

**OPEN MINUTES**  
**Professional Engineering Division of the**  
**Missouri Board for Architects, Professional Engineers,**  
**Professional Land Surveyors and Landscape Architects**

**November 2, 2009**  
**Heidelberg Meeting Room**  
**Chateau on the Lake Convention Center**  
**415 North State Highway 265**  
**Branson, Missouri**

The Professional Engineering Division of the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects was called to order by Mr. Royce Fugate at 8:00 a.m. on Monday, November 2, 2009. A quorum being present, Mr. Fugate declared the meeting open for business.

**Members Present**

Royce Fugate, Chair of the Division  
Promod Kumar, Member of the Division  
Kevin Skibiski, Member of the Division

**Others Present**

Judy Kempker, Executive Director  
Sandra Robinson, Executive Assistant  
Curt Thompson, Board's General Counsel

To better track the order in which items were taken up on the agenda, each item in the minutes will be listed in the order it was discussed in the meeting.

**Approval of Minutes**

On motion of Mr. Kumar and seconded by Mr. Skibiski the minutes for the August 3, 2009 open meeting were approved as submitted.

**Report from NCEES Annual Meeting**

Mr. Skibiski reported to the Division Members that he attended the NCEES Annual Meeting. He advised that the following items were discussed: change to the NCEES logo; licensing of faculty engineers; computer based programs; further discussion on B plus 30; crane accidents; Structural Engineer exam change to be in effect April 2011; developing software & bioengineering exams.

### **Review and discuss Nominations for NCEES National Awards**

The Members of the Professional Engineering Division discussed nominations for NCEES National Awards. Upon discussion, the Division Members decided not to make any nomination for NCEES National Awards at this time.

### **Review excerpt from the 2009 NCEES Engineering Award Book in which Board Member Promod Kumar presented a \$7500 check to the University of Missouri-Kansas City Department of Civil and Mechanical Engineering. (This item is presented for informational purposes only.)**

Mr. Kumar asked that Ms. Kempker include this info in the Board's newsletter. Ms. Debbie O'Donnell, Chair of the program at University of Missouri-Kansas City, wrote an article and had photos available as well. The Professional Engineering Division Members directed Ms. Kempker to contact Ms. O'Donnell and ask if the Board can use portions of Ms. O'Donnell's article, or possibly the entire article, depending on the amount of space available in the Board's newsletter.

### **Since Missouri will not be offering the new 16 hour Structural Exam, will it license those applying by comity who have passed the exam or will it require passage of one of the other exam disciplines?**

The Members of the Professional Engineering Division discussed that since Missouri will not be offering the new 16 hour NCEES Structural Exam, will the Missouri Board license those applying by comity who have passed that specific exam or will it require passage of one of the other NCEES exam disciplines. Upon discussion, Mr. Skibiski made a motion that effective with the April 2011 exam administration, if a comity application is submitted and the individual has taken and passed the 16 hour NCEES Structural Engineering exam in another jurisdiction, then the individual would be eligible to be licensed in Missouri as a Professional Engineer. The motion was seconded by Mr. Kumar and unanimously carried.

### **Does HB 103 conflict with Board Rule 20 CSR 2030-2.040 or Board Rule 20 CSR 2030-21.010**

The Division Members discussed whether House Bill 103 conflicts with Board Rule 20 CSR 2030-2.040 or Board Rule 20 CSR 2030-21.010 – Design of Fire Suppression Systems. Upon discussion, Mr. Kumar made a motion to recommend to the full Board that Ms. Kempker be directed to respond to Ms. Helen DiFate advising that the Board is of the opinion that the provisions of HB 103 do not conflict with either Chapter 327 or Board Rule 20 CSR 2030-2.040. The provision of the Board Rule currently refers to Section 106 of the

2006 International Building Code. Ms. Kempker is to also point out that the General Assembly has decided that an owner of a single family residence or multi-unit dwellings of four units or less can decline to install a fire sprinkler system. It is the Board's opinion that any zoning authority that would not allow an owner of such a dwelling to decline the installation of a sprinkler system would be in violation of HB 103. The motion was seconded by Mr. Skibiski and unanimously carried.

Please note that Mr. Thompson departed the meeting at approximately 9:03 a.m.

Please note that Ms. Kempker departed the meeting at approximately 9:15 a.m.

