

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

Salon B Meeting Room
Holiday Inn Southwest & Viking Conference Center
10709 Watson Road
St. Louis, Missouri
Monday, April 30, 2012

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, April 30, 2012. A quorum being present, Mr. Fugate declared the meeting open for business.

Members Present

Royce Fugate, Chair of the Division
Kevin Skibiski, Member of the Division
Abiodun "Abe" Adewale, Member of the Division

Others Present

Judy Kempker, Executive Director
Sandra Robinson, Executive Assistant
Curt Thompson, General Counsel
Kevin Oligschlaeger, Board Investigator
Laurie Koelling, Board Staff

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. Skibiski and seconded by Mr. Adewale, the minutes for the January 30, 2012 Professional Engineering Division Open Meeting and the February 23, 2012 Professional Engineering Division Open Telephone Conference Call were approved as submitted.

Discuss email from Martin Kator, Environmental Specialist IV with the Missouri Department of Natural Resources, inquiring if the Board prohibits Spill Prevention Control & Countermeasure (SPCC) Plan self-certification

The Division Member discussed the email received from Mr. Martin Kator, Environmental Specialist IV with the Missouri Department of Natural Resources (DNR), inquiring if the Board prohibits Spill Prevention Control and Countermeasure (SPCC) Plan self-certification. Upon review and discussion, Mr. Adewale made a motion directing Ms. Kempker to respond to Mr. Kator advising that at their April 30, 2012 meeting, the Members of the Professional Engineering Division revisited his email inquiry regarding Self-Certifying Tier I SPCC Plans. Upon discussion, the Members of the Division decided to stand by their original response (Which was sent to Mr. Kator on March 13th) that the preparation and self-certification of SPCC Plans are engineering responsibilities. Therefore, pursuant to Section 327.181 of the law, the members determined that SPCC Plans are required to be prepared by licensed Professional Engineers. The motion was seconded by Mr. Skibiski and unanimously carried.

It should be noted that Mr. Oligschlaeger departed the meeting at 8:10 a.m.

Discuss Signing up for the FE Exam Directly Through NCEES

At approximately 8:15 a.m., Ms. Jan Gilliam joined the meeting via conference call, to discuss with the Professional Engineering Division Members the computer based testing with NCEES as well as the signing up for the FE Exam directly through NCEES and the impact it would have on the Board. Ms. Kempker explained that a number of states have recently been discussing on the ListServe that once the FE exam is computer based whether or not they will have NCEES do the approval of the FE exam applicants or continue that approval at the Board level. Ms. Kempker said it appeared from the online discussion that once the switch is made to Computer Based Testing (CBT) that a number of states plan to turn their FE application approval process over to NCEES. In fact, it is Ms. Kempker's understanding that this might be a lively topic of discussion at the Annual Meeting. Therefore, so that the members of the Division will be brought up to speed on the topic, Ms. Kempker had directed Ms. Gilliam to contact Pam Powell and/or Cindy Flowers with NCEES to get more information on the process so that we could weigh the pros and cons. Ms. Gilliam then advised the members that she had discussed this matter with Ms. Pam Powell, Director of Exam Administration Services for NCEES. Ms. Powell explained that NCEES currently has a pre-approval program whereby the applicant completes a one page application form attesting that (a) they hold an ABET accredited degree, which could be a technology degree; (b) hold senior status; or, (c) have a favorable evaluation from NCEES. Some states require that a transcript be submitted along with the application for verification of status purposes. NCEES charges the examinee a \$30 fee for the pre-approval process. NCEES is currently working on a standardized application for use in the pre-approval process. Ms. Powell had also reported to Ms. Gilliam that boards are expressing interest in a "paperless" application completed through the current Examinee

