MINUTES OF THE REGULAR MEETING
LOUISIANA PROFESSIONAL ENGINEERING AND LAND SURVEYING BOARD
9643 BROOKLINE AVENUE, SUITE 121
BATON ROUGE, LOUISIANA 70809-1433

May 16, 2011

At 8:01 a.m. on May 16, 2011, Ali M. Mustapha, P.E., called the meeting to order at 9643 Brookline Avenue, Baton Rouge, Louisiana, with the following members present:

Ali M. Mustapha, P.E.                        Chairman
Richard L. Savoie, P.E.                     Treasurer
Norma Jean Mattei, Ph.D., P.E.             Secretary
Miles B. Williams, P.E.
Timothy J. Allen, P.L.S.
M. Ernest Gammon, P.L.S.
Theodore H. Thompson, P.E.
Kevin E. Crosby, P.E., P.L.S.
John W. "Billy" Moore, P.E.

Also present:         Donna D. Sentell, Executive Director
                     Victoria R. Hatton, Director of Enforcement
                     Joe Harman, P.E., Enforcement Consultant
                     D. Scott Landry, Board Attorney
                     Justin Owens, Board Investigator
                     Tyson Ducote, Board Investigator

Not present:          Roger D. Danzy, P.E.
                     James B. Bowie, Ph.D., P.E.

The invocation was led by Mr. Moore and the pledge by Mr. Thompson.

Public comment time was recognized by Chairman Mustapha.

The Board unanimously approved the motion made by Mr. Williams, seconded by Dr. Mattei, to accept the May 16-17, 2011 proposed Call and Agenda.

The Board unanimously approved the motion made by Mr. Williams, seconded by Mr. Thompson, to approve the Minutes from the March 21, 2011 Board meeting.

The Board unanimously approved the motion made by Mr. Savoie, seconded by Mr. Williams, to schedule the Board’s next regular meeting for July 25-26, 2011.

The Board’s March Task List was reviewed.

Mr. Allen and Mr. Crosby exited the meeting at 9:15 a.m.

Enforcement

Ms. Hatton presented the enforcement report.

Case # 2010-110 - Ms. Hatton reported on a professional land surveyor who practiced and/or offered to practice land surveying in Louisiana with an expired license and who aided or assisted his licensed firm in practicing and/or offering to practice land surveying in Louisiana with an expired license. The respondent has signed and returned the proposed Consent Order offered by the Complaint Review Committee. After discussion, the Board unanimously approved the motion made by Mr. Thompson, seconded by Mr. Williams, to approve the signed Consent Order.
Case # 2010-111 - Ms. Hatton reported on a licensed land surveying firm which practiced and/or offered to practice land surveying in Louisiana with an expired license and without a supervising professional whose license was in an active status. The respondent has signed and returned the proposed Consent Order offered by the Complaint Review Committee. After discussion, the Board unanimously approved the motion made by Mr. Thompson, seconded by Dr. Mattei, to approve the signed Consent Order.

Case # 2008-148 and Case # 2009-61 - Ms. Hatton reported on a professional engineer and his licensed engineering firm who have failed to fully comply with their signed Consent Orders previously approved by the Board. Despite all efforts to communicate with respondents, staff has been unable to reach either respondent. Both respondents have expired licenses, and it does not appear that either of them will continue practicing or offering to practice engineering in Louisiana. The Complaint Review Committee has recommended closing both cases and placing a warning on each respondent’s credential in case any attempts to reinstate are made. After discussion, the Board unanimously approved the motion made by Mr. Williams, seconded by Mr. Thompson, to approve closing the cases and placing a warning on both credentials.

Case # 2010-3 - Ms. Hatton reported on a professional engineer who was disciplined in other states and who made a material misstatement on his Louisiana licensure renewal. In response to the proposed Consent Order offered by the Complaint Review Committee, the respondent submitted a petition to voluntarily surrender his license in lieu of disciplinary action. After discussion, the Board denied the motion made by Dr. Mattei and seconded by Mr. Savoie, with Mr. Williams, Dr. Mattei and Mr. Moore for and Mr. Crosby, Mr. Allen, Mr. Gammon, Mr. Savoie and Mr. Thompson against, to grant the respondent’s petition.

