

**NEVADA STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS**  
**Minutes of the Regular Board Meeting**  
**held in Las Vegas, Nevada, Thursday, May 10, 2018**

Chairman Robert LaRiviere, PLS, declaring a quorum present, called the meeting to order at 8:32 am, in the Holsum Bread Building at 241 W Charleston Boulevard, Suite 130, Las Vegas, Nevada. Board members present were Vice Chairman Karen Purcell, PE; Kent Anderson, PE; Michael Kidd, PLS; Brent Wright, PE/SE; Thomas Matter, public; Gregory DeSart, PE. Amy Cheng, PE; and Tracy Larkin-Thomsen, PE joined the meeting after it had started. Also present were Patty Mamola, PE, Executive Director; Louisa Kern, Administrative Assistant; Murray Blaney, Compliance Officer; Chris MacKenzie, Board Legal Counsel; and Susan Fisher with McDonald Carano. The following people attended as guests of the board:

Jimmy Floyd, PE (Civil) # 022958  
Clark County Public Works  
Brad Olsen, PE (Civil) #010894  
Ninyo & Moore

1. **Call to Order and Roll Call of Board Members**
2. **Pledge of Allegiance**
3. **Public Comment Period**

There were no public comments.

4. **Introductions and Guest Orientation**

Chairman LaRiviere welcomed the board guests and asked them to introduce themselves.

5. **Approval of March 8, 2018 Regular Board Meeting Minutes**

The board considered the minutes and no comments or corrections were given.

18-22 Motion was made by Vice Chairman Purcell, seconded by Mr Kidd, to approve the minutes as written. The motion passed unanimously.

6. **Financial Statements**
  - a. **February 2018 Financial Statements**
  - b. **March 2018 Financial Statements**

Ms Mamola reviewed the financial statements for each month and answered questions by the board.

18-23 Motion was made by Mr Anderson, seconded by Mr Wright, to approve the financial statements for the two months. The motion passed unanimously.

7. **Election of board chair and vice chair for one-year terms commencing on July 1, 2018**

Chairman LaRiviere asked for nominations for board Chairman. The term will take effect July 1, 2018.

18-24 A motion was made by Vice Chair Purcell, seconded by Mr Kidd to nominate Mr LaRiviere for Chairman.

There were no other nominations.

There being no further discussion, the motion passed unanimously.

Chairman La Riviere asked for nominations for board Vice Chairman. The term will take effect July 1, 2018.

18-25 A motion was made by Mr DeSart, seconded by Mr Kidd to nominate Ms Purcell Vice Chairman.

There were no other nominations.

There being no further discussion, the motion passed unanimously

**8. UNLV Construction Management program related to possible path for professional engineer licensure for students graduating from the program**

Chairman LaRiviere asked those present to discuss this item to introduce themselves.

Dr Donald Hayes, PE (Civil)  
UNLV, Associate Dean for Undergraduate Programs  
Professor Sajjad Ahmad  
UNLV, Department Chair  
David Alexander, PE  
Poggemeyer Design Group/CM Works

Mr DeSart said there had been discussion in the industry where people are questioning whether a construction management degree from UNLV qualifies as a four-year degree requirement for PE licensure. He continued to say that it would be worthwhile to have this conversation regarding the eligibility of the program with regard to licensure, and have UNLV present the curriculum and present the program. Mr DeSart added that he would ask the UNLV guests to make a case why they believe that the program is relevant to licensure – a professional engineering license as a construction manager. He also said it would be good to get feedback from industry and then the board, so a position on the topic could be taken formally.

Ms Mamola said the board has provided a pathway for technology degrees - engineering technology degrees, which are different than a Bachelor of Science in engineering. She added that a construction management degree from UNLV is very similar to an engineering technology degree, but asked to hear from the UNLV staff and get their thoughts.

Dr Hayes presented printed copies to the board of the program's curriculum. He described the elements that make up the curriculum, and said although it was very similar to a technology degree, he felt the UNLV's offering is measurably more rigorous than other programs. Mr DeSart asked about the accreditation process for the construction management program. Dr Hayes said the program was accredited through the ACCE (American Council of Construction Education).

