

# **NORTH DAKOTA STATE ELECTRICAL BOARD MINUTES**

Wednesday, September 11, 2013

The North Dakota State Electrical Board meeting was called to order at 8:35 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, Ben Koppelman, Karen Karls and Kyle Miller. Also present: James Schmidt, Executive Director; and Paula Glass, Office Manager.

President Scherer asked for further Agenda items to appear at this meeting. Mr. Schmidt informed the Board of items consisting of Ed Therriault's resignation; Jerry Brackin at 1:00 p.m. to discuss OSHA training; correspondence received on behalf of Alex Martushev; and moving ahead on the office space remodel. Paula Glass added direct deposit availability for Board members. There being no further Agenda items, it was motioned by Rodney Mayer and seconded by Kyle Miller that the Agenda, as amended, be approved. Motion carried.

At 9:00 a.m., Ben Koppelman left the meeting.

President Scherer asked for any comments on the Consent Agenda items. Mr. Schmidt indicated that we are adding additional funds to our existing Certificates of Deposit as they mature as each CD is FDIC insured up to \$250,000. Further discussion took place concerning possible fee reductions in the future. Mr. Schmidt informed the Board of BNC National Bank's visit concerning investment strategies. Mr. Koppelman inquired about the cost of the office remodel. Motioned by Rodney Mayer and seconded by Kyle Miller to approve expenditures up to \$175,000 plus a 10 percent contingency. Motion carried. Ms. Glass commented on adding placement exam information on the Application/Exam Results report. Motioned by Karen Karls and seconded by Rodney Mayer to approve the Consent Agenda items. Motion carried.

Mr. Schmidt reported on Scott Halle's departure. Additionally, the staff is looking at re-districting or re-looking at inspection areas with the hire of another inspector and getting some of the inspectors closer to their home areas.

Ms. Glass informed the Board that we have received the 2014 National Electrical Code books. Once they are in inventory, they will be made available for sale. Discussion took place concerning our cost and the selling price. Motioned by Rodney Mayer and seconded by Karen Karls to sell the 2014 NEC books for \$70.00. Motion carried.

The proposed 2014 Board Meeting calendar was presented. Motioned by Rodney Mayer and seconded by Kyle Miller to accept the proposed 2014 dates. Motion carried.

At 9:50 a.m., Scott Porsborg, Special Assistant Attorney General, entered the meeting.

Discussion took place concerning the administrative rules timeline. Mr. Schmidt will try to schedule Tim McClintock of NFPA for the next Board meeting. Ms. Glass suggested November 14<sup>th</sup> for the administrative rules hearing (the day after the regular Board meeting). Mr. Schmidt and Ms. Glass will coordinate the hearing and Mr. McClintock's appearance. Motioned by Karen Karls and seconded by Kyle Miller to schedule these matters for November 14, 2013, if available. Motion carried.

Further discussion took place on the proposed effective date and adoption of the 2014 National Electrical code. Motioned by Rodney Mayer and seconded by Karen Karls to set a date of January 1, 2015. Motion carried. Attorney Porsborg informed that the Board to notify Legislative Council to this effect.

Correspondence received from Alex Martushev's attorney seeking documentation on his license violations was reviewed. Attorney Porsborg indicated that documentation was sent, and no further correspondence has been received.

The administrative rule change for Master/Class B electricians that became effective July 1, 2013 was reviewed.

Due to the volume of licensing applications being received, and issues involved with some of them, Mr. Schmidt opted to have a second opinion from a Board member before any further applications are brought to the entire Board. Rodney Mayer was designated to assist in this process.

At 10:00 a.m., the Board recessed for a break.

At 10:10 a.m., the Board reconvened.

At 10:12 a.m., James Hilborn, attorney for Allen Jenkins and Terry Packer, entered the meeting through telephonic conference, and Lyle Wergeland.

Attorney Hilborn informed the Board that Mr. Jenkins and Mr. Packer are unable to attend the meeting, and he was retained to appear at this hearing on short notice. Attorney Hilborn requested that the Board allow Mr. Jenkins to continue his business operations as well as allow Mr. Packer to take his Master exam. Attorney Porsborg advised that the conditions of each of their Probation Agreements have not been followed. There still remains corrections not done, and jobs not completed. These situations could result in further sanctions.

Mr. Hilborn informed the Board that his clients were either not aware or made aware on short notice to appear, however, they will appear at a next Board meeting if the Board would reconsider this matter or give his clients an opportunity to appear. Ms. Glass reviewed the list of items remaining to be completed according to our records. Attorney Porsborg advised the Board that it has enough information to proceed formally, but it would be up to the Board if it elects to opt and give Mr. Jenkins and Mr. Packer more time and opportunity to appear.

Mr. Schmidt informed the Board that Mr. Jenkins also holds a Minnesota license, and has received information from the Minnesota Electrical Board that they would also be interested in any revocation of a reciprocal license once it becomes public. Attorney Hilborn requests leniency on behalf of his clients. Mr. Schmidt indicated that Mr. Jenkins and Mr. Packer are not taking these issues very seriously as they have had ample time to correct.

At 10:30 a.m., Kyle Miller left the meeting.

Motioned by Rodney Mayer and seconded by Karen Karls to enter into Executive Session. Motion carried. James Hilborn, by telephonic conference, left the meeting.

