

North Dakota State Electrical Board Minutes
May 17, 2023 Meeting

The North Dakota State Electrical Board meeting was called to order at 8:30 a.m. by President Rodney Mayer at the Electrical Board office at 1929 N. Washington St., Ste A-1, Bismarck, North Dakota. Members present: Rodney Mayer, Paul Durbin, Christina Roemmich, James (Jim) Brandenburg and Gerald “Poke” Buck. Members also present: James Schmidt, Executive Director; Scott Porsborg, Special Assistant Attorney General; Austin Lafferty, Special Assistant Attorney General; Adam Kidwell, JATC; Curt Kasper, NECA; Clay Nagel, IBEW; and Bob Wolf, IBEW.

Mr. Mayer asked if there were any additions to the agenda. Mr. Durbin confirmed we can discuss director fees in item 7(n). Mr. Schmidt added: Sitting Bull College; Atlas Data Center; and Bob Wolf.

Mr. Buck moved to approve the consent agenda; Ms. Roemmich seconded. The motion passed unanimously.

Mr. Schmidt reported on Sitting Bull College, which currently has a 1-year electrical program. Mr. Schmidt visited along with Scott Halle which they met the college staff and spoke to the students. Sitting Bull College is considering transitioning to a two-year electrical program which Mr. Schmidt offered any assistance our office could offer to aid in this possibility.

Mr. Schmidt presented information about the Atlas Data Center. The Center began work with electrical equipment exposed, and there was concern the equipment could get wet. Board representatives visited the project site to inspect. The Williams County Commission acted, giving the Center 45 days to make the corrections required by the NDSEB, and an inspector is keeping an eye on the project.

Bob Wolf appeared before the board, regarding two apprentices. The Board’s current “request for accommodation” does not address issues for applicants with English as a second language. The current form requires a signature from a medical professional, which does not address the language issue. Mr. Wolf is requesting guidance - can the Board provide accommodation, or how should the apprentices proceed regarding the request for accommodation forms in their current state. The Board asked Mr. Porsborg the law on the issue and what is allowed. Mr. Kidwell provided additional information, as the two apprentices were students of the JATC. The Board decided to place this issue on hold until later in the day and directed Mr. Schmidt to have Office Staff pull the students’ examinations for review.

Several individuals entered the meeting: Paula Glass (Office Staff); David Jaeger (District 12 Inspector); Brad Luck (District 5 Inspector); Doug Grinde (Director of Inspections); Jeremy Stolp and John Simonson with Wescom, Inc.

Mr. Schmidt presented the violations for Wescom a Minnesota based company. Wescom representatives present were Mr. Jeremy Stolp, the contracting master and Mr. John Simonson in charge of their North Dakota operations.

Mr. Schmidt described, on March 13, 2023, five apprentices were caught working unsupervised on a Wescom site. Later in March, the Board received an anonymous call about further unsupervised apprentices, but an investigation did not corroborate the call. The following day, another anonymous call reported a Wescom communication regarding the inspections. In April, a Wescom worksite was written up for work without a wiring certificate, and in May, inspectors found a Wescom apprentice working unsupervised.

Mr. Schmidt requested Wescom's employee roster, and Ms. Glass identified several issues with the employee roster. Several employees were registered or reinstated the day the list was requested. From the list identified 16 late registered apprentices, 1 unrenewed apprentice, 1 apprentice with no record, 2 late registered journeyman, 1 unrenewed journeyman, and 1 unrenewed master. There were additional issues with the five apprentices who were found to be working unsupervised in March.

Wescom representatives were provided an opportunity to speak on the allegations, and both Mr. Stolp and Mr. Simonson spoke. Mr. Mayer confirmed with Ms. Glass that contracting masters were required to be engaged and fully present with their employees. Mr. Stolp agreed to provide a current employee roster to the Board and spoke to difficulties in finding employees in North Dakota.

Mr. Mayer asked for more information regarding the sites - specifically whether they were classified areas. Mr. Simonson responded affirmatively, confirming portions of the site were classified. The Board's inspectors confirmed the apprentices were working on these sites without supervision.

Mr. Stolp and Mr. Simonson confirmed Wescom would work to do better.

At 9:44 a.m. the Board took a brief recess.

At 9:57 a.m. the Board reconvened.