Mr. Allen and Mr. Crosby returned to the meeting at 9:23 a.m.

Case # 2010-3 - Ms. Hatton reported on a professional engineer who was disciplined in other states and who made a material misstatement on his Louisiana licensure renewal. In response to the proposed Consent Order offered by the Complaint Review Committee, the respondent submitted a petition to voluntarily surrender his license in lieu of disciplinary action. After discussion, the Board denied the motion made by Dr. Mattei and seconded by Mr. Savoie, with Mr. Williams, Dr. Mattei and Mr. Moore for and Mr. Crosby, Mr. Allen, Mr. Gammon, Mr. Savoie and Mr. Thompson against, to grant the respondent’s petition.

The Board recessed at 9:45 a.m. and resumed at 9:55 a.m.

Committee Reports

Land Surveying Committee

Mr. Gammon reported on the comments received by the Board in response to the Notice of Intent published in the March 2011 issue of the Louisiana Register. All of the comments related to the proposed revisions to the Standards of Practice for Boundary Surveys. The Land Surveying Committee has reviewed all of the comments, has prepared proposed responses thereto and has prepared proposed changes to certain of the proposed rule revisions as published in the Notice of Intent.

The Board unanimously approved the motion made by the Land Surveying Committee to adopt the following responses to the comments received and to send a copy of these responses to everyone who sent comments:

LAPELS Response to Comments Received Regarding Proposed Revisions to Standards of Practice for Boundary Surveys

1. Two respondents asked that we table all of the proposed rule revisions until further review and study could be performed by the Louisiana Society of Professional Surveyors (LSPS). LSPS has advised us that they are comfortable with the proposed revisions, and it is our opinion that the topics have been carefully evaluated. We see no reason to delay the proposed revisions.
2. Two respondents mentioned that we may wish to consider including an option for preparing individual plats as well as composite plats for route surveys (Section 2909). This suggestion will be incorporated into the final rule.

3. Several respondents suggested that we clarify the intent of the language which deals with title research for route surveys (Section 2909) and mineral unitization surveys (Section 2911). This suggestion will be addressed in the final rule by adding verbiage clarifying that the professional land surveyor will be required to obtain sufficient title information for all affected tracts and by removing any implied duty to find title information that is not readily available.

4. One respondent suggested that we add or revise verbiage to address the issue of allowing professional land surveyors to exercise professional judgment when site conditions preclude adherence to the Standards of Practice. Since this topic is already covered elsewhere in the Standards of Practice, we see no reason to add or revise any language regarding this topic.

5. One respondent suggested that we incorporate provisions for measuring subsidence at industrial facilities. This topic is outside the scope of the Standards of Practice, and we see no reason to add these provisions at this time.

6. Three respondents suggested that we add a requirement that servitude routes and mineral unit boundaries be monumented. This topic has been studied for several years by LSPS and by LAPELS. It is our opinion that we do not need such a requirement at this time.

7. One respondent expressed concern about a specific technical term ("survey ties") contained in Section 2909. The sentence containing this term will be deleted in the final rule.

8. The LSPS Standards Committee suggested several minor revisions that better explain some of the specific requirements throughout Sections 2909 and 2911. Virtually all of these recommendations will be incorporated into the final rule.

9. One respondent requested that we address the issue of placing identification caps on survey monuments. This issue has been studied previously by LSPS, who determined that such a requirement is not needed. We see no reason to add this topic to the Standards of Practice at this time.

The Board unanimously approved the motion made by the Land Surveying Committee to make the following changes to the proposed revisions to Rules 2901, 2909 and 2911 as published the Notice of Intent:

§2901. Scope and Purpose

A. The following standards of practice for boundary surveying in the state of Louisiana have been adopted to help ensure that boundary surveys are performed in accordance with acceptable procedures.

B. The purpose of these standards is to safeguard life, health and property, and to promote the public welfare, by establishing technical standards of practice for every boundary survey performed in the state of Louisiana so that professional performance can be evaluated for but not limited to research, field work, monuments, descriptions, plats and maps. If higher standards are required by clients, or by local, state and federal jurisdictions, then those standards shall govern. When a boundary survey involves certain corners or lines that are covered
under the appropriate edition of the Manual of Instructions for the Survey of the Public Lands of the United States, then the Manual's rules or instructions for these particular surveys shall apply. Every professional land surveyor performing a boundary survey in the state of Louisiana is required to follow these standards.

