

# **NORTH DAKOTA STATE ELECTRICAL BOARD MINUTES**

Thursday, April 2, 2015

The North Dakota State Electrical Board meeting was called to order at 8:45 a.m. by President Earl Scherer at the office of the North Dakota State Electrical Board, 1929 N. Washington Street, Suite A-1, Bismarck, N.D. Members present: Rodney Mayer and Kyle Miller. Also present: James Schmidt, Executive Director; Paula Glass, Office Manager.

President Scherer asked for further Agenda items to appear at this meeting. Kyle Miller added discussion on wiring certificate payment methods. James Schmidt added discussion on employee housing allowance, Western Section meeting, Report System update (include payment method), authorized agent, summer picnic, health insurance, exam locations, and U.S. Supreme Court anti-trust information presented by Attorney Porsborg. There being no further Agenda items, it was motioned by Kyle Miller and seconded by Rodney Mayer that the Agenda, as amended, be approved. Motion carried.

President Scherer asked for any comments on the Consent Agenda items. Motioned by Kyle Miller and seconded by Rodney Mayer to approve the Consent Agenda items. Motion carried.

At 9:05 a.m., Paula Glass left the meeting.

James Schmidt presented the proposed 2015-2016 budget. Mr. Schmidt explained the anticipated Board revenues and expenses. The 2015-2016 proposed employee wages and the employee evaluation process was also presented. After review and much discussion on the budget, proposed employee wages and evaluation process, it was motioned by Rodney Mayer and seconded by Kyle Miller to approve all as presented. Motion carried.

At 9:35 a.m., Paula Glass and Richard Warren entered the meeting.

James Schmidt updated the Board on the Report System. After January, 2015 meeting, Davenport Group had some more work to do. They will come again on April 28, 2015 for revisions. We are looking at July 1<sup>st</sup> to make it live.

At 9:45 a.m., Scott Porsborg, Special Assistant Attorney General, entered the meeting.

The Board's staff is currently investigating into credit card payment merchants. Discussion continued further on charge back on credit card fees and not to assess credit card charges to the payee at this time. The office is to track these costs for a year for future review. It was motioned by Rodney Mayer and seconded by Kyle Miller to allow credit cards for payment toward wiring certificate inspection fees. Motion carried.

At 10:30 a.m., Ashley Windhorst entered the meeting.

Richard Warren's Application for an Electrician's (Journeyman) License was presented to the Board. The majority of Mr. Warren's employment was obtained in Tennessee, which does not regulate similar licensing/inspection processes. Mr. Warren also worked for MMR Constructors in North Dakota, however, was not registered as an apprentice. Mr. Warren would be allowed up to six months of experience in North Dakota since he registered on April 21, 2014. Mr. Warren

testified that he has also accumulated additional North Dakota time working for Delta Constructors and Pyramid Corporation. Mr. Warren informed the Board of his intent of living in North Dakota and working as an electrician. He has accumulated approximately 3,600 hours of North Dakota experience that would need to be verified. Further investigating will be sought with the City of Nashville, TN., and a determination will be made at that time. If determined not similar, this matter will be reviewed again at the May, 2015 meeting, which will also include verifying Mr. Warren's apprenticeship school training.

At 10:45 a.m., Richard Warren and Ashley Windhorst left the meeting.

James Schmidt informed the Board and handed out updates to the contractor bond issue, which includes a new proposed HB 1229 concerning revisions to the Undertaking Fund. The bond issue has been revised and the Bill was amended to increase the Undertaking amount from \$5,000 to \$35,000 per contractor, and the fund balance can be maintained at \$200,000 before the Board would collect a \$100 fee per renewal year from a contractor. The revised bill also ties a company to a contracting Master electrician. The revisions also include a Legislative management study at the next Legislative session.

At 11:00 a.m., Ken Benzel entered the meeting.

A new Fiscal Note was prepared to accommodate the revised Bill reflecting proposed revenues and expenditures.

At 11:15 a.m., Michael Baker entered the meeting through telephonic conference, and Ashley Windhorst.