Mr. Mayer asked if Mr. Schmidt or any of the Board members had any additional comments or questions for the Wescom representatives. Attorney Porsborg spoke with Mr. Stolp about the purpose of the executive session and its impact on Mr. Stolp and his license. Attorney Porsborg explained the allegations set forth by the Board (violation of NDCC 43-09-15) and the options before the Board as a result of these allegations (do nothing, go "formal," or informal disposition). Attorney Porsborg confirmed Mr. Stolp understood that if the Board decided to act on Mr. Stolp's license, he would have the opportunity to consult with counsel and would be afforded due process.

Ms. Roemmich moved the Board enter into executive session to discuss this matter for purposes of attorney consultation. Mr. Brandenburg seconded.

Mr. Buck: Aye

Mr. Brandenburg: Aye

Mr. Durbin: Aye

Ms. Roemmich: Aye
Mr. Mayer: Aye

The Board entered the executive session at 10:05 a.m.

The Board exited the executive session at 10:31 a.m.

Mr. Porsborg explained the Board's decision to Mr. Stolp and Mr. Simonson. The Board has found a violation of NDCC 43-09-15:

- The Board is proposing an informal disposition with the following terms:
 - Probation lasting 24 months;
 - Mr. Stolp must comply with all the laws and rules of the State of North Dakota;
 - Mr. Stolp must respond promptly to any contact from the NDSEB;
 - Mr. Stolp must assure that all employees are advised in ratio and supervision requirements of the State of North Dakota;
 - Any violation during the period of probation will result in summary suspension or revocation of Mr. Stolp's license.

Mr. Stolp agreed to the proposed terms of the informal disposition.

Ms. Roemmich moved to approve the informal disposition as described; Mr. Brandenburg seconded. The motion passed unanimously. Wescom representatives left the meeting.

Jon Ewert, CPA, entered the meeting. Mr. Schmidt introduced Mr. Ewert and the possibility of Ewert to serve as an investment consultant for the board and provided an overview of the Board's current CD investments. Schmidt explained, for example, with the proper investing, interest from education fund could fund future apprenticeship scholarships and the scholarships fund would potentially never expire. Attorney Porsborg addressed legal concerns - any investment must be safe (FDIC Insured) and accessible (as the Legislature could alter the Board's funding). Mr. Ewert provided additional information about his background, the work he would do for the Board, and his requested salary. The Board discussed the need for an investment consultant, and what future services Mr. Ewert could provide. There was further discussion about what policies would need to be enacted to engage Mr. Ewert.

Mr. Brandenburg moved the Board pay Mr. Ewert to create a procedure and policy for the Board's review at the July meeting and for the Board to make a final decision at that meeting. Mr. Buck seconded.

Mr. Schmidt requested additional information asking what the Board means by "pay" Mr. Ewert. Mr. Mayer confirmed the requirements of the motion - Mr. Ewert drafting an initial procedure and policy, providing the policy to Mr. Schmidt and Mr. Porsborg for review and editing. Mr. Ewert confirmed he would need to speak extensively with Mr. Schmidt.

Mr. Brandenburg withdrew his motion. Mr. Buck withdrew his second.

Mr. Brandenburg moved to pay Mr. Ewert \$3,000 to work with James Schmidt and Scott Porsborg on a procedure for the Board's review at the next meeting. Mr. Buck seconded. The motion passed, with Mr. Durbin opposing.

Mr. Schmidt presented information on Michael Smiley's apprentice application. Mr. Smiley is currently on probation from felony charges, requiring Board review. Attorney Porsborg and Mr. Schmidt provided additional information on the Board's previous actions on these types of applications. Attorney Porsborg provided additional information on the applicant's sentencing.

Mr. Brandenburg moved to accept the application. Ms. Roemmich seconded the motion. The motion passed, with Mr. Durbin opposing.

Mr. Wolf returned to speak with the Board. Board staff provided additional information on the apprentices. Board staff confirmed both used approximately all of the time allotted for the examinations. The Board further discussed the possibility for accommodations for these apprentices, and the possible future implications of the accommodation.

Ms. Roemmich moved the Board provide the requested accommodations to Salman Adam, due to the language barrier, provided he is a registered apprentice before sitting for the examination, Mr. Brandenburg seconded. The Board discussed the request further. Mr. Wolf provided additional information regarding Mr. Adam's abilities. Mr. Nagel, who had Mr. Adam in an apprenticeship class, provided further information. The motion passed unanimously.

Mr. Buck moved the Board provided the requested accommodations to Marlon Walters, due to the language barrier, provided he is a registered apprentice before sitting for the examination. Mr. Brandenburg seconded. The motion passed unanimously.

Mr. Schmidt provided an update on the MHA nation, there is no new information or changes since the last meeting.

