for sending to Mr. Bacon regarding use of LIDAR contours, as sent to them by the Surveying Committee.
- The Zip Line Policy Draft has been approved by the committee and will be sent to DOI and selected companies for comments.

Surveying Committee: Mr. Joyner informed the Board of the following activities:

- Mr. Tuttle fine tuned the letter to go to the Board of Realtors regarding reusing old survey maps.
- The GIS Inclusions and Exclusion Guidelines will go on the web site. It now defines authoritative.

- The Committee is discussing the issue that drawings are not signed and sealed by DOT (NC Department of Transportation and other government employees. Mr. Ritter is setting up a meeting with the DOT (Department of Transportation). Mr. Tuttle said the he is setting up a separate meeting with Charlie Brown of DOT to present information on their electronic transmittal of documents for the December meeting.
- Mr. Tuttle is setting up a meeting with the Soil Scientists.
- The Committee has worked on the exam matrix.
- Procedurally the Hydrographic Surveys Policy has already been approved by the Board in concept. Mr. Ritter asked board members if they prefer to place a policy on the Consent Agenda in this situation or have it come before the Board again for final approval. Board members expressed that all policies should come before the Board for final approval.

Mr. Thompson made a motion to approve the Hydrographic Surveys Policy. The Board voted and the policy was unanimously approved.

CPC Committee: Ms. Thurman informed the Board of the following activities:

- The Committee had two sponsor applications which the Committee rejected.

7. Violations Activity – Assistant Executive Director

- Mr. Evans stated 99 cases have been opened this year. Last year at this time 102 cases had been opened. The investigators have 26 cases in hand. Last year at this time the investigators had 47 cases in hand. Of the 26 cases in hand, 96% are complaints received in the last 6 months; 69% of the complaints have been received in the last four months and 42% of the complaints have been received in the last two months. Of the 26 cases in hand, the respondent's response (which is a trigger for investigators) has not been received on 42% of those cases or preliminary investigation is needed. Investigations are in really good shape and Mr. Evans attributed this to having a fourth trained investigator.
- For the year to date 108 cases have been closed for the fiscal year 2011. Roughly one half of the cases have been found trivial, unfounded or corrective action has been taken resulting in no action. The remainder resulted in a formal action. One hundred thirty-two (132) cases have gone to the Review Committee this year.
- Mr. Evans and Mr. Tuttle gave presentations for the ASCE (American Society of Civil Engineers) Coastal Branch. Mr. Evans gave a presentation to the ASCE Northern Branch (Greensboro).
- Mr. Ritter presented to board members a hard copy of the newsletter that was recently sent to licensees. Mr. Pond requested that a statistical report be added to the newsletter.
- Board members expressed the importance of continuing to work on reducing the time a case takes. Adding the approval of consent agendas by phone between meetings will help. Mr. Pond stated he wants to discuss at the Planning Session a detailed breakdown to report the time frame.
- There was also discussion regarding the experience requirement to sit for the P.E. exam for those not working under the direct supervision of a P.E. Mr. Tuttle read Rule 56.0501 (b), agreeing this was targeted more toward applicants with the industrial exemption. While there is a loophole, Mr. Ritter stated staff recommends that nothing needs to be done. There are only two to three that fit under this category per exam period and two board members are required to approve the application. Applications for those working in construction or industry are pulled for board members to review. It was suggested that PENC offer a mentoring program to non-consulting firms in industry. The key question for the mentor is "would the person's work qualify for the PE to sign and seal".

8. 2012 Board Calendar

Executive Director

- Mr. Ritter presented the proposed 2012 calendar prepared by the Vice Chair. He stated there would be no hearing in December. Because of that there may be a date change in the 2012 calendar when the hearing date is determined. No board members asked for any changes. Ms. Riley made a motion to approve the calendar. Dr. Ratcliff seconded the motion. A vote was taken and the motion passed unanimously.

9. Applications

- Special Agenda Item for Board Approval.
 1. Infrastructure Consulting & Engineering, PLLC is requesting an exception to the Board Policy regarding Firm Names. Currently, the Board has a Professional Corporation licensed with the name Infrastructure Engineering Consultants, PC. Per the Board Policy, there is not a substantial word difference between the two names.

The Board Policy adopted in 2007, states:

The Executive Director may administratively approve new Business Firm Applications, Name Change Requests and d/b/a requests if the firm name has at least one substantive word different than that of an existing licensed entity. The actions shall be reported to the Board for final approval at the next scheduled Board meeting. A substantive word is other than articles and prepositions.