Michael Baker's Application for an Electrician's (Journeyman) License was presented to the Board. The majority of Mr. Warren's employment was obtained in Arizona, which does not regulate similar licensing/inspection processes. Mr. Warren has been working in North Dakota since March, 2014 and would be allowed up to six months of experience in North Dakota, once verified, since he registered on January 6, 2015. Mr. Warren testified to inspections he witnessed on jobs he worked on in Arizona, and is asking for a placement exam. Motioned by Rodney Mayer and seconded by Kyle Miller to deny Michael Baker's Application for Electrician's (Journeyman) License. Motion carried. Mr. Schmidt explained to Mr. Baker about the 8,000 hour requirement including the required schooling.

At 11:27 a.m., Michael Baker left the meeting, and the Board recessed for a break.

At 11:30 a.m., the Board reconvened, and entered the meeting.

Ken Benzel's Application for an Electrician's (Journeyman) License was presented to the Board. The majority of Mr. Benzel's employment was obtained in Indiana and South Carolina, which does not regulate similar licensing/inspection processes. Mr. Benzel testified as to his experience with KBR in Iraq and Corbin Electric in Arizona. Mr. Benzel has been working in North Dakota since May, 2014 and has accumulated approximately 1,000 hours of verified experience in North Dakota. Mr. Schmidt informed Mr. Benzel the Board's interpretation and research studies on licensing and inspection processes in various states and/or jurisdictions. Mr. Mayer questioned Mr. Benzel on how he obtained his Indiana Master license. Motioned by Rodney Mayer and seconded by Kyle Miller to allow Ken Benzel to take the placement exam. Motion carried.

At 11:45 a.m., Ken Benzel left the meeting.

Mr. Schmidt indicated that Derek Warkenthien called to reschedule for the next meeting.

At 11:56 a.m., Ashley Windhorst left the meeting.

Mr. Schmidt reported an update on the Terry Packer/Allen Jenkins matter. Discussion took place on property owners hiring contractors to fix code violations left by Mr. Jenkins. Also, the Board using the Undertaking fund to reimburse property owners, which will include providing an invoice from the contractor who was hired to fix the code violations. Motioned by Rodney Mayer and seconded by Kyle Miller to compensate property owners pro rata out of the Undertaking Fund to what they have paid to their contractor, and require property owners to respond within 30 days and include proof of payment. Motion carried.

Mr. Schmidt reported an update on the Steven Witt/J Hill matter, which now includes sending letters to property owners.

On the subject of 2014 NEC code adoption, Mr. Schmidt had discussions with Ron Strand of the City of Fargo, and Attorney Porsborg was in communication with Jason Loos, City of Fargo's attorney. It was reported the City of Fargo is pursuing a city ordinance to adopt the 2014 NEC. After much discussion, it was determined appropriate correspondence and communications have taken place with the City of Fargo to fulfill the Board's previous direction to resolve concerns. City of Fargo will inform the Board when their ordinance adopting the 2014 NEC is in place. The Board concluded an emergency rule would require the Governor's permission and would not be cost effective or efficient at this time. Mr. Porsborg inquired about a proposed rule draft for the next administrative rule making process and reviewed the required timelines. Further discussion took place on adopting the 2014 National Electrical Code in its entirety. Attorney Porsborg provided advice on the administrative rule making process for the proposed Bill that may pass legislation, which involves filing any proposed rules within nine (9) months of August 1, 2015.

Future Board meeting dates were revisited due to conflicts. The May 13, 2015 will be rescheduled to May 20, 2015. The September 16, 2015 will be rescheduled to September 2, 2015.

The question was posed if the Undertaking fund authority resides with the Board. Mr. Schmidt questioned if the staff, under the direction of the Executive Director, has discretion to take funds from the Undertaking fund without official Board authority in order to hire a contractor to fix code violations left by abandoned contractors. Attorney Porsborg advised that the Board can give staff direction on the Undertaking fund without official Board authority. If the contractor still maintains an active license, the first course of action should still be to require that contractor to appear before the Board to address revocation, non-renewal, etc. of his/her license. Mr. Schmidt gave some examples of contractors and getting past due corrections done.