Mr DeSart asked what career path program graduates typically took. Dr Hayes answered saying most go into construction related positions, adding the industry demand is very high. Mr Alexander added that there was a

high demand in the construction management field and in particular for licensed professionals.

Mr Matter asked why construction managers needed to be licensed as professionals based on his experience he had not seen the need. Mr Wright asked if the need for professional licensing came from a need to stamp documents or the need for a professional engineer. Mr Alexander answered that it is not so much about stamping, but about having someone with engineering knowledge to be aware of what needs to go into a construction project as an engineer, someone that understands the process.

Ms Mamola said the question for the board is to consider the UNLV construction management degree and how relates to the current education policy. She continued to say that we already have an education policy that addresses engineering technology, where to fulfill the education requirement applicants would need six years of experience, as opposed to four with an engineering degree.

A general discussion was held about minimum competency in areas of mathematics and physics related to engineering, and concern that a standard was being met within the construction management program. The discussion broadened, to clarify for those present, not familiar, with the ABET and TAC accreditation by an educational institution meant and entailed. Ms Mamola then brought proceeding back to the board's education policy, and suggested clarification so a motion could be considered.

18-26 A motion was made by Mr DeSart, seconded by Ms Cheng to add BS Construction Management, ABET/TAC or non-ABET to the board's education policy with the requirement of six (6) years' experience. The motion passed 7-2.

9. **Presentation by Las Vegas Nate Mack Elementary School Robotics Team**

10. **Compliance reports by Compliance Officer and Board Counsel**

a. **Compliance Officer Report on Complaints being Investigated**

**1 20170013 – Unethical conduct by an employee**

Mr Blaney reported that the case is still in the investigative stage, and currently awaiting a rebuttal from the complainant.

**2 20170015 – Unethical conduct by a city engineer**

Mr Blaney said this case has been to a board liaison and came back with a recommendation to dismiss. He added letters of the finding have been sent to the complainant and the respondent.

**3 20170016 – Property line dispute**

Mr Blaney stated the third case resulted in a stipulated agreement which has been signed by the respondent, and is to be considered by the board today.

**4 20180001 – Failure to act as a faithful agent to client**

This case, again, is in the investigative stage. A response has been received, and following a case summary, will go out to a board liaison next week.

**5 20180002 – Incompetence in producing a forensic report**

Mr Blaney said that a response has just come back from the respondent and his attorney. It is currently under review.

**6 20180003 – Faithful agent; failure to represent a client’s best interests**

Mr Blaney reported that a response has arrived and has not yet been reviewed.

**7 20180004– Code of conduct**

This complaint was against an employee of a state agency. Mr Blaney said the investigation and board liaison review has been completed. The recommendation was to dismiss that case and letters of finding have been sent out to the complainant and the respondent.

**8 20180005 – Complaint of trespass against a land surveyor**

Mr Blaney said following review by a board liaison a recommendation to dismiss and letters of findings were sent out. Mr Blaney stated he’s heard back from the complainant and will follow up. He continued to say, the complainant didn’t like the complaint being dismissed, but the facts of the case did not support finding the respondent in any violation.

**9 20180006 – Allegation of forgery**

Mr Blaney stated that this case involves documents stamped and signed by a PE being submitted to a public agency with two alleged forged signatures. He continued to say the signatures in question were two senior city building officials. Mr Blaney added that he is reviewing the response and it will go out to a board liaison in the near future.

**10 20180007 – Failure to perform services in a timely manner**

Mr Blaney said a response was received yesterday regarding this complaint, and the review would begin next week.

**b. Consideration of Probation Reports:**

Jason E. Caster, PLS #19338  
Michael Keegan, PE #8821  
Michael Regan, PE #11081

Larry J. Sanchez, PE #15752  
Mohan B. Upasani, PE #11760

Mr Wright asked for clarification on the restrictions imposed on Mr Sanchez’s license. Mr Blaney explained the scope of the limitation on Mr Sanchez, and that it would not preclude him from getting the necessary practical experience for the possibility of the restriction being removed in the future.