### **Motion to Close**

At approximately 9:06 a. m., Mr. Fugate then called for a motion to close the meeting to the general public for the purpose of discussing confidential or privileged communications between this agency and its attorney as well as to discuss pending litigation and complaint matters. Mr. Skibiski made a motion that the meeting be closed to the general public pursuant to Chapter 610.021 subsection (14) and 324.001.8 and 324.001.9, RSMo for the purpose of discussing investigative reports, complaints, audits and/or other information pertaining to licensees or applicants; Chapter 610.021 subsection (1) RSMo for the purpose of discussing general legal action, causes of action or litigation and any confidential or privileged communication between this agency and its attorney, and for the purpose of reviewing and approving closed meeting minutes of one or more previous meetings under Chapter 610.021 RSMo which authorizes this agency to go into closed session during those meetings. The motion was seconded by Mr. Kumar. A roll call vote was taken and unanimously carried. Mr. Fugate asked that all visitors leave the room. There being no visitors present, Mr. Fugate declared the meeting closed to the general public.

### **Reconvene in Open Session**

At approximately 11:00 a.m., the Professional Engineering Division Members reconvened in Open Session for the purpose of meeting with Mr. Richard C. Purcell, E-24726.

Please note that Mr. Thompson joined the meeting at approximately 10:40 a.m.

Please note that Ms. Kempker joined the meeting at approximately 11:00 a.m.

### **Personal Appearance**

At approximately 11 a.m. Mr. Richard C. Purcell, E-24726, State Conservation Engineer, joined the meeting at his request, for the purpose of discussing the function of the Natural

Resources Conservation Service (NRCS) and if its procedures are in compliance with Missouri's statutes and rules related to engineering. The Division Members pointed out the changes to the Board's rule on Title Block to Mr. Purcell as well as a Professional Engineer needs to sign, seal and date underneath the seal. Mr. Skibiski asked Mr. Purcell if he would be willing to serve on an ad hoc committee with MSPE to discuss/research the issues he presented more thoroughly. Mr. Purcell stated that he would be willing to serve on an ad hoc committee with MSPE. The Members of the Division then thanked Mr. Purcell for meeting with the Division and departed at approximately 11:50 a.m. After Mr. Purcell departed the meeting, the Members of the Professional Engineering Division discussed the conversation between the Division and Mr. Purcell. Upon discussion, Mr. Skibiski made a motion to recommend to the full Board, that Mr. Thompson send a letter to Mr. Purcell thanking him for voluntarily meeting with the Professional Engineering Division Members. Mr. Thompson is to advise Mr. Purcell that even though most of the services the NRCS provides do not fall within the definition of the practice of professional engineering. However, to the extent that those services do rise to the level of professional engineering, they must be completed under the direct personal supervision of a professional engineer. Moreover, within that category of services, some of those require the preparation of plans. The Board believes that such plans must be sealed by a licensee. Another matter discussed with Mr. Purcell was the titles of employees of the NRCS. It is the Board's position that anyone who uses a title in the state of Missouri that includes the word "engineer" that implies that such person can perform engineering services must be licensed by this Board as a professional engineer. That position is supported by the provisions of Section 327.181 as well as Missouri case law. Other entities, both governmental and private, have changed their titles to bring such titles into compliance with the provisions of Chapter 327, or, at a minimum, not used such titles in communications with the public. The Board is to ask that Mr. Purcell consider bringing NRCS into compliance in this regard. Mr. Thompson is to ask Mr. Purcell for a response so that the Board may discuss the matter further at its January 2010 meeting. The motion was seconded by Mr. Kumar and unanimously carried.

### **Return to Closed session**

At approximately 12:00 noon, Mr. Fugate called for a motion to go back into closed session for the purpose of discussing confidential or privileged communications between this agency and its attorney as well as to discuss pending litigation and complaint matters. Mr. Skibiski made a motion that the meeting be closed to the general public pursuant to Chapter 610.021 subsection (14) and 324.001.8 and 324.001.9, RSMo for the purpose of discussing investigative reports, complaints, audits and/or other information pertaining to licensees or applicants; Chapter 610.021 subsection (1) RSMo for the purpose of discussing general legal action, causes of action or litigation and any confidential or privileged communication between this agency and its attorney, and for the purpose of reviewing and approving closed meeting minutes of one or more previous meetings under Chapter 610.021 RSMo which authorizes this agency to go into closed session during those meetings. The motion was seconded by Mr. Kumar. A roll call vote was taken and

unanimously carried. Mr. Fugate asked that all visitors leave the room. There being no visitors present, Mr. Fugate declared the meeting closed to the general public.

**Reconvene in Open Session**

At 4:27 p.m., the Professional Engineering Division Members reconvened in Open Session for the purpose of adjourning.

**Adjournment**

There being no further business, on motion of Mr. Skibiski seconded by Mr. Kumar and unanimously carried, the meeting adjourned at 4:27 p.m.

ATTEST:

\_\_\_\_\_  
Executive Director

Date Approved: \_\_\_\_\_