C. A boundary survey in this state shall only be performed by a professional land surveyor, licensed pursuant to the laws of this state, or persons under his/her responsible charge. The professional land surveyor shall at all times comply with the provisions of the licensure law and the rules of the board.

D. It is intended that these standards be recognized as standards of practice and that they not be relied upon by the professional land surveyor as a substitute for the exercise of proper individual skill, professional discretion, and professional judgment in fulfilling the legal and/or contractual requirements of any boundary survey. This also does not absolve the professional land surveyor from his/her obligation to use due diligence in the practice of land surveying and from complying with all applicable laws and rules pertaining to the practice of land surveying.

E. When in the professional land surveyor's opinion, special conditions exist that effectively prevent the boundary survey from meeting these standards of practice, the special conditions and any necessary deviation from these standards shall be noted upon the drawing. It shall be a violation of this Chapter to use special conditions to circumvent the intent and purpose of these standards of practice.

§2909. Route Survey

A. Definition.

Route Survey— a survey performed to locate property boundary lines for the purpose of enabling the owner for determining the route of a proposed pipeline, power line, cable, road, or other linear facilities in order to acquire a right-of-way, servitude or easement from the property owner being crossed.

B. Scope and Product. A route survey shall, as a minimum, consist of the following elements.

1. The professional land surveyor shall utilize sufficient be furnished, or shall obtain, all title information and research as needed to define the ownership of the affected tracts of land the tract boundaries.

2. The professional land surveyor shall locate sufficient evidence, on the ground, to determine the location of all property boundary lines that will be crossed by the proposed facilities right-of-way, servitude or easement. The professional land surveyor shall locate and make survey ties to at least one corner or monument on each property line that is crossed. Installation of new monuments is not required when defining the limits of the right-of-way, servitude, is not required or easement to be acquired.

3. The professional land surveyor shall prepare a plat(s) or map(s) for each tract of land showing the property lines those tracts being crossed, the locations of corners or monuments that were recovered, showing the alignment of the proposed route and the length of the proposed right-of-way, servitude, or easement across the tract. These plats or maps shall be prepared in compliance with the those requirements for property boundary survey plats or maps that are
specifically contained in §2907.G.1, 2, 6, 7 and 14. Final plats or maps issued to the client shall contain a statement by the professional land surveyor certifying its authenticity (that it represents his/her survey) and stating that the route survey complies with the applicable standards of practice as stipulated in this Chapter. Sufficient information to re-establish the right-of-way, servitude or easement, including any found monuments, must be shown at a suitable scale or in a separate detail on each plat or map.

4. If requested by the client, the professional land surveyor shall prepare a legal description for each tract crossed by the proposed right-of-way, servitude or easement for each tract crossed by the proposed facility. The description shall describe the alignment and length of the proposed right-of-way, servitude or easement and shall comply with the requirements for legal descriptions for property boundary surveys that are specifically contained in §2907.H.6 through 11.

5. The accuracy standards that are required for route surveys shall be based on the property classification of the tracts being crossed, D, as presented in §2913.

§2911. Mineral Unitization Survey

A. Definition.

Mineral Unitization Survey - a survey performed to define subsurface mineral boundaries tracts for the specific purpose of allocating mineral rights within a mineral unit. The survey shall properly identify the geologically significant wells which control the unit boundaries and their relationship to the unit boundaries. This does not absolve the professional surveyor from his/her obligation to use due diligence in the practice of land surveying and from complying with all applicable laws and rules pertaining to the practice of land surveying.

B. Scope & Product. A mineral unitization survey shall, as a minimum, consist of the following elements.

1. The professional land surveyor shall: furnish, or shall obtain, all utilize sufficient title information, as provided by the client, needed to define the ownership of the affected mineral tracts, of land, along-in conjunction with adequate information to define the unit boundary.

