

# STELLENBOSCH CONFERENCE RESOLUTIONS

**12 – 13 NOVEMBER 2009**

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## **1-1 MENTORSHIP**

### **This third NSBE conference notes:**

1. A lack of mentorship exists across all levels of the skills pipeline. This has served to delay the professional advancement of Black engineers.

### **Believing:**

1. Mentorship is a strategic vehicle to take forward the professional development of black engineers in the country.

### **Therefore this 3<sup>rd</sup> conference resolves:**

1. To use the following definition of mentor and mentee,
  - **Mentor** – an experienced person who trains and/or advises a mentee.
  - **Mentee** – an inexperienced person who is under the training or advice of an experienced person.
2. To encourage schools to promote open days so that careers such as engineering can be profiled to learners. This initiative will be championed by student structures.
3. To solicit funds from various interested companies in order to be able to donate science, mathematics and engineering books to schools.
4. To mobilize companies especially corporate members of NSBE to take on students for vacation work.
5. To encourage student chapters to adopt a school in their area where they will assist learners in mathematics and physical sciences.
6. To encourage qualified engineers who are members of the NSBE to adopt students to mentor until registration.
7. That the NSBE should establish strategic partnerships with the aim of raising funds for the mentorship programme.
8. To make follow up interactions with Professor Modi of the Moses Kotane Institute to explore the possibility of establishing a partnership in order to carry out the mentorship programme.

## 1-2 TRANSFORMATION

### *Transformation of the professional engineering landscape*

#### General Background

Section 22 of the Constitution of the Republic of South Africa enshrines the right of freedom of trade, occupation, and profession. It reads "*every citizen has the right to choose their trade, occupation or profession freely. The practice of a trade, occupation or profession may be regulated by law.*"

The Engineering Profession Act is a typical legislation contemplated in the second part of section 22 of the Constitution in that it regulates the practice of the engineering profession.

Section 195 of the Constitution lists the basic values and principles governing public administration. The Engineering Council of South Africa is one typical structure that carries out public regulatory administration. The constitution provides that public administration must be governed by the democratic values and principles enshrined in the Constitution, including the following principles

- (i) A high standard of professional ethics must be promoted and maintained.
- (ii) Services must be provided impartially, fairly, equitably and without bias.
- (iii) People's needs must be responded to, and the public must be encouraged to participate in policy making.
- (iv) Public administration must be accountable.
- (v) Public administration must be broadly representative of the South African people, with the employment and personnel management practices based on ability, objectivity, fairness, and the need to redress the imbalances of the past to achieve broad representation.

It is of note that these principles apply to organs of state such as the regulatory Engineering Council of South Africa.

It is through this constitutional prism that the regulation of the practice of the engineering profession and other professions in the built environment is viewed by the NSBE.

## ***A. Transformation of the council composition of ECSA***

### **This third NSBE conference notes:**

1. The new council appointed by the Minister with effect from 28 August 2009 seems to be appointed through an invalid process. In terms of section 4 of the Engineering Profession Act, when it is necessary to call for nominations in terms of section 3(1)(a) or (b) , that is, for the forty council members representing the profession and the State, this must be done in the prescribed manner. In terms of section 1 prescribe means prescribe by a rule made by the council under section 36 and prescribed has a corresponding meaning. Section 36 requires public participation in the making of rules and these rules are required to be published in the Government Gazette. They are therefore in the nature of subordinate legislation and as such are regarded by the legislature as important.

### **Believing:**

1. The absence of rules published in the Government Gazette as stipulated by the Engineering Profession Act renders the procedures adopted by council during the nomination of council members invalid.

### **Therefore this 3<sup>rd</sup> conference resolves:**

1. That the NSBE take all necessary steps including a court challenge to object to the manner in which the nomination process for the recently appointed council was carried out.
2. To constructively engage with all engineering profession stakeholders as a matter of urgency through the Rules formulation process to ensure that the issue of transformation and representivity are addressed, and that no population group will have reasons to believe that they are being marginalized or excluded from their equitable participation in the activities of the Council

## ***B. Professional Registration***

### **This 3<sup>rd</sup> NSBE conference notes:**

1. The EPA requires the council to prescribe by a rule made under Section 36 of the act a registration form and category of supervising Professional in a practical training scenario.
2. Section 36 of EPA requires public participation in the making of rules which should be published in the Government Gazette.