Chairman LaRiviere asked Mr Blaney to seek clarification on project dates listed on Mr Upasani’s report.

18-27 A motion was made by Vice Chairman Purcell, seconded by Mr Kidd to approve the probation reports. The motion passed unanimously.

**c. Consideration of Larry Sanchez, PE #15752, whitepaper**

18-28 A motion was made by Mr Kidd, seconded by Mr Anderson to approve the Sanchez whitepaper. The motion passed unanimously.

**d. Board Counsel Report**

**i. Consideration of stipulated agreement for David Winchell, PLS #3209**

Mr MacKenzie reviewed the stipulated facts and terms of the agreement. He added that the agreement is for the board's consideration if this is sufficient for what has been alleged. Mr MacKenzie continued to say, the respondent has submitted it, signed it and it is now before the board for consideration and approval.

A discussion ensued regarding what lengths the board can go to remedy cases where a licensee's actions result in a clouded title. It was concluded that the board can only follow a course of action that is allowable under its jurisdiction.

18-29 A motion was made by Mr DeSart, seconded by Mr Wright to approve the Winchell stipulated agreement. The motion carried, 6-1, with 1 abstention.

**ii. Process of oral interviews for licensure applicants.**

Mr MacKenzie spoke to clarify opening meeting law with regard to oral interviews. He stated that the deliberation as to the outcome of the interview is to be in open session and requires a motion and vote. He continued to say that there could instances when a closed session could be requested by the applicant or offered by the chairman, but the deliberation and motion would still need to in open meeting. Ms Mamola added that correct procedures in noticing and posting of agendas with closed sessions, with regard to oral interviews, would also need to be followed.

**iii. Rules of Practice for consideration to draft as regulations**

Mr MacKenzie clarified that that board policies now needed to be codified. He continued to say that the process would similar to as what has been carried out with the proposed regulation changes to NAC 625 the board has just been through. He recommended the process to adopt policies as draft regulations begin straight away.

Mr MacKenzie also outlined procedural changes with regard to counsel's role in formal hearings. He continued to clarify the need for the clear separation of prosecuting counsel and counsel advising the board, and offered an explanation of how that could be achieved.

**11. Ali Toghanipour, PE #13986, oral interview to remove board imposed geotechnical engineering restrictions on his Civil Engineering practice.**

Mr Blaney stated that a complaint was filed against Mr Toghanipour in October of 2013. As a result of the subsequent investigation and formal hearing, a decision and order was issued February 2014, where Mr Toghanipour was ordered to cease and desist performing geotechnical engineering under a civil license until he could provide evidence, to the board's satisfaction, that he'd received adequate training. Mr Blaney continued to add, that in February 2016, Mr Toghanipour petitioned the board to have the cease and desist lifted. Subsequent to that, there was an oral exam, at the board's meeting on May 5th of 2016, with the outcome being that the board found that Mr Toghanipour had not yet gained sufficient knowledge to warrant the lifting of the geotech restriction, and recommended action was to obtain two more years of geotechnical experience under supervision. Mr Blaney added, that in April 2018, Mr Toghanipour petitioned the board again

about having that restriction lifted, and we're here today as a result to have an oral interview to determine Mr Toghanipour's geotechnical engineering competency.

Mr DeSart asked Mr Toghanipour to tell the board what additional training he had undertaken since his last oral interview. Mr Toghanipour described an online geotechnical engineering certification he had completed. Mr DeSart asked about the examination to receive the certification. Mr Toghanipour replied it was a 40 question open-book quiz.

Mr DeSart, Mr Wright, and Mr Olsen asked questions of Mr Toghanipour about the content of the geotechnical report he submitted as an example of his work. They asked Mr Toghanipour to explain in detail how he arrived at his stated conclusions. It was also asked why the report was limited in scope when Southern Nevada Building Code Amendments require a much greater range of elements to be considered and addressed. There was particular concern about the absence of any settlement calculations in relation to bearing capacity. Mr Toghanipour could not offer an expansive or detailed answer as to his conclusions to satisfy those posing the questions. He defended the limited scope by saying the local jurisdiction did not require expanded detail, so he adhered to a minimum standard. He also added that the licensed professional who has been mentoring him did not encourage him to perform any geotechnical engineering calculations beyond what he perceived as the accepted local minimum standard.

