

**MINUTES OF THIRD MEETING  
2016-2017 BOARD OF LICENSURE  
FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS  
Montgomery, Alabama  
December 7, 2016**

Chair Christy called the third meeting of the 2016-2017 Board to order at 8:00 A.M., Wednesday, December 7, 2016 at the Board Office, Montgomery, Alabama. The following were in attendance:

**Officers and Members Present:**

A. Frazier Christy	Chair
M. Elisabeth Hyde	Vice Chair
Marc S. Barter	Member
Richard G. Grace	Member
Randall D. Whorton	Member

**Member Arriving After Start of Meeting:**

Nathan G. Johnson	Secretary (initially on phone at 8:35 A.M. and arrived at 9:40 A.M.)
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**Staff Present:**

Regina A. Dinger	Executive Director
William R. Huett	Assistant Executive Director
Bonnie Kelly	Executive Assistant
Ben Albritton	Board Attorney

It was determined that a quorum was present. The meeting was opened with the Pledge of Allegiance and a prayer.

The proposed meeting agenda was reviewed.

17-025. IT WAS MOVED by Mr. Barter and seconded by Ms. Hyde to adopt the proposed agenda as proposed. MOTION CARRIED 5-0.

Minutes of the second meeting of the 2016-2017 Board were received for approval.

17-026. IT WAS MOVED by Ms. Hyde and seconded by Mr. Grace that the minutes of the second meeting of the 2016-2017 Board held November 16-17, 2016 be approved as corrected. MOTION CARRIED 5-0.

**CHAIR'S REPORT** – Mr. A. Frazier Christy

Mr. Christy explained how he wished to proceed with this section of the meeting. He opened the discussion by recapping previous discussions on the qualification based selection process (QBS) language. Mr. Barter asked Mr. Albritton, Board Attorney, for his opinion if the current sitting Board

has state immunity for actions taken by previous boards and secondly, if under the current oversight regulations, would the Board have state immunity if new/amended rules are approved through the oversight process.

Mr. Albritton explained that the Supreme Court of the United States (SCOTUS) decision on the North Carolina Dental Board case changed what has been referred to as the “Parker Immunity” for boards. If a board has active market participants as controlling members of a board, there is no longer blanket immunity. A second aspect of the immunity question is if there is a clear and articulated mandate for the board’s rule or action.

A discussion on the SCOTUS decision involving NSPE and how it applied to the QBS issue and the Board was held.

Mr. Christy identified that the Board had received position letters from some societies. The letters had been included with the board agenda. He gave an opportunity to all those in attendance to make short statements. Representatives from the Society of Structural Engineers reiterated that they wish to have some form of QBS in the Administrative Rules. ACEC reiterated that it was their opinion that the NSPE case involved a national trade organization and not a state licensing board and did not believe that it should be taken into consideration. ASCE made note that the Mississippi language that was being discussed had differing requirement for engineering and land surveying.

Upon conclusion of the comment period it was noted that two proposals for new language had been provided by Mr. Barter and Mr. Johnson. Mr. Barter provided his proposal and the rationale for it.

Mr. Johnson arrived at 9:40 A.M. Upon his arrival, Mr. Johnson provided his proposal and his rationale. The Board determined it would work from Mr. Barter’s proposal to develop acceptable language. Through the inputs from board members a draft amendment was developed.

17-027. IT WAS MOVED by Ms. Hyde and seconded by Mr. Barter to accept the draft language which is to be put in the correct format and then to submit notice to the Legislative Reference Services its desire to amend Administrative Code Rule 330-X-14-.05(f) and to schedule a public hearing on the matter. MOTION CARRIED 5-1 with Mr. Johnson voting in the negative.

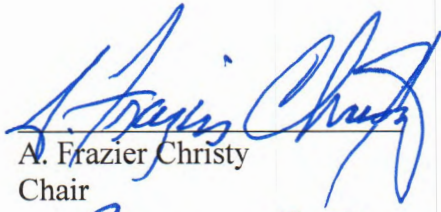
17-028. IT WAS MOVED by Mr. Grace and seconded by Mr. Whorton to have the public hearing for the proposed language to be held on January 31, 2017 with the public hearing already scheduled. MOTION CARRIED 6-0

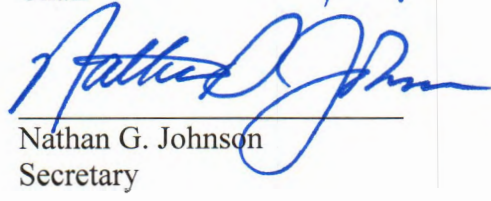
## **OPEN FORUM**

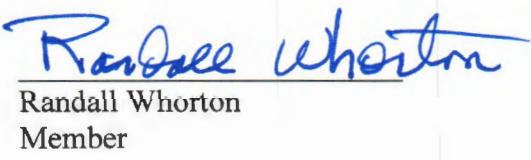
No comments made during the open forum.

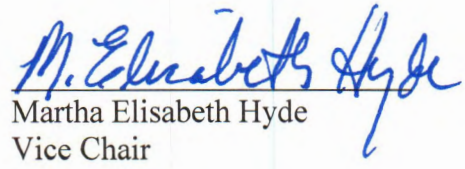
## **CLOSING REMARKS**

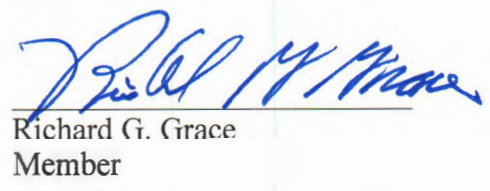
The next scheduled meeting of the Board is January 31, 2017 at the board office in Montgomery beginning at 8:00 A.M. The meeting adjourned at 12:05 P.M.

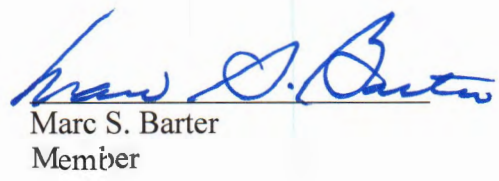
  
A. Frazier Christy  
Chair

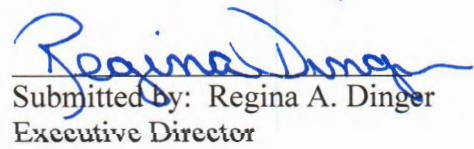
  
Nathan G. Johnson  
Secretary

  
Randall Whorton  
Member

  
Martha Elisabeth Hyde  
Vice Chair

  
Richard G. Grace  
Member

  
Marc S. Barter  
Member

  
Submitted by: Regina A. Dinger  
Executive Director