Staff requests interpretation if the Board considers this substantially different.
Request is attached.

Dr. Ratcliff made a motion to deny the request. Ms. Riley seconded the motion. A vote was taken and the motion to deny passed unanimously.

2. LG Engineering, PA (C-2731) is requesting the Board to allow them to change their name to CH2M Hill Engineering P A. There is currently a firm name CH2M Hill, Inc. licensed with this Board.

Staff requests interpretation if the Board considers this substantially different.
Request is attached.

Mr. Pond made a motion to deny the request. Mr. Tunstall seconded the motion. A vote was taken. The vote was tied. Messrs. Pond, Tunstall, Stewart and Thompson voted to approve the request to deny. Dr. Ratcliff, Ms. Riley, Ms. Thurman and Mr. Joyner voted to oppose the motion. As the vote was tied, the motion to deny failed. Chair Haynes voted to break the tie. The motion to deny failed. Mr. Joyner made a motion to approve. Ms. Riley seconded the motion. Mr. Joyner and Ms. Riley tabled their motion until Mr. Mazanek can get additional information from the company.

Meeting recessed at 10:50 a.m. for committee meetings and lunch. Meeting gaveled back in at 1:05 p.m.

Mr. Mazanek reported back the Board information from his call with a representative of LG Engineering, PA. Dr. Ratcliff made a motion to approve the request. Ms. Riley seconded the motion. A vote was taken. The motion to approve passed. Mr. Thompson voted to oppose the motion.

- Engineering Committee to review 18 applications (FE, PE and Comity).
- Surveying Committee to review applications.

10. Old Business - Executive Director

- None

11. New Business - Executive Director

- Mr. Ritter presented Mr. Tunstall's letter to Governor Perdue declining the opportunity to serve another five year term on the Board.
- Dr. Ratcliff served as co-host of the PENC Education Foundation dinner. Messrs. Ritter, Pond and Stewart attended. PENC asked the Board to make a contribution. Based on it being short notice, board members said no at the time. Discussion ensued. Mr. Pond made a motion that the Board discontinue contributions to educational programs that are not for the purposes as specified in G.S. 89C-10 (g) which says, "The Board may use its funds to establish and conduct instructional programs for persons who are currently licensed to practice engineering or land surveying, as well as refresher courses for persons interested in obtaining adequate instruction or programs of study to qualify them for licensure to practice engineering or land surveying". Mr. Stewart seconded the motion. Mr. Pond withdrew his motion. Mr. Stewart withdrew his second to the motion. Mr. Pond made a motion to discontinue the contributions to Trig Star and Mathcounts going forward. Mr. Joyner seconded the motion. A vote was taken and the motion passed unanimously.

Dr. Ratcliff made a motion that the Board make as a matter of standard operating procedure that anytime the Board is asked for money for any program, regardless of its purpose the Board is required to read the 89C statute that applies to that request. The motion died without a second. The Trig Star request for later in the meeting was made moot as a result of the Board's action.

- Mr. Ritter stated PhD waiver letters were sent to department heads at NC State University, Duke University, UNC Charlotte and North Carolina A&T State University.
- Mr. Ritter expressed different board members have asked for particular items they would like to have available online. Board staff critiqued Basecamp, Backpack and an IBM product. To determine which program would work the best, the Board Planning Meeting Agenda was placed online for board members to review on Basecamp and Backpack. Mr. Ritter and Mr. Evans pointed out the pros and cons of each. Board members decided to use Basecamp for the Planning Session so board members may add items or comments to items already posted. Board members were urged to place their topics for discussion online by October 31.
- Board members decided to extend an invitation to the Dean of the Engineering School at Duke University for lunch at the Planning Session on November 16.

12. Informational Items – Executive Director

- Mr. Ritter placed in the board notebooks information regarding Western Carolina University receiving ABET accreditation for their electrical engineering program.

13. 2012 Board Elections

Executive Director

- Ms. Riley nominated Mr. Stewart for Secretary. Dr. Ratcliff seconded the nomination. A vote was taken and Mr. Stewart was unanimously elected Board Secretary.
- Mr. Tunstall nominated Mr. Thompson as Vice Chair. Ms. Riley seconded the nomination. A vote was taken and Mr. Thompson was unanimously elected Vice Chair.
- Dr. Ratcliff nominated Mr. Pond as Chair. Mr. Thompson seconded the nomination. A vote was taken and Mr. Pond was unanimously elected Chair.
- Mr. Pond appointed Ms. Riley and Mr. Stewart to the Finance Committee so they can meet prior to the Planning Session to do the budget.