Mr DeSart expressed that based on the sample work submitted, and the answers to the questions exploring the breadth of Mr Toghanipour's geotechnical engineering knowledge, that he would not feel comfortable allowing Mr Toghanipour to perform professional geotechnical engineering. He added that Mr Toghanipour has not shown enough to demonstrate any improvement in his competence. Mr DeSart continued to outline a possible course of action for Mr Toghanipour to remedy his deficiencies.

It was recommended by Mr DeSart and Ms Mamola, referencing NRS 625.397, that Mr Toghanipour be required to take and pass the NCEES civil geotechnical exam. In addition, Mr Toghanipour will need to gain at least two years of appropriate progressive experience – where competency can be demonstrated to accepted standard for professional geotechnical engineering practice. Chairman LaRiviere and Mr Olsen added the onus is on Mr Toghanipour to seek out that responsible experience, and that he may need to strongly consider a different mentor to achieve that goal. Two more years of the same experience he is currently getting will not be acceptable.

18-30            A motion was made by Mr DeSart, seconded by Mr Wright to approve the recommendation that for the board to consider the removal of the geotechnical restriction on Mr Toghanipour's civil engineering license, he must pass the NCEES civil geotechnical engineering exam, and seek at least two years progressive geotechnical engineering experience, before he can again appear before the board to demonstrate his professional competency.  
The motion passed unanimously.

## **12. Discussion and possible action on administrative report by executive director**

### **a. Approved Licensees Report**

Ms Mamola summarized the number of applicants that had been approved for initial and comity licensure, and those that have had licenses reinstated.

### **b. Action Items Related to 2017-2021 Strategic Plan**

Ms Mamola stated that this action item is a placeholder for discussion on the agenda in case the board wants to weigh in on any of the strategic plan items. She added that in accordance with that strategic plan, staff

have drafted a business plan, which the APOC committee chair will present for board approval later in the agenda.

**c. Items Related to National Council of Examiners for Engineering & Surveying (NCEES)**

Ms Mamola recapped the NCEES Western Zone meeting. She said Ryan Roberson from Colorado was elected as the Western Zone Vice-President at that meeting. Ms Mamola continued to say the survey exam taskforce report was a topic of note, and referenced slides related to that report are included in board book for review.

**i. Annual Meeting Attendees**

Ms Mamola said the NCEES Annual meeting would be held August 15th through the 18th, and asked board members to indicate if they were planning on attending.

**ii. NCEES Survey Exam Task Force PowerPoint presented at Western Zone meeting**

Ms Mamola referenced the PowerPoint slides and asked if there any questions or comments. There were none.

**d. Authorized digital signatures and input received from Nevada Building Officials**

Ms Mamola gave an update regarding the consideration of board authorized signatures. She explained that a presentation was made at the Nevada Organization of Building Officials to get feedback. Ms Mamola said there was no negative feedback to the concept, but felt some may not have a full understanding of the concept. She said creating a survey to send to the various public agencies across the state, with well-directed questions as to their needs regarding electronic submittals and digital signatures, would help give more information for her to report back on. She added the key moving forward in this process is a demand from building officials. Ms Mamola said if the commitment was forthcoming, then options would need to be presented as to what the board's role would be in being a facilitator in the issuance of digital signatures. Ms Mamola said she has engaged the Nevada Contractor's Board and the Nevada Architect's Board to be part of the process.

**e. Nevada Contractors Board**

Ms Mamola asked for an indication of board members who planning to attend the regulatory training at the contractors board Reno office on July 11, 2018.

**13. Board Committee Reports**

**a. Administrative Procedures Oversight Committee, Chair Karen Purcell**

**i. Proposed financial reserve policy**

Vice Chair Purcell asked that Ms Mamola review the proposed financial reserve policy. Ms Mamola stated the proposed policy was for the board to hold 18 months of reserves, and that the APOC committee had made a recommendation for approval.