3. No such rules have been prescribed by the Council to date.
4. The Act grants the Council extensive discretionary powers to make and approve standards of competence required of applicants for registration and the determination of whether the said standards have been met.

**Believing:**

1. Determining the standards and the method of registration by policy by the Council even though it is not contrary to the Act, introduces an element of doubt regarding the process' integrity in our members, because policy is not formulated utilizing the stricter formulation required by Section 36, which requires public participation in making Rules.
2. That the registration process and criteria should be objective and be clearly set out by way of Rules, with public participation in order to bring transparency and credibility to this very important function of the Council so that every aspiring Engineers can be left in no doubt from the beginning of their careers of what is expected of them to be evaluated against.

**Therefore this 3<sup>rd</sup> conference resolves:**

1. The NSBE must engage actively and meaningfully with the Engineering Council of South Africa and other stakeholders to ensure public participation in the formulation of Rules, and also to eliminate any reasons to cast doubt as to the integrity of the registration process.

***C. Governance of the Engineering Statutory Body***

**This 3<sup>rd</sup> NSBE conference notes:**

1. The importance of being guided by the Constitutional value and principle that says "Public administration must be accountable."

**Believing:**

1. ECSA is a national public entity as contemplated in the Public Finance Management Act (PFMA); and in terms of Section 47(2) of the PFMA, the

accounting authority of ECSA (the Council) has a positive duty to, without delay; notify the National Treasury in writing that the public entity is not listed.

2. The Minister is not precluded by Section 47(4) (b) from listing ECSA in Schedule 3 of the PFMA.

### **Therefore this 3<sup>rd</sup> conference resolves:**

1. That ECSA must place on the agenda of council for a resolution to the effect that ECSA must notify the National Treasury in terms of Section 47(2) that it is not listed in Schedule 3 of the PFMA and request to be listed therein.
2. That if the resolution does not carry, the NSBE should consider:
  - i) Launching a High Court application, seeking the following relief:
    - ❖ A declaratory order that ECSA is a national public entity as contemplated in the PFMA and that, in terms of Section 47(2), it is obliged to notify the National Treasury that it is not listed in Schedule 3 of the PFMA;
    - ❖ An order reviewing and setting aside ECSA's decision not to notify the National Treasury of the fact that it is not listed in Schedule 3 of the PFMA; and
    - ❖ A mandatory order directing ECSA to notify the National Treasury of the fact that it is not listed in Schedule 3 of the PFMA as required by Section 47(2).
  - ii) Writing to the National Treasury, expressing its view that ECSA is liable to being listed and requesting the Minister to list it in Schedule 3 of the PFMA.

### ***D. Communication with the Ministry of Public works***

#### **This 3<sup>rd</sup> NSBE conference notes:**

1. That communication between the NSBE and the office of the Ministry of Public Works has not been favourable.
2. The lack of political leadership, guidance and directives from the Office of the Minister on transformation and representivity issues in our regulatory body.

#### **Believing:**

1. That the Minister's Office should provide political leadership, guidance and directives regarding transformation discussions within ECSA since the Act has made the Council accountable to the Minister.

