

Board of Professional Engineering
Secretary of State, Office of Professional Regulation
National Life Building, North, Floor 2, Montpelier, VT 05620-3402
Approved Minutes
Meeting of June 4, 2009

1. The meeting was called to order at 8:36 A.M.

Members present: Robert Kischko, P.E., Vice-Chair; William Atkinson, P.E., Secretary; Katherine Hill, P.E.; and Bonnie Giuliani, Public Member. Absent: Chairman, Michael H. Quaid, P.E.

OPR Personnel present: Kevin F. Leahy, Board Counsel; BetsyAnn Wrask, State Prosecuting Attorney; Carla Preston, Unit Administrator, and Kara Shangraw, Administrative Assistant.

2. The Chair called for approval of the Minutes of the May 14th meeting. Ms. Hill made a motion to approve the Minutes of the May 14, 2009 meeting as presented. The question was called and the motion passed unanimously.

3. Reports

The Board invited Robert Howe with the Department of Public Safety, Division of Fire Safety to discuss the upcoming changes in the structural examinations and how that change will impact engineers obtaining the structural discipline in Vermont. Mr. Howe is a Fire Marshall thus knowledgeable of building codes, structural issues, and fire safety.

The Board explained that Vermont licenses by discipline and noted that engineers currently licensed in the disciplines of Civil and Structural I or Structural II engineering may design buildings and other structures. Currently there are two routes to licensure for structural engineers, passing an eight-hour examination in the discipline of Structural I engineering or by passing the Civil engineering examination with the structural module of the examination. Over the past few years Vermont has chosen to use the Structural I examination and awarding the Structural I discipline. If a candidate passes the Civil Engineering examination, he or she would be awarded the Civil discipline. The Board has discussed awarding a combination discipline such as Civil/Structural for candidates who take the Civil examination with the structural component provided the Board is made aware of which module the candidate chooses on the examination.

The engineering examinations are prepared by the National Council of Examiners for Engineering and Surveying (NCEES). The NCEES recently changed the format of the structural examination by replacing its two eight-hour examinations (Structural I and II) with one 16 hour examination, which is a much more difficult exam. The reason for the change is to standardize requirements of structural engineers. States on the west coast often required additional state-specific examinations to deal with high seismic activity. The 16 hour examination includes a Vertical Forces component focusing on gravity loads and incidental lateral loads and a Lateral Forces component focusing on wind and earthquake loads. To pass the examination, examinees must pass both the Vertical Forces and the Lateral Forces components. The NCEES will first offer the 16 hour Structural PE examination in April of 2011, thus the October 2010 Administration will be the last time the eight-hour Structural I examination would be offered. The only structural examination available after October of 2010 will be the 16 hour examination. The experience requirement has not been increased but candidates with only four years of experience may not be ready to pass the new examination.

In addition, applicants from other states applying to Vermont who passed the Civil Engineering examination and whose experience is in structures are awarded a Structural I discipline. The Board is trying to figure out how best to handle these changes.

The Board wanted to make Mr. Howe aware of these changes and gather his input on the matter. Changes could include raising the bar for persons designing a certain size building or changing the requirements regarding who the State (Board and/or Public Safety) allows to design and seal such plans. The Board asked Mr. Howe to help determine if changes should be made to the requirements for engineers permitted to design certain structures.

Mr. Howe said they look to the Board for that information. They require that the design of sprinkler systems be performed by someone who possesses National Institute for Certification in Engineering Technologies (NICET) certification or a professional engineer licensed in the discipline of Mechanical Engineering. He said if something unusual were submitted they would look for a Structural Engineer to seal the plans. He said they see some pre-engineered design as well. He said in situations involving a problem identified as failure or collapse, or a retrofit after a fire, they would look for a Structural Engineer to seal the plans. As an example, submittal for approval of a 12,000 square foot pre-engineered industrial building would require either a Civil or Structural Engineer's seal. He said the Board had previously approved Civil Engineers to design those types of buildings.