18-31            A motion was made by Vice Chairman Purcell, seconded by Mr Anderson to approve the financial reserve policy. The motion passed unanimously.

**ii. Fiscal year 2017-2018 budget augmentation**

Vice Chair Purcell asked that Ms Mamola review the detail of the 2017-2018 budget augmentation that the APOC committee had made a recommendation for approval.

Mr DeSart asked of the need for having a budget augmentation. Ms Mamola explained the need had arisen from questioning by the Legislative Sunset Review Sub-Committee. She stated that remarks had been made about items that had exceeded budgeted amounts and whether the board was aware of the overages. The augmentation is proposed to ensure the board was well aware of expense items exceeding planned amounts and approval is gained. Mr DeSart said the board was already aware of expense amounts, and any overage details, as the financials are reviewed thoroughly and approved at each board meeting. Ms Mamola agreed. Mr DeSart then asked that any augmentation then be limited to one in the mid-budget cycle, if adjustment is needed. Ms Mamola concurred.

18-32            A motion was made by Vice Chairman Purcell, seconded by Ms Cheng to approve the 2017-2018 budget augmentation. The motion passed unanimously.

**iii. Fiscal year 2018-2019 budget**

Vice Chair Purcell asked that Ms Mamola review the fiscal year 2018-2019 budget that the APOC committee had made a recommendation for approval.

Ms Mamola reviewed the detail of the budget, highlighting the line item “penalties” regarding the payment of any fines as a result of disciplinary action imposed, that would be paid to the state’s general fund. Ms Mamola then answered board member requests for clarification.

18-33            A motion was made by Ms Cheng, seconded by Mr Kidd to approve the fiscal year 2018-2019 budget. The motion passed unanimously.

**iv. Draft business plan**

Ms Mamola summarized the draft business plan that the APOC committee had recommended for approval. Ms Mamola clarified items in the financial outline section in response to board member questions.

18-34            A motion was made by Vice Chairman Purcell, seconded by Mr Anderson to approve the draft business plan. The motion passed unanimously.

Vice Chairman Purcell said an additional item that the APOC Committee discussed was the performance evaluation for our Executive Director. Vice Chairman Purcell continued to say the committee felt that the executive director had met the goals of the board, and that Ms Mamola was leading the board in a very positive direction. Vice Chairman Purcell stated, therefore, the APOC Committee is recommending a 5% merit salary increase for the executive director.

18-35            A motion was made by Mr DeSart, seconded by Ms Larkin-Thomason to approve the merit salary increase of 5%. The motion passed unanimously.

**b. Legislative Committee, Chair Michael Kidd**

**i. Proposed changes to NRS/NAC 625**

Mr Kidd reviewed the outcome of the public workshops held regarding the proposed regulatory changes.

Ms Mamola then gave a summary of the timelines in the forward process of the proposed changes with regard to the LCB. She added that proposed NRS changes would be on a different schedule.

**c. Professional Association Liaison (PAL) Council, Chair Greg DeSart**

Mr DeSart reported that the PAL Council had met the previous day. He said there were representatives from Nevada Association of Land Surveyors (NALS), American Council of Engineering Companies (ACEC), and the National Society of Professional Engineers (NSPE).

Mr DeSart said he updated the group on the activities of the board, in particular the regulatory changes and the upcoming continuing education event. He continued to give an overview of the topics discussed by the council, which included NALS having formed a 10 person legislative committee and they proposed to hire a lobbyist. He said ACEC was still troubled by issues with adherence to QBS in the wording of RFPs by some agencies. Mr DeSart also said NSPE highlighted that their national convention was going to be held in Las Vegas July 2018.

Mr DeSart noted that the next PAL Council meeting would be held the morning of July 12, before the board meeting in Reno, at 8:30am.

**d. Public Outreach Committee, Chair Greg DeSart**

**i. Continuing Education Event for Fall 2018**

Mr DeSart said the main item with Public Outreach is the continuing education event the board is hosting. He asked that Mr Blaney bring the board update on the planning process. Mr Blaney summarized the promotional items and timelines, and explained the branding of the event. Ms Mamola also outlined the speakers and the topics that would be presented.