2. The professional land surveyor shall determine, on the ground, the location of the unit well and the location of the property-sufficient tract lines of all tracts, or portions of tracts, that will be included in the proposed mineral unit, in order to determine the subsurface mineral tracts located inside the unit boundaries. Geologically significant wells, as identified by the Louisiana Department of Natural Resources, Office of Conservation field order or the client, will be located with respect to the unit boundaries. Installation of new monuments defining the limits of the unit, or of the tracts which comprise the unit, is not required.

3. The professional land surveyor shall prepare a unitization plat or map (Louisiana Department of Natural Resources, Office of Conservation field order unit, voluntary unit or declared unit) showing the ownership mineral participant(s) and limits of the tracts (or portions of tracts) which are included in the proposed mineral unit. These plats or maps shall be prepared in compliance with the those requirements for property boundary plats or maps that are specifically contained in §2907, in addition, the plats, when applicable, will be in compliance with Louisiana Department of Natural Resources, Office of
Conservation requirements governing Unit Plats and Survey Plats (LAC 43:XIX.Chapter 41). G.1, 2, 6, 7 and 14. These plats or maps shall contain bearings and distances around the perimeter of the unit boundary, but are not required to depict or list such calls for the individual tracts which comprise the unit. Final plats or maps issued to the client shall contain a statement by the professional land surveyor certifying its authenticity (that it represents his/her survey) and stating that the mineral unitization survey complies with the applicable standards of practice as stipulated in this Chapter. In addition, the plats or maps, when applicable, shall be in compliance with the Louisiana Department of Natural Resources, Office of Conservation's requirements governing unit plats and survey plats (LAC 43:XIX.Chapter 41).

4. The accuracy standards that are required for mineral unitization surveys shall be based on the property classification of the tracts which are being included in the proposed unit, D, as presented in §2913. However, if the mineral unitization survey is subject to higher accuracy standards than are required by the state of Louisiana or another regulatory agency, then those higher standards will apply.

The Board unanimously approved the motion made by the Land Surveying Committee to amend Section 10 of the Disciplinary and Enforcement Sanction Guidelines for Consent Orders as follows:

10. Violation of Minimum Standards for Property Boundary Surveys - Rules 2901-09

a. If the survey and/or survey plat is found to contain violations that constitute discrepancies evident either gross negligence or gross incompetence, the Complaint Review Committee will extend to the licensee the opportunity to resolve such violations by a Consent Order shall recommend the referral of formal charges.

b. Otherwise, the following guidelines for disciplinary action will be utilized to ensure consistency and fairness. These guidelines are intended to represent, in most cases, the maximum sanctions to be applied. The severity of the sanctions may be reduced if the infraction is deemed to be minor in nature, and could be increased if a particularly egregious violation, or set of violations, is found. In determining whether infraction(s) should be classified as minor or major, the Complaint Review Committee should rely upon the expertise of the PLS member of the Committee.

- FIRST VIOLATION: A letter of concern will be sent to the licensee directing him/her to correct all Minimum Standards violations on the plat. The licensee will also be directed to submit a corrected plat to the Board Committee for review and approval. Once approved, the licensee may be required to provide his/her client a copy of the corrected plat. If the plat was filed in the public records, the licensee may be required to file a copy of the corrected plat in the public records.

- SECOND VIOLATION: The Board Committee will advise the licensee that it is considering preferring charges against him/her for a violation of the minimum standards, but will extend to him/her the opportunity to resolve such violations by a Consent Order. Pursuant to the Consent Order, the licensee will agree to correct his/her plat of
survey as required for a first violation. Depending upon the severity of the second violation, the licensee will also be asked to agree to a reprimand and a fine not to exceed $1,000.

- THIRD VIOLATION: The Board Committee will take action as specified above for a second violation, except that any fine included as part of a Consent Order may not exceed $1,500. In addition, the licensee will be asked to agree to a suspension of 6–12 months. However, the suspension will be stayed based upon payment of the fine and passing the Board's online Louisiana Minimum Standards Exam Quiz and online Louisiana Professionalism and Ethics Exam Quiz within six (6) months of signing the Consent Order.