In the example of an old mill building that would be complicated to retrofit to modern structural compliance a structural engineer would be needed. The Building Code is a good way to further define acceptable submittals when high seismic building requirements regarding soils, etc. are involved. In those situations someone with a structural engineering background is needed.

The Board acknowledged that it is difficult for people to understand the differences between the structural and civil specialties because they are not defined and overlap in several areas.

Mr. Howe suggested a transitional requirement until people are passing the 16-hour Structural PE examination. He said they would be willing to put that requirement on their designs when the Board defines it or has a position on the matter. They are much less comfortable with a Civil Engineer designing a building. Ms. Hill noted that the Vermont Agency of Transportation is encouraging their own Structural engineers to pursue civil licensures because of the overlap (roads, bridges, etc.).

The Board indicated that it may have to go back through legislature to amend the requirements. The Board is leaning toward still awarding the Structural I discipline for people who qualify for it up to a certain date. After a certain date forward engineers would need to sit for the 16-hour Structural PE examination to receive a Structural discipline.

Mr. Howe said they would follow the legislature, Board Policy or rule change and include it in the annex of their rules without making any of their own changes. He said they could include the information on their Web site and add it to certain tables used such as firewalls and higher standards for certain types or size buildings. He said they have a lot of information on their web site, building code, life safety code, etc.

The Board wanted to make Bob Howe aware of this change and thanked him for taking the time to discuss the matter with the Board. All states involved will be impacted.

Ms. Hill will ask members of the Structural Engineers Association for input on the issue and how best to handle it.

Ms. Preston will contact the NCEES to determine if it is possible to report to the Board which afternoon module a candidate took on the Civil Engineering examination.

4. Hearings/Stipulations and Consent Orders

- a. At 9:15 AM – The Board considered a *Stipulation and Consent Order* in the matter of 2008-493 (PE08-1208), **Verle G. Duvall, Jr., P.E.** The Respondent was not present. Kevin F. Leahy presided for the Board. BetsyAnn Wrask was present for the State. Mr. Kischko made a motion, seconded by Ms. Guilliani, to adopt the Stipulation and Consent Order as presented. The question was called and the motion passed unanimously.
- b. At 9:30 AM - The Board considered a *Stipulation and Consent Order* in the matter of 2008-492 (PE07-1208), **James A. Clancy, P.E.** The Respondent was not present. Kevin F. Leahy presided for the Board. BetsyAnn Wrask was present for the State. Mr. Kischko made a motion to adopt the Stipulation and Consent Order as presented. The question was called and the motion passed. Mr. Atkinson abstained.

5. Statute/Rulemaking

The Board reviewed the statute concerning requirements to sit for the Fundamentals of Engineering exam. The statute and application will be compared to ensure that the requirements agree and are correct.

6. Complaints/Follow-up cases

2008-313 (PE04-0908) – The Board reviewed the Report of Concluded Investigation. Mr. Atkinson made a motion, seconded by Ms. Guilliani, to accept the Investigative Team's recommendation and conclude this case without charges. The question was called and the motion passed. Ms. Hill, Investigating Member, did not participate in the vote.

7. National Council of Examiners for Engineering and Surveying (NCEES) Correspondence

- a. The Board reviewed and noted the April 6, 2009 letter from the NCEES regarding the annual meeting scheduled for August 12-15 in Louisville, KY. Mr. Kischko is the funded delegate.
- b. The Board reviewed the May 29, 2009 e-mail from David Scott with the NCEES regarding a survey for environmental engineers. The Board discussed how best to distribute the information. The information will be added to the Board's Web site and included on the postcard regarding the structural engineering changes to be sent out soon.
- c. The Board reviewed and noted the miscellaneous correspondence from the NCEES.

8. Miscellaneous Correspondence

- a. The Board reviewed the May 19, 2009 letter from H.D. Campbell regarding reinstating his license which expired in 1998. Mr. Campbell will be forwarded the reinstatement application.
- b. The Board reviewed and discussed the draft Notice (via postcard) regarding the change to the 16-hour structural examination. The Notice will be sent to all licensees who may be supervisors so they may advise their employees and/or students of the changes in the structural examination. The Notice will also be sent to all candidates who have been approved to sit for the Structural I exam but have not yet taken it or passed the examination.