Meeting recessed at 2:20 p.m. Meeting gaveled back in at 2:30 p.m.

14. Admin Conferences
Executive Director

Dr. Ratcliff moved to adjourn. Mr. Stewart seconded the motion. The Board formally adjourned on October 19, 2011 at 3:10 p.m. The Board is next scheduled to meet on Wednesday, November 16, 2011.

Respectfully submitted,


Elizabeth W. Riley
Public Member

Approved by the Board in Session

Date December 14, 2011

NORTH CAROLINA BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS

November 16, 2011

Raleigh, North Carolina

Board Chair Glenn Haynes gaveled the North Carolina Board of Examiners into session at 8:30 a.m. on Wednesday, November 16, 2011 to convene its regular order of business for the Board. Board members present were:

Present:

J. Glenn Haynes, PLS, Chair
David L. Pond, PE, Vice Chair
Elizabeth W. Riley, Public Member, Secretary
Nils W. Joyner, Jr., PLS
Teresa Helmlinger Ratcliff, PE, PhD,
Willy E. Stewart, PE
Gary W. Thompson, PLS
Linda A. Thurman, Public Member

Absent:

John S. Tunstall, PE

1. Ethics Awareness and Conflict of Interest Reminder - Chair

To initiate the meeting, Chair Haynes read the ETHICS AWARENESS & CONFLICT OF INTEREST REMINDER and asked if any member of the Board had any known conflict of interest or appearance of conflict with respect to any matters coming before the Board at the meeting. The Chair advised that if any board member had such a conflict, that member should identify the conflict or appearance of conflict and refrain from any undue participation in the particular matter involved. No conflicts or appearance of conflicts were noted.

2. Consent Agenda – Executive Director

Mr. Ritter presented the Consent Agenda for approval. Mr. Thompson recused himself from discussion and voting on the Consent Agenda. Chair Haynes asked if there was a motion to approve the consent agenda. Dr. Ratcliff made a motion to approve the consent agenda. Ms. Riley seconded the motion. The Board voted and the consent agenda was unanimously approved.

The consent agenda included: Comity Applications; Firm Applications for 1 Professional Corporation, 3 Professional Limited Liability Companies, and 1 Business Firm; Review Committee Recommendations and a Request for Retired Status.

3. 2012 Budget - Secretary

- As the board's income would fall in two calendar years because of renewals, the Board discussed discarding the plan to change the budget to a calendar year. Mr. Stewart made a motion to keep the board fiscal year as is. Mr. Thompson seconded the motion. The Board voted and the motion was unanimously approved.
- Ms. Riley presented the proposed 2012 budget. Dr. Ratcliff made a motion to approve the 2012 budget. Ms. Riley seconded the motion. The Board voted and the motion was unanimously approved.

Mr. Haynes passed the gavel to Vice Chair Pond to lead the Planning Session.

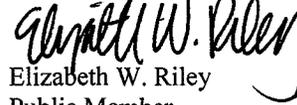
4. Planning Retreat

- The following topics were discussed:
 - a. Backpack or Basecamp,
 - b. 2012 Board Meeting Format,
 - c. Newsletter,
 - d. CPC IT Project,

- e. Mission of NCBELS (Board) & Board Powers (89C-10),
- f. Survey/Engineering Dichotomy,
- g. Board Office Improvements,
- h. Enforcement and
- i. Future Statute and Rule Changes

Dr. Ratcliff moved to adjourn. Mr. Thompson seconded the motion. The Board formally adjourned on Wednesday, November 16, 2011 at 3:00 p.m. The Board is next scheduled to meet on Wednesday, December 14, 2011.