- FOURTH VIOLATION: The Board Committee will advise the licensee that it is considering preferring charges for the a fourth violation of the minimum standards, but may consider informal resolution by Consent Order upon agreement to the following disciplinary action: 1) fine of $2,500, 2) suspension of license for two (2) years with some or all stayed based upon completion of all disciplinary actions and 3) probation for any stayed suspension period to include but not limited to, the submission of copies of all plats of survey and field notes for surveys accomplished during the probationary period.

- SUBSEQUENT VIOLATIONS: A recommendation will be made that the Board Committee prefer formal changes. No informal resolution will be allowed.

c. If a licensee declines to voluntarily correct minimum standards violations by Consent Order agreement, then a recommendation will be made that the Board Complaint Review Committee prefer formal changes and schedule a formal hearing. Informal settlement may still be allowed prior to the hearing.

d. Applicants for an oral examination shall be advised that the maps and field notes they bring to the examination (as an example of their work under a professional land surveyor) will be reviewed by the application committee for compliance with the Minimum Standards. The applicant will be advised if the work samples are found to be out of compliance, and he/she will be asked to report these issues back to the responsible charge professional for correction. If the committee finds the maps or field notes not in compliance, the above procedures regarding violations may be followed.

e. Violations of Minimum Standards for Property Boundary Surveys may be published by name on the Board’s website, in the Journal and to NCEES (except for first violations which are only addressed with a letter of concern), if the violations are considered to be major infractions that could cause harm to the public, or if they are numerous or repetitive. It is understood that publication by name is one of the more serious sanctions that we may impose, and this should be reserved for violations which warrant such action.

f. Infractions that occurred more than 5 years prior to the infraction which is being reviewed by the Complaint
Review Committee shall not be considered when deciding on the severity of the proposed sanctions.

**Education/Accreditation Committee**

The Board unanimously approved the motion made by Dr. Mattei, seconded by Mr. Crosby, to accept the following updated list of leveling courses for LSU and to notify Dr. Willson of this action:

**CIVIL AND ENVIRONMENTAL LEVELING COURSES**

<table>
<thead>
<tr>
<th>Required Leveling Courses for all CE Concentrations:</th>
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<tbody>
<tr>
<td>MATH 1550 Analytic Geometry and Calculus I</td>
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<tr>
<td>MATH 1552 Analytic Geometry and Calculus II</td>
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<tr>
<td>MATH 2065 Elementary Differential Equations</td>
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<td>CE 2450 Statics</td>
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<td>CE 2200 Fluid Mechanics</td>
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**THE ENVIRONMENTAL ENGINEERING PROGRAM**

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<tr>
<th>Additional Leveling Courses:</th>
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<tbody>
<tr>
<td>EVEG 3110 Water and Wastewater Treatment</td>
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<tr>
<td>EVEG 3200 Water Resources Engineering (old course designation was CE 3200)</td>
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**THE GEOTECHNICAL ENGINEERING PROGRAM**

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<th>Additional Leveling Courses:</th>
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<tbody>
<tr>
<td>MATH 2057 Multidimensional Calculus</td>
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<tr>
<td>CE 3300 Geotechnical Engineering I</td>
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<td>CE 3350 Geotechnical Engineering Laboratory I</td>
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<td>CE 3400 Mechanics of Materials</td>
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**THE STRUCTURES/MECHANICS PROGRAM**

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<tr>
<td>MATH 2057 Multidimensional Calculus</td>
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<td>CE 3400 Mechanics of Materials</td>
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<tr>
<td>CE 3415 Structural Analysis I</td>
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<td>CE 4410 Principles of Reinforced Concrete</td>
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**THE TRANSPORTATION ENGINEERING PROGRAM**

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<th>Additional Leveling Courses:</th>
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<tr>
<td>MATH 2057 Multidimensional Calculus</td>
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<tr>
<td>CE 2710 Introduction to Civil Engineering</td>
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<tr>
<td>CE 2720 Computational Methods in Civil Engineering</td>
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<tr>
<td>CE 3300 Geotechnical Engineering I</td>
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<tr>
<td>CE 3400 Mechanics of Materials</td>
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<tr>
<td>CE 3600 Principles of Highway and Traffic Engineering</td>
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<td>CE 3700 Engineering Materials Laboratory</td>
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**THE WATER RESOURCES PROGRAM**

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<th>Additional Leveling Courses:</th>
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<tr>
<td>MATH 2057 Multidimensional Calculus</td>
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<tr>
<td>CE 2250 Fluid Mechanics Laboratory</td>
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<tr>
<td>EVEG 3200 Water Resources Engineering (old course designation was CE 3200)</td>
</tr>
<tr>
<td>CE 4200 Hydrology</td>
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</table>
The Board recessed at 11:55 a.m. for lunch and resumed at 1:05 p.m.