8. Miscellaneous Correspondence - continued

- c. Wall Certificates for persons approved for licensure at the last meeting were signed.

9. Other Business Introduced by the Board

- A. The Board discussed cases concerning actions in other states and how to handle those matters. The Board reviewed one case that was closed and two with discipline and all pertained to disciplinary actions taken in other states. The Board discussed the differences among the cases to ensure that it is being consistent and not setting a precedent.

Attorney Leahy explained the process and differences as to closing reports and cases to be prosecuted. He said in closing reports the prosecutor has the discretion to not prosecute. A summary report is prepared for board consideration to ensure that the prosecutor has made the right decision. The Board has the ability to either accept or reject the Investigative Team's recommendation to conclude the case without charges. The final disposition of a particular case is based on the facts regarding the case.

Attorney Leahy said that in the other two cases discussed today, the other states held no hearing, found no unprofessional conduct, but imposed an administrative fine. He said Vermont might find unprofessional conduct when the other states did not. He said other boards have rejected that issue. A warning is considered unprofessional conduct. The Board may issue an administrative penalty with a finding of no unprofessional conduct.

The topic will be added to the August Agenda for further discussion with the full Board present. Attorneys Kevin Leahy and Gregg Meyer will be invited to attend the meeting for this discussion.

- B. The Board authorized staff to review and approve Engineer Intern applications from candidates applying to sit for the FE who are attending the University of Vermont or Norwich University. Any unusual situations and candidates applying from other schools will be sent to the Board for full review.

10. The Board approved the following applicants for licensure on the basis of endorsement from another state and/or their National Council of Examiners for Engineering and Surveying's Record indicating "Model Law Engineer." Changes in the discipline/specialty awarded were based on the applicant's recent reported experience in the discipline sought.

Benefiel, John L. (Electrical)	Brennan, Christopher E. (Structural I)
Foster, Edward J. (Structural I, not Civil)	Mehta, Ravindra V. (Civil)
Montgomery, Kenneth W. (Electrical)	Muse Jr., Tommy C. (Civil)
Reep, Jeffrey B. (Structural II)	Roy, Ryan R. (Civil)
Ruchala, Kurt A. (Fire Protection)	Westemeier, Michael A. (Mechanical)

Kause, John M. (CS, EE, ME) – The Board reviewed Mr. Kause's application but was unable to approve it as submitted. He answered no to question number three regarding disciplinary action(s) in other jurisdictions but provided documentation indicating that discipline had been taken in another jurisdiction. The Board will only approve one discipline unless the applicant has demonstrated successful completion of the examinations in all three disciplines requested. Mr. Kause must clarify these discrepancies.

11. The Board reviewed and approved the following applicants to sit for the Principals and Practice examination in the discipline indicated based on their completed applications.

Sargent, Liza, P (Civil) Webster, Craig, H (Electrical)

Debnath, Jagabandhu (Civil) – The Board reviewed Mr. Debnath's application to sit for the P&P examination but was unable to approve it as submitted. Mr. Debnath's education from Bangladesh and Korea was not evaluated by the Center for Professional Engineering Education Services but by an organization not acceptable to the Board. He does not have 12 years of active engineering experience on which to consider waiving the educational requirement. Mr. Debnath must have his foreign education evaluated by the NCEES.

12. The Board reviewed and approved the following applicants to sit for the Fundamentals of Engineering examination.

Frangis, Nicholas, W Heath, Benjamin, D

13. The next meeting is scheduled for **Thursday, August 6, 2009** at 8:30 AM.

Additional meetings in 2009 are scheduled as follows: September 3rd; October 1st; November 5th; and December 3, 2009

14. There being no further business, the meeting was adjourned at 11:43 P.M.

Respectfully submitted,

Carla Preston, Unit Administrator
Office of Professional Regulation