

**Nevada State Board of Professional Engineers & Land Surveyors
1755 E. Plumb Lane, Suite 130
Reno, Nevada 89502**

**Advisory Committee Hearing – Robert O. Anderson, PE #7767
December 14, 2016**

Advisory Committee Members

Samuel D. Palmer, PE #7841 – Chairman	Robert C. Hosea, PE #10112
Christopher L. White, PE #11301	James W. Foley, PE/SE #4096
Lisa M. Freestone, PE #13621	

Chairman Palmer called the hearing to order at 9:22 a.m. He said that all committee members were present, along with Lawrence A. Werner, PLS/PE #3804, the complainant, and Mr. Anderson, the respondent. Also present were Patty Mamola, PE, Board Executive Director; Ryan Mulvany, Board Compliance Officer; Peter Keegan, Deputy Attorney General; and Kay Smith, Board Administrative Assistant.

Chairman Palmer said the hearing was called to provide assistance to the Board in the evaluation and disposition of the complaint filed against Mr. Anderson. He said the committee would take no formal action regarding the complaint. He said the hearing would be recorded.

Chairman Palmer asked the advisory committee members to state their names for the record. He said he will serve as the chair of the committee.

1. Public Comment Period

Chairman Palmer asked for public comment, per NRS 241.020 (2)(e)(3). He said the advisory committee may discuss but not act on matters addressed during public comment. He said that comments from members of the public may be limited in consideration of others, but no more than three minutes.

Hope Sullivan, former planning manager for Douglas County, read her comments into the record. Please refer to Addendum A for a copy of Ms. Sullivan's comments.

Bob Ballou read his comments into the record. Please refer to Addendum B for a copy of Mr. Ballou's comments.

There were no other public comments.

2. Advisory Committee Hearing – Robert O. Anderson, PE #7767

Chairman Palmer said that pursuant to NRS 241.030(1) the advisory committee would proceed with the first portion of this agenda item in closed session since it involved the consideration of the character, alleged misconduct, professional competence, or physical or mental health of a Board licensee.

Chairman Palmer asked Mr. Anderson if he wished to waive his right to proceed in closed session. Mr. Anderson replied that he did not wish to waive that right. Chairman Palmer asked for a motion for the advisory committee to go to closed session.

Motion was made by Ms. Freestone, seconded by Mr. White, to close the session. The motion passed unanimously.

At 9:30 a.m. Chairman Palmer said the hearing was now in closed session. He asked members of the public to please leave the conference room until the hearing was back in open session. He said a separate recording of the hearing would be started for the closed session.

At 1:28 p.m. Chairman Palmer announced the hearing was back in open session. He said the advisory committee needed to make a recommendation to the Board concerning the complaint against Mr. Anderson. He said that Mr. Anderson had heard the committee's comments and concerns during the closed session, and it was appropriate to ask him to provide input on a proposed resolution for the committee to consider.

Mr. Anderson indicated he would accept a stipulated agreement with the Board based on the concerns expressed by the committee members. He said that name calling in public is neither appropriate nor becoming of his position, and he takes responsibility for his actions.

Chairman Palmer advised Mr. Anderson that he must maintain composure in public meetings. He said that Mr. Anderson is a representative of the engineering community and is held to a code of conduct. Chairman Palmer said the State of Nevada offers training on the Open Meeting Law and said it would be good for Mr. Anderson to attend a training session.

Mr. Foley referred to NAC 625.510 in the Board's disciplinary matrix, which refers to the Code of Conduct and failure to uphold and advance the honor and dignity of the profession by maintaining high standards of ethical conduct. He said the regulation appeared to apply to the allegations in the complaint.

Mr. White referred to NAC 625.520(2)(3), relations with the public, which he said was more in line with the disparaging remarks that Mr. Anderson had made in a public meeting. He said there were some mitigating factors in that Mr. Anderson got caught up in the "good old boys club", and over time his actions became acceptable behavior.

Chairman Palmer said he was not in favor of imposing an administrative fine or investigative costs. Ms. Mamola said that staff would like the committee to consider requiring Mr. Anderson to reimburse the Board's investigative costs. She said an estimate would be \$2,500 and staff will determine the exact amount. Ms. Freestone and Mr. White agreed with reimbursement of investigative costs.

Ms. Freestone said that reaching a resolution was the right thing to do. She said she hoped that Mr. Anderson would consider his actions and the statements that he made about fellow engineers or public employees in public situations. Ms. Freestone said she hoped that going forward Mr. Anderson could continue to serve the profession as he has in the last 30 years.

Mr. Keegan said it appeared the committee had evaluated Mr. Anderson's actions under the regulatory provisions as opposed to the more stringent and serious provisions specified in NRS 625.410, grounds for disciplinary action. As such, he said the first thing would be to determine if probable cause existed and to recommend formal discipline under NRS 625.410. Mr. Keegan said if this was not the case, then a decision could be made on how to resolve the violations of the regulations by recommending a formal hearing with the Board, or offering Mr. Anderson a stipulated agreement for the Board's consideration.

Mr. Keegan referred to NRS 625.410(2), which refers to gross negligence, incompetency or misconduct in the practice of professional engineering as a professional engineer, or in the practice of land surveying as a professional land surveyor. He said he thought this statute pertained to the practice of the skills of engineering and misconduct pertaining to those skills. Mr. Keegan said the issues before the committee did not necessarily involve the practice of the trade of engineering, but rather concerned the ethical components in NAC 625.410.

Mr. Keegan said that if the committee wanted to advise the Board to pursue a settlement where Mr. Anderson would recognize some degree or admission of some degree of violation, this would be separate from finding probable cause to believe that Mr. Anderson violated NRS 625.410 and to pursue a formal disciplinary hearing.

Chairman Palmer said he did not believe there was any appetite to proceed with a formal hearing. As such, the following motion was made.

Motion was made by Mr. Foley, seconded by Ms. Freestone, that the advisory committee does not recommend pursuing formal disciplinary action in accordance with NRS 625.410. The motion passed unanimously.

Another motion was made concerning Mr. Anderson's violations of the Board's regulatory provisions.

Motion was made by Mr. Foley, seconded by Mr. Hosea, that based on review of the complaint against Mr. Anderson the advisory committee finds that it could prove a violation of NAC 625.510(1), but in lieu of proceeding with a disciplinary hearing, the advisory committee recommends offering Mr. Anderson a stipulated agreement. The stipulated agreement will require Mr. Anderson to attend the Nevada Attorney General's or Nevada Ethics Commission's training on the Open Meeting Law within one year, and require payment of the Board's investigative and hearing costs.

Mr. Anderson said he understood that he must attend the Open Meeting Law training within one year and reimburse the Board's investigative costs of approximately \$2,500. He said the proposed stipulated agreement was acceptable.

Chairman Palmer said he was still torn about requiring reimbursement of the investigative costs. He said there was a lot of gray in the issues between the two agencies and both parties have suffered quite a bit.

There being no further discussion, the motion passed unanimously.

3. **Public Comment Period**

Chairman Palmer asked for public comment.

Bob Ballou thanked the advisory committee for the deliberations. He said he understood this was a difficult issue for the committee to pass judgment on a fellow engineer. Mr. Ballou said it was very hard for him to be here today and to listen and find out what had gone on earlier. He said it was very disheartening. He said he was glad the advisory committee existed. Mr. Ballou said he sincerely hoped Mr. Anderson understood how disappointed he and many others are.

There were no other public comments.

Adjournment

There being no further discussion, Chairman Palmer adjourned the hearing at 2:00 p.m. on Wednesday, December 14, 2016.

Respectfully,

Patty Mamola
Executive Director