Applications

Applications Appeals

The Board disapproved the motion made by Dr. Mattei, seconded by Mr. Crosby, with Mr. Moore, Dr. Mattei and Mr. Crosby for and Mr. Gammon, Mr. Williams, Mr. Savoie, Mr. Thompson and Mr. Allen against, to have Mr. Jose Zepeda be interviewed by the Board.

The Board approved the motion made by Mr. Williams, seconded by Mr. Gammon, with Mr. Williams, Mr. Gammon, Mr. Crosby, Mr. Allen, Mr. Savoie, Mr. Thompson and Mr. Moore for and Dr. Mattei against, to affirm the reviewing committee's decision to disapprove the application of Mr. Jose Zepeda for licensure as a professional engineer by comity.

The Board unanimously approved the motion made by Mr. Savoie, seconded by Mr. Allen, to affirm the reviewing committee's decision to disapprove the application of Mr. Huy Ngo for licensure as a professional engineer by comity.

The Board unanimously approved the motion made by Mr. Savoie, seconded by Dr. Mattei, to affirm the reviewing committee's decision to disapprove the application of Mr. Lewis Rhodes for licensure as a professional engineer by comity.

Committee Reports (continued)

Finance Committee

The Board unanimously approved the motion made by the Finance Committee to amend the budget for the current fiscal year as presented.

The Board unanimously approved the motion made by the Finance Committee to have Ms. Sentell reinvest the funds in the CDs that will mature on June 1, 2011 and July 3, 2011.

The Board unanimously approved the motion made by Mr. Williams, seconded by Mr. Thompson, to waive $30 of the renewal fees for all interns, individual licensees and firm licensees for a two-year period (a total of four renewal cycles) beginning with the Fall 2011 renewal cycle.

The Board unanimously approved the motion made by Mr. Williams, seconded by Mr. Thompson, to accept the proposed 2011-12 fiscal year budget as presented.

The Board recessed at 2:30 p.m. and resumed at 2:45 p.m.

The Board unanimously approved the motion made by Dr. Mattei, seconded by Mr. Allen, to authorize the Executive Director to enter into a contract with Gator T to provide IT and desktop support. The term of the contract will be for one year beginning July 1, 2011 and ending June 30, 2012, in the amount not to exceed $48,000.

The Board unanimously approved the motion made by Dr. Mattei, seconded by Mr. Allen, to authorize the Executive Director to enter into a contract with Tri-Core, Inc. for network and website support and maintenance. The term of the contract will be for one year beginning July 1, 2011 and ending June 30, 2012, in the amount not to exceed $24,000.
New Business

The Board unanimously approved the motion made by Dr. Mattei, seconded by Mr. Thompson, to approve the expenses for Emeritus Member Sonny Launey to attend the 2011 NCEES Annual Meeting in Providence, Rhode Island.

The Board unanimously approved the motion made by Mr. Moore, seconded by Mr. Williams, for Board and staff expenses for the 2011 NCEES Annual Meeting in Providence, Rhode Island.

Closing Business

The Board unanimously approved the motion made by Dr. Mattei, seconded by Mr. Williams, to approve all committee recommendations and actions.

The Board unanimously approved the motion made by Mr. Williams, seconded by Mr. Allen, to acknowledge and confirm all licenses and certificates issued by the Board.

The Board unanimously approved the motion made by Mr. Gammon, seconded by Dr. Mattei, to approve all Board expenses.

The Board unanimously approved the motion made by Mr. Thompson, seconded by Mr. Williams, to adjourn.

The meeting adjourned at 4:30 p.m. on May 16, 2011.

Ali M. Mustapha, P.E.
Chairman

Norma Jean Mattei, Ph.D., P.E.
Secretary