Respectfully submitted,


Elizabeth W. Riley
Public Member

Approved by the Board in Session

Date December 14, 2011

NORTH CAROLINA BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS

December 14, 2011

Raleigh, North Carolina

Board Chair Glenn Haynes gavelled the North Carolina Board of Examiners into session at 9:00 a.m. on Wednesday, December 14, 2011 to convene its regular order of business for the Board. Board members present were:

Present:

J. Glenn Haynes, PLS, Chair
David L. Pond, PE, Vice Chair
Nils W. Joyner, Jr., PLS
Teresa Helmlinger Ratcliff, PE, PhD,
Willy E. Stewart, PE
Gary W. Thompson, PLS
John S. Tunstall, PE

Absent:

Elizabeth W. Riley, Public Member, Secretary
Linda A. Thurman, Public Member

1. Ethics Awareness and Conflict of Interest Reminder - Chair

To initiate the meeting, Chair Haynes read the ETHICS AWARENESS & CONFLICT OF INTEREST REMINDER and asked if any member of the Board had any known conflict of interest or appearance of conflict with respect to any matters coming before the Board at the meeting. The Chair advised that if any board member had such a conflict, that member should identify the conflict or appearance of conflict and refrain from any undue participation in the particular matter involved. No conflicts or appearance of conflicts were noted.

2. Consent Agenda – Executive Director

Mr. Ritter presented the Consent Agenda for approval. Chair Haynes asked if there was a motion to approve the consent agenda. Dr. Ratcliff made a motion to approve the consent agenda. Mr. Thompson seconded the motion. The Board voted and the consent agenda was unanimously approved.

The consent agenda included: Comity Applications; CPC Sponsor Recommendations, Firm Applications for 16 Professional Corporations, 4 Professional Limited Liability Companies, 2 Business Firms and 1 Chapter 87 Corporation; 3 Requests for change name, 1 Request to be Resident for Multiple Companies and 1 D/B/A Request; Minutes (October and November); Review Committee Recommendations; and Requests for Retired Status.

2. Presentation by Charlie Brown, PE, PLS, NCDOT State Location & Surveys Engineer on Electronic Files and Digital Signatures.

Mr. Brown gave a presentation regarding how NCDOT verifies and secures sealed documents that are sent electronically. Mr. Brown also asked the Board questions. Board members stated how these questions are answered should protect the interest of the licensees and the public. They expressed knowing how these issues are handled in other states would be helpful in responding. Mr. Ritter volunteered to contact NCEES to see if they have any plans to address these issues and contact members of his list serve to find out if other states have done anything on this issue in the past 24 months.

The meeting recessed at 10:40 a.m. for committee meetings and lunch. Meeting gavelled back in at 1:00 p.m.

4. Committee Reports

Engineering Committee: Mr. Stewart informed the Board of the following activities.

- The Committee reviewed the Revision of NC Injection Well Construction Standards and concluded the Standards cover everything they needed to. No feedback is needed.

- PE education requirements were changed via the last round of Rulemaking and statute changes. Changes to remove the Associates' degree as a path to licensure go into effect in 2016. The current law requires 6 years of experience to take the FE exam and 10 years to take the PE exam if an applicant is applying with an Associates degree. An individual asked if 2016 was the intended date to cut individuals from taking the exam with an Associates degree. This individual graduated with an Associates degree in 2007 so he would not be eligible to take the PE exam until 2017. When the change was made to 2016, he was cut off. The Committee decided it was not the intention to cut anyone off. The Committee recommended an adjustment via Rulemaking saying an individual that passes the FE by 2016 would have forever to take the PE. If they do not pass the FE by 2016, they would come under the new Rules. Mr. Ritter stated the intent is not to cut people off and the language will be deferred to Mr. Tuttle.
- Mr. Stewart invited Ian D. Teeson, PE with Stewart Engineering to give a presentation on Special Inspections to the Engineering Committee. Mr. Stewart confirmed a Rule in the Administrative Code stating "special inspections required by the building code or building inspector shall be performed by a North Carolina registered design professional or inspector under his responsible charge." Thus, there is no need for the Board to publish anything.
- The proposed policy statement for zip lines went to the NC Department of Insurance (DOI) and manufacturers. NC DOI stated the access to the zip line should meet the NC State Building Code. The Committee feels it is redundant but the language can easily be incorporated by adding, the design of elevated recreational facilities and its accessible components or structures including platforms, decks, ladders or stairs. Mr. Stewart made a motion to adopt this policy with the stated minor change. The Board voted and the motion was unanimously approved.
- The Committee reviewed the short NCEES policy on commissioning. Mr. Stewart made a motion that the existing Commissioning policy created January 13, 2005 be replaced with the NCEES Commissioning Policy. The Board voted and the motion passed unanimously. Mr. Stewart stated the Pharmaceutical Commissioning Policy will remain the same.