### **Therefore this 3<sup>rd</sup> conference resolves:**

1. That the newly elected NEC of the NSBE must vigorously pursue improvements in communication between the NSBE and the Ministry of Public Works.
2. That the newly elected NEC must sensitize the Minister of the growing impatience amongst our members because of the lack of political leadership in transformation issues within the regulatory body, and to further cajole the Minister to assist in our initiatives to transform the professional engineering landscape.
3. That transformation should encompass business, academic, and regulatory environment in the following manner:
  - Business
    - That NSBE must establish a research mechanism to monitor and evaluate transformation progress in general and the business sector in particular.
    - That NSBE where necessary must provide public support to captains of industry who seem to be besieged.
  - Academic environment
    - That the NSBE must drive transformation initiatives at the institutions of higher education, with emphasis on transforming the lectureship level.
    - That the NSBE must encourage the development of programmes aimed at increasing the numbers of Black lecturers especially in the faculties of engineering.
  - Regulatory environment
    - That the NSBE must confront any blockade towards transformation in the regulatory environment because regulations impact on access into the professional practice.
    - That the NSBE should focus on the following three areas for strategic interventions:
      - Composition of council
      - Registration
      - Governance

## ***1-3 CONSTITUTIONAL ISSUES AND GOOD GOVERNANCE***

### **This 3<sup>rd</sup> NSBE conference notes:**

1. That there is a need to review the constitution of the NSBE to promote good governance.
2. That there is a need to review the constitution of the NSBE to allow for a parallel student structure to be established.

### **Believing:**

1. That the constitution as a guiding document of the organization should provide for the necessary checks and balances that will ensure good governance of the organization.
2. That the constitution should clearly outline the relation between the NSBE (as mother body) and the student structure of the NSBE.

### **Therefore this 3<sup>rd</sup> conference resolves:**

1. To give mandate to the NEC to appoint a committee to drive the process to review the constitution.
2. That the NEC should appoint an attorney to workshop the committee on the process of constitutional review.
3. That the final document produced by this committee will be presented to members in the next conference for adoption.
4. That to promote good governance the NSBE should be registered as a Section 21 company.
5. That the NEC coordinate the process of establishing the parallel NSBE student structure under the following guidelines pending the finalization of the constitutional review process:
  - The structure will enjoy some degree of autonomy status.
  - The structure will have a dedicated interim constitution to govern its affairs.
  - The structure will also formulate its own National Executive Committee to be represented at the NSBE (SA) NEC.

- The structure will be a complete student focused structure with a slot in conferences where they can be afforded a platform to make presentations around the following:
  - Their academic successes through the year,
  - Funds they have generated through student membership fees, student linkages to things such as bursaries and any other forms of financial assistance relevant.

## ***1- 4 SUSTENANCE AND FUNDING OF THE ORGANIZATION***

### **This 3<sup>rd</sup> NSBE conference notes:**

1. The lack of a sustainable funding model for the organization.
2. The contributions made by Emzansi Engineers (Pty) Ltd towards the sustenance of the organization for the past three years.

### **Believing:**

1. That a sustainable funding model for the organization should be developed.
2. That Emzansi Engineers (Pty) Ltd has made its contribution and it is no longer in a position to sustain the organization.

### **Therefore this 3<sup>rd</sup> conference resolves:**

1. That the NEC should consider the following fund raising mechanisms in trying to address the sustainability issues:
  - Member subscription fees
  - Research and information services by members
  - Corporate sponsorship
  - Investment initiatives
  - Recruiting more members from Parastatals and government so that their membership fees can be paid for by their employers.
  - Registering the organization as a Section 21 company to make easier to solicit sponsorships from government and private sector.
  - Develop MOU with the Moses Kotane Institute to get mentorship initiatives started.
  - Establishment of corporate membership
  - Engaging senior members of organizations and/ or parastatals.

- Making use of a dedicated person seconded by Busiya consulting to engage senior executives to recruit 10 members per organization.
- Exhibitions and tables for corporate members.
- SA petroleum congress partnerships for funds.
- Companies such as Eskom, Sasol, Transnet, Petro SA, SAPREF who employs engineers can be targeted. Benefits to companies that participate will be CPD points, tax deductions, and DVDs could be developed to market organizations who participate.
- Task people to execute these ideas.
- Get ideas from other organizations such as Absa Capital
- Support student structures
- Investment wing must utilize Sasol empowerment for engineering projects.
- Interactive portal to give input not just at conference – through provincial committees.