Non-renewal of licenses and due process of contractors was discussed. Attorney Porsborg provided advice on handling active versus non-active contractors in performing past due code violations. Motioned by Kyle Miller and seconded by Rodney Mayer to give the Board staff, under the direction of the Executive Director, the authority to clean up past due corrections through the use of the Undertaking fund on behalf of inactive or unlicensed contractors. Motion carried.

The topic of Class B licenses was discussed. Mr. Schmidt indicated that it appears there is no such license as a non-contracting Class B electrician, which in the past has been allowed to renew

without providing evidence of insurance. Attorney Porsborg agreed and advised the Board that the laws and/or rules do not address a non-contracting Class B license. A non-contracting Class B cannot work under a contracting Master without registering as an apprentice. Attorney Porsborg indicated that the statute on the three-year rule applies to inactive and re-instating licenses. The Board's rule states for an individual to meet the requirements for licensure as a Class B, a Certificate of Liability Insurance and an Undertaking application would be required.

A contractor had inquired about posting electrical questions and/or problems on social media, like Facebook. It was emphasized that a better place would be on our website or newsletter instead. Suggestions were made that the Board look into developing a mobile application in the future.

Mr. Schmidt presented the Board with a recommendation to look at low-voltage licensing, and whether a committee should be assigned to address this type of licensing, if needed. History was presented on this topic, and if it should be pursued. Mr. Schmidt suggested two engineers, two contracting Masters, one at large from the electrical industry and any Board representatives to make up the committee. Mr. Schmidt will inquire of other states as to their low-voltage licensing process. This matter will be tabled for further discussion at future meetings.

Mr. Schmidt informed the Board of a conversation he had with Ivan Maas of NDSCS. As a future concept idea for a means for approving exam applicants that were denied by the Board, Mr. Maas indicated that, if the college approved this plan, NDSCS would evaluate these applicants to determine electrical code knowledge and practical experience. Attorney Porsborg will review delegation issues, as well as the similar licensing/inspection processes. Mr. Mayer suggested a hands-on practical exam to be considered for the future to help prove knowledge and experience of applicants. This concept of NDSCS's involvement will be investigated further.

Job shadowing was discussed as a result of an NDSCS's student inquiry. NDSCS's students would like to be able to ride around with an electrical inspector to see what they do. NDSCS would have to explain it is for a bona fide educational purpose. Liability issues were discussed. At this time, the Board has denied job shadowing.

The application appeal process was discussed. Attorney Porsborg indicated a typical appeal process is generally 30 days. If they don't appeal, they would have to reapply. Motioned by Rodney Mayer and seconded by Kyle Miller to grant a 30-day appeal process. Motion carried.

Mr. Schmidt inquired of providing an employee a housing allowance. Attorney Porsborg will research this matter, and whether it will set precedence. He also suggested a retention bonus as a possibility.

Mr. Schmidt read a thank you note from Mitch Feininger in the Board allowing him to attend the NFPA code-making panel.

Western Section IAEI meeting in Jackson Hole, Wyoming in September, 2015 was announced for any Board member participants.

A hand-out was given to the Board on a U.S. Supreme Court anti-trust decision concerning the protection of an industry. Attorney Porsborg gave a synopsis of the decision.

An inquiry was received about the Board's ability to conduct exams in other locations. The Board's desire is to maintain our local Bismarck exam location.

For informational purposes, the Board's health insurance carrier changed from BCBS to Sanford Health Plan effective July 1, 2015.

James Schmidt indicated he is now an authorized agent for the N.D. State Electrical Board.

At 3:45 p.m., Attorney Porsborg left the meeting.

Mr. Schmidt provided an analysis of active wiring certificates, and upcoming 2015 NDSEB CEU classes now available for online registration. Tentative 2016 dates and locations are presently being determined.

There being no further business, it was motioned by Rodney Mayer and seconded by Kyle Miller Mayer to adjourn the meeting. The meeting was adjourned at 3:30 p.m.

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Earl Scherer, PRESIDENT

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Karen Karls, SECRETARY