Mr. Schmidt provided additional information regarding Inspector Kjorsvik's participation in the Code Panel. Mr. Schmidt would like a clear decision regarding the Board's support and what expenses the Board will cover. This issue was pushed to the next meeting.

An update was provided regarding Shane Werner's informal disposition.

Mr. Schmidt explained some concerns that have been raised regarding District 8 inspections. Mr. Schmidt no longer believes this is an issue.

Mr. Schmidt presented information on the National Electrical Reciprocal Alliance (NERA), created in 1995, which NDSEB is the secretary for the group. NERA is working to expand membership to those states who have like or similar licensing requirements. A NERA website was created for public information on NERA. Montana has lost its ability to vet licenses "properly" due to legislative changes.

At 12:14 p.m. the Board took a brief recess.

At 12:32 p.m. the Board reconvened.

Mr. Schmidt provided an update on the status of the City of Minot since the Board took over inspections. Things are going well. Mr. Schmidt will speak with the City Manager soon to discuss.

Mr. Schmidt presented information to the Board on how the State of Minnesota handles enforcement actions as a comparison to the Board's actions.

An update was provided on the Education Committee. Mr. Schmidt discussed the pass/fail rate for the exam, which he believes is quite high. Mr. Schmidt discussed the possibility of changing the open/closed book formatting of the exam. Also considering allowing an electronic version of the NEC instead of the paper copy, which at this point none of the NERA member states presently allow the electronic version of the NEC during their exams. Mr. Nagel provided information as to his opinion on the current status of the examination. Discussion took place regarding the examination. Further discussion was held about how to assist in exam preparation. The Education Committee will look at this issue. The Education Committee will meet again in June.

Mr. Schmidt presented the Board with the need for a new reporting system. The Board office is researching various companies who can develop a system for the board. This will likely be a large investment.

Mr. Schmidt presented a review of activity from the North Dakota Legislative Session. The 2023 session was busy, and several bills impact the Board and staff. Mr. Schmidt presented information on the bills that were before the legislature this session. Discussion on the bills took place. Mr. Schmidt and Attorney Porsborg discussed the trends in this session, and what the Board may need to watch out for in the next session. Mr. Schmidt brought up discussion regarding the need of a legislative consultant. The Board currently employs Pam Sharpe in that role.

At 2:08 p.m. the Board took a brief recess.

At 2:22 p.m. the Board reconvened.

Doug Grinde spoke to the Board about the state of the Inspections Department. Since the last meeting, the Board has hired a new inspector out of Minot (Kevin Huber). Mr. Grinde spoke about changes to the borders of the inspection districts. Mr. Grinde reviewed the number of wiring certificates across the state, and various districts.

Mr. Schmidt walked the Board through the administrative rules process and timeline. The Board is aiming for a January 1, 2024 date for code adoption. Mr. Schmidt then walked through the proposed administrative rules. The proposed rules were discussed by the Board.

Ms. Roemmich moved to reject Proposed Rules 2, 3, 25, 26, 27, and 28, revise the language of Proposed Rule 11, and accept the remaining administrative rule changes. Mr. Brandenburg seconded. Motion passed unanimously.

Mr. Schmidt presented employee evaluations for the Board's review. Mr. Schmidt explained the employee evaluation process.

Mr. Schmidt clarified the amounts allowed under reimbursement policy. Mr. Schmidt reminded Board members that when booking hotels, they need to clarify it is a "state rate."

At 4:24 p.m. Ms. Roemmich left the meeting.

Mr. Schmidt presented the 2023-2024 proposed budget. The Board reviewed the proposed budgets and employee wages for 2023-2024 fiscal year.

Mr. Durbin moved to accept the budget as presented. Mr. Brandenburg seconded. Motion passed unanimously.

The Board discussed the different employee wage options that were presented. Mr. Durbin moved the Board accept the wage structure as enumerated for the board employees with their respective step increases. Mr. Buck seconded. Motion passed unanimously.

Mr. Durbin moved the Board adjust the Board Member per diem from \$300 to \$500 per day beginning at the July, 2023 meeting and revise the recently approved 23-24 budget accordingly. Mr. Brandenburg seconded. The Board discussed. Motion passed unanimously.

Mr. Durbin moved to adjourn. Mr. Buck seconded. Motion passed unanimously.

Next meeting July 12, 2023.

Meeting adjourned at 6:05 p.m.

Date _____

Date: _____

Rodney Mayer, PRESIDENT

Paul Durbin, SECRETARY