Surveying Committee: Mr. Joyner informed the Board of the following activities:

- The Committee reviewed the Proposed Injection Well Rule revisions and made recommendations pertaining to as built locations and mapping standards.
- The Committee reviewed and approved the electronic "online map reviews" which is a checklist for survey applicants that was previously in hard copy.
- The Committee decided to post to the web site the minimum standards for licensees to use for location and ground topographical surveys. They will review and bring back to the Committee.
- Mr. Joyner stated the previous day Messrs. Joyner, Thompson, Ritter, Tuttle and Mazanek met with the North Carolina Society of Surveyors (NCSS) and their director regarding numerous matters.
- Mr. Ritter stated there is a program with the UNC System with 17 states involved – "the common market", whereby students go to our NC universities. North Carolina does not let students participate at the bachelor's degree level under normal circumstances. NC A&T wants the surveying program to become part of this program. East Tennessee State participates and it is taking North Carolina students into their program without charging out of state tuition to students in North Carolina border counties. Mr. Thompson stated help is needed. Dr. Ratcliff suggested developing a more broad approach with a five point agenda to discuss with UNC General Administration about how to help the 15 state institutions get aligned with where they need to go in general to meet industry needs. Board members were encouraged to think about it as if they were talking with leadership about changing higher education in NC, what they would discuss in representing industry. Bachelor's +30 and reciprocity for degree programs were mentioned.

CPC Committee: Mr. Thompson informed the Board of the following activities:

- The Committee received a request from a doctor at NC State asking how much credit a licensee would receive for taking a graduate online course and auditing the course. The licensee would do everything but sit for the exam. This response is being approved based upon evidence that the student is participating in the class by submitting homework and quizzes. Proof of participation in class is critical to note for future approvals.

sooner. Ring is the name of a deceased PE which meets the requirement. The firm is out of Milwaukee, WI and does HVAC, plumbing, fire protection, electrical and commissioning. It started in 1961. Mr. Pond made a motion to approve the firm to do business in North Carolina. Dr. Ratcliff seconded the motion. A vote was taken and the motion was unanimously approved.

9. Old Business

- Board members agreed to begin the conference calls to approve the consent agenda at 7:30 a.m.
- As requested, Mr. Ritter prepared a chart for "proposed board slots". After reviewing the chart and discussion, members of the Board decided they would be making plans for future board members that don't exist and many unknown factors. Thus, no action was taken.

10. New Business - Executive Director

- The Board is in year two of a three year contract with Boyce Furr & Company LLP to do the Board's audit. Boyce Furr & Company LLP is splitting and the partners are going separate directions. Bobby Furr has been doing the Board's audits for at least ten years and she has formed a new company with a partner from Boyce Furr to create Furr & Newell LLP. Furr & Newell have made an offer to finish the third year of the existing audit contract for \$500 less than the original contract price for the year 2011. Mr. Ritter received a letter from Boyce saying the Board is free to go with Furr & Newell. The recommendation from Messrs. Stewart and Ritter is to sign the one year contract with Furr & Newell and put the contract out for bids next year. Dr. Ratcliff made a motion to approve. Mr. Thompson seconded the motion. The Board voted and the motion passed unanimously.
- Mr. Ritter presented an email received from PENC requesting the Board consider entering a joint partnership with PENC for a standard half or full day ethics course with board updates for all PEs not just PENC members. PENC would host and charge a fee to cover the cost of the facility, meals and administrative time spent. Mr. Ritter added he believed the program would include inviting surveyors. The Board's part would be staff time. Board members agreed this meets the new guideline and to move forward with plans.
- The Charlotte Certificate Ceremony is January 23, 2012 at UNC Charlotte.
- The Raleigh Certificate Ceremony is February 2, 2012 at the NCSU State Club.

11. Informational Items - Executive Director

- Mr. Ritter presented a thank you letter received from CH2MHill to Mark Mazanek and to the Board for the services this Board gives.
- Ms. Thurman wrote a thank you letter to David Evans for his presentation on Ethics. Ms. Thurman stated his presentation by far received the highest ranking of several previous speakers on ethics.

Chair Haynes made a motion to go into closed session for personnel reasons. Mr. Thompson seconded the motion. The Board voted unanimously to go into closed session. The meeting went into closed session at 2:25 p.m. to discuss a personnel matter. The Board adjourned the meeting at 3:05 p.m. The Board is next scheduled to meet on Wednesday, February 15, 2012.

Respectfully submitted,


Elizabeth W. Riley
Public Member
Secretary

Approved by the Board in Session

Date February 15, 2012