At 10:35 a.m., the Board entered into Executive Session.

At 11:00 a.m., Karen Karls motioned and Rodney Mayer seconded to end Executive Session. Motion carried. James Hilborn, by telephonic conference, entered the meeting.

Attorney Porsborg advised Attorney Hilborn of the Board's intent. Copies of Mr. Jenkins' and Mr. Packer's Probation Agreements will be sent to Attorney Hilborn and any outstanding items will need to be rectified by October 25, 2013, including two missing certificates. Mr. Jenkins and Mr. Packer will be required to appear at the next Board meeting on November 13, 2013 with counsel, and Probation Agreements will remain in force. Motioned by Karen Karls and seconded by Rodney Mayer to approve continuance until the November 13, 2013 Board meeting. Motion carried. Mr. Schmidt re-iterated that no new certificates are to be issued at this time. Mr. Hilborn confirmed that his clients will be at the November 13<sup>th</sup> meeting.

At 11:10 a.m., James Hilborn, by telephonic conference, left the meeting.

At 11:15 a.m., Mike Kidney, by telephonic conference, entered the meeting.

Mr. Kidney is appealing to take his Journeyman license exam. Mr. Kidney testified as to his years of experience and licenses obtained in various states, including Ohio, and that he has over 30 years of experience working in the union. Most of Mr. Kidney's experience is in jurisdictions that don't meet our requirements. Mr. Scherer informed Mr. Kidney that there is no proof of the required hours to take the Journeyman exam. Motioned by Rodney Mayer and seconded by Karen Karls to deny his request. Motion carried.

At 11:35 a.m., Mike Kidney, by telephonic conference, left the meeting.

Michael Zeltinger requested the Board to review his Application for a Journeyman License as a result of a denial of applicable training. The Board reviewed a letter written on behalf of Mr. Zeltinger by his employer. Motioned by Rodney Mayer and seconded by Karen Karls to approve Mr. Zeltinger's request and allow him to take the Journeyman exam. Motion carried.

Discussion took place on the definition of similar rules when it comes to licensing and inspection processes. The staff is requesting further clarification and a policy on this definition. Attorney Porsborg advised the Board that the Board has broad authority on this rule.

At 12:45 p.m., the Board recessed for a break.

At 1:00 p.m., the Board reconvened, and Jerry Brackin entered the meeting.

Mr. Brackin informed the Board of his consulting/training business, particularly in OSHA, and his proposed intent to continue to conduct these types of classes outside of employment. Under the direction of the Board, Mr. Brackin would be allowed to conduct outside training, but as non-credited classes. Attorney Porsborg will review with Mr. Schmidt on the conditions of Mr. Brackin's employment.

At 2:10 p.m., Jerry Brackin left the meeting.

Employee housing in Williston and surrounding areas was discussed, which included renting versus owning property. Attorney Porsborg stated there may be tax issues if it constitutes a secondary residence for employee as well as landlord responsibilities for the Board.

At 2:15 p.m., Ed Therriault entered the meeting.

Mr. Therriault thanked the Board for allowing him the opportunity to work as the Training Safety Director, but has decided to move back to the State of Washington.

At 2:30 p.m., the Board recessed for a break.

At 2:40 p.m., the Board reconvened.

Discussion took place concerning a notary public signing an inspector's cease and desist form. Attorney Porsborg advised that if prosecution is sought, this may be required.

At 3:00 p.m., Lyle Wergeland and Paula Glass left the meeting.

At 3:25 p.m., Scott Porsborg, Special Assistant Attorney General, left the meeting.

At 3:30 p.m., Paula Glass entered the meeting.

Mr. Schmidt informed the Board of the NERA meeting attended by Ashley and him. Further review may commence on Wyoming, Oklahoma and Arkansas.

Timothy Boling has requested that the Board waive his waiting period to retake the Master exam. The Board has a policy set in place concerning waiting periods.

Mr. Schmidt informed the Board that an education webpage will be developed in conjunction with our website, which will include Mr. Brackin's courses.

Dakota Gasification Company and Leonard Noehre's Application for a Journeyman License was reviewed. Rich Wolfe inspects at Dakota Gasification Company on a quarterly basis and notes maintenance as well as new construction. Mr. Noehre's employment verification consisted of a breakdown of his hours at Dakota Gasification Company. Motioned by Rodney Mayer and seconded by Karen Karls to approve Mr. Noehre's Application. Motion carried.

Kyle Wilson's appeal of denial of his Application for a Journeyman License was presented to the Board. Most of Mr. Wilson's experience is in Canada. Canada does not follow the National Electrical Code. Motioned by Rodney Mayer and seconded by Karen Karls to deny Mr. Wilson's request. Motion carried.

Mr. Schmidt presented the Board with Chad Slager's request to allow him to obtain his Journeyman license back without re-testing. North Dakota law states that if the licensee fails to renew the license for a period of three consecutive years or more, the licensee is required to appear for reexamination.

Mr. Schmidt presented the Board with Robert Vavrina's request to allow him to obtain his Master license back without re-testing. North Dakota law on this topic is also followed.

There being no further business, it was motioned by Karen Karls and seconded by Rodney Mayer to adjourn the meeting. The meeting was adjourned at 3:45 p.m.

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Earl Scherer, PRESIDENT

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Karen Karls, SECRETARY