Management System (EMS). In this case, the applicant would register for the examination as they currently do, take the examination and then the Board checks the examinee's qualifications and collects the filing/enrollment fee before enrolling them as an engineer intern. There is no cost to the applicant if this procedure is utilized; however, it appears that verification of eligibility prior to taking the examination is limited and more or less depends on the honesty of the applicant when completing the application. Qualifications are checked by the Board at the time of enrollment as an engineer intern which is after the applicant has already taken and passed the exam. Ms. Kempker stated that this procedure causes her and Ms. Gilliam great concern in the fact an individual with a technology degree could take and pass the exam and then apply to the Missouri Board for enrollment. When the Missouri Board then advises the applicant that Missouri does not accept technology degrees, Ms. Kempker fears that applicant will be more determined to fight the Board on the denial since he/she has already passed the exam than what he/she would have been had he/she never even had the chance to take it. Ms. Kempker suggested NCEES consider processing only the applications for exam approval for those applicants who would be classified as Model Law applicants which would be anyone who has an ABET accredited degree in engineering or who can provide proof of holding Senior Status in an ABET accredited university in pursuit of a degree in engineering. The Division Members felt this information will be very helpful when participating in discussion at the upcoming Annual Meeting and thanked both Ms. Kempker and Ms. Gilliam for the information. Ms. Gilliam disconnected from the call at approximately 8:32 a.m.

Please note that Ms. Koelling departed the meeting at 8:37 a.m.

Discuss MSPE's Draft Position Statement Regarding Expert Technical Testimony

The Members of the Professional Engineering Division discussed the email from Ben Ross, P.E., 2011-2012 Past Presidents Committee Chair, where he discusses MSPE's draft position statement regarding expert technical testimony. The Members of the Division stated that until the Board changes the definition of engineering in Section 327.181, the Board cannot assess civil penalties on unlicensed individuals for testifying at a court hearing. The Courts would most likely override the Board's decision. Upon discussion, Mr. Skibiski volunteered to send an email response to Mr. Ross advising that the Board did discuss adding "expert technical testimony", as well as other important edits to the definition of Professional Engineering and the other licensed professions. The Board is still editing other areas in Chapter 327, and the Board's position was to hold the proposed edits until the final document was ready for release. Mr. Skibiski is to assure Mr. Ross that the final document will be one that strengthens the Board's ability to function, and clarifies areas of past confusion. Mr. Skibiski further is to advise Mr. Ross that the Board is hopeful to have the document ready for release after the Board's August 7, 2012 meeting. The motion was seconded by Mr. Adewale and unanimously carried.

Discuss HB 1904 and its direct conflict with Board Rule 20 CSR 2030-21.010 – Design of Fire Suppression Systems

The Members of the Professional Engineering Division Discussed House Bill 1904 and its direct conflict with Board Rule 20 CSR 2030-21.010 – Design of Fire Suppression Systems. Mr. Skibiski reported that MSPE is against HB 1904 and their lobbyist has testified against it. However, should HB 1904 pass, the law will then override Board Rule 20 CSR 2030-21.010 and the Board would need to amend its rule to allow the design of fire suppression systems to be done by NICET Level IV and III technicians in addition to professional engineers.

Discuss email from Evor F. Johns, P.E., wherein he asks if his company is required to have a corporate certificate of authority in the State of Missouri. His company manufactures housing of both HUD and Modular style, commercial modular structures or motorized RVs

The Division Members discussed an email received from Mr. Evor F. Johns, P.E., wherein he asks if his company is required to have a corporate certificate of authority in the State of Missouri. His company manufactures housing of both HUD and Modular style, commercial modular structures or motorized recreational vehicles. Upon discussion, Mr. Skibiski made a motion directing Ms. Kempker to send an email response to Mr. Johns advising that the Members of the Professional Engineering Division discussed the information provided by him and are of the opinion from the information provided, that his company would indeed be required to apply for and obtain from this Board, an engineering corporate certificate of authority. The motion was seconded by Mr. Adewale and unanimously carried.

Motion to Close

At approximately 8:54 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. Adewale. A roll call vote was taken and the motion unanimously carried. Mr. Fugate asked that all visitors leave the room. There being none, Mr. Fugate then declared the meeting closed to the general public.

Reconvene in Open Session

At 2:15 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. Adewale seconded by Mr. Skibiski and unanimously carried, the meeting adjourned at 2:15 p.m.

ATTEST:

Executive Director

Date Approved: _____