**14. Public Workshops and Small Business Impact Statements Related to Proposed Regulation Changes (NAC 625.610, NAC 625.630, NAC 625.260, and NAC 625.545)**

Chairman LaRiviere said there was nothing additional to add on this item that hadn't already been mentioned in the Legislative Committee report.

**15. Engineering responsible charge as it relates to materials testing and inspection.**

Chairman LaRiviere asked that Mr DeSart introduce this agenda item.

Mr DeSart gave a summary of previous whitepaper authored by a committee of the board and a position paper by ACEC presented to the board in 2016. Mr DeSart said despite the two documents clearly outlining what responsible charge means relating to materials testing and inspection, the industry at-large still does not have a clear understanding. A discussion ensued highlighting that a professional engineer's oversight requires more than stamping and sealing of a final document, that it entails being in responsible charge of the whole process from start to finish. A point was also made related to adherence to QBS by public agencies, where responsible charge by a professional relating to materials testing and inspection, was being incorrectly interpreted in RFP documents. It was said situations had arisen in RFP's where requested services were only for materials testing technicians, disregarding the need for full oversight by a professional engineer. Agencies intended to provide the PE to oversee the materials testers, failing to recognize materials testing and

inspection as requiring an engineer in responsible charge.

Mr Kidd said issues relating to QBS and professional surveying services existed. Mr MacKenzie advised because the topic was not on the agenda, it would need to be added as an item for discussion at a future board meeting.

Mr DeSart suggested that the board may need to again clarify its position on special inspections and testing, that it is a professional engineering service, no matter who is contracting for that service, be it a public agency or a general contractor. Mr DeSart continued to say that an expanded position policy may help in the education of the industry and the public on the issue.

Ms Mamola stated that the best course of action would be to task staff and the legislative committee with drafting a proposed change to regulations to add clarity. Ms Mamola said it would be added as an action item and she would report back at a future board meeting.

#### **16. Corporate Name Requests**

There were no corporate name requests to consider.

#### **17. Consideration of Applicant Requests to Waive Certain Requirements of NRS/NAC 625 for Examination or License**

##### Applicants Request Waiver of NRS 625.183 4 (b)

Vice Chairman Purcell recommended the granting the request of Roberto Bejarano, applying for mechanical licensure.

18-36 A motion was made by Vice Chairman Purcell, seconded by Ms Larkin-Thomason to approve the waiver request of Mr Bejarano. The motion passed unanimously.

Mr Anderson recommended denying the waiver request of James Frost, applying for mining licensure, and requested that Mr Frost appear before the board for an oral interview.

18-37 A motion was made by Mr Anderson, seconded by Mr DeSart to deny the waiver request of Mr Frost. The motion passed unanimously.

#### **18. Board Approval of Non-Appearance Applications for initial Licensure. Refer to Addendum A for List of Applicants**

The board considered 17 non-appearance applications for initial licensure and recommendations were made.

18-38 A motion was made by Mr DeSart, seconded by Mr Matter, to approve the recommendations. The motion passed unanimously.

#### **19. Status of Board and Staff Assignments**

Ms Mamola reviewed those items completed and those pending.

#### **20. Meeting Dates**

Ms Mamola asked board members to review meeting dates listed in the board packet and advise her if they had any conflicts. The next board meeting date is scheduled for July 12, 2018 at 9:30am at the Reno office.

Chairman LaRiviere thanked Ms Cheng, on behalf of the board, for her service over the last two terms.

**21. Topics for Future Meetings Including Possible Proposed Amendments to the Nevada Professional Engineers and Land Surveyors Law, NRS/NAC Chapter 625**

No future topics were discussed.

**22. Signing Certificates of Licensure**

The board signed wall certificates for those persons who were licensed by comity and initial licensure.

**23. Public Comment**

Mr Olsen and Mr Floyd gave their input about attending the meeting today. There were no other public comments.

**Adjournment**

Chairman LaRiviere adjourned the meeting at 1:53 pm, on Thursday, May 10, 2018.

Respectfully,

Patty Mamola, PE  
Executive Director