

NEVADA STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS
Minutes of the Legislative Committee Meeting
Held in Reno, Nevada, Monday, February 18, 2020

Committee Chairman Angelo Spata, PE, called the meeting to order at 3:00pm, in the Board Room at 1755 E Plumb lane, suite 258, Reno, Nevada. Committee members present were Karen Purcell, PE, Patty Mamola, PE, Executive Director. Joined via video conferencing were Brent Wright, SE; Michael Kidd, PLS; Matthew Gingerich, PLS; Greg DeSart, PE; and Christopher MacKenzie, Board Counsel. Also present was Murray Blaney, Compliance/Operations for the board. Public in attendance: Jason Dixon, PE; and Hugh Ricci, PE.

1. Meeting conducted by Committee Chair Angelo Spata, call to order and roll call to determine presence of quorum

2. Public Comment Period

Mr Spata asked for public comment.

Yes, Jason Dixon here, that's spelled D i x o n. So, I am here to comment on a proposal that I learned of, I think it was last weekend. I received an email for a survey and what I read in the survey was very disturbing and I'll get to that in a minute, but I was anxious to participate in the survey. However, I was down in Las Vegas at a Nevada Water Resources Association conference getting my CEUs and I was unable to participate in that survey. So, when I got back to Reno, I went to the link and it was closed. And I thought well, that's weird. Why is it closed so fast, I sent an email, received a reply. It was posted really quickly. I didn't know why, I come to find out there's a board meeting today. So, my first comment is why were we not provided more time to provide comment on that issue and then regarding that issue, one of my business colleagues is on his way here. He's retired Nevada state engineer Hugh Richie. He feels the same way I do about this that it's a horrible idea to go from 30 to 3 CEUs in the name of public safety, you're doing the exact opposite specifically if two of those three need to be in ethics and in law, has nothing to do with public safety. We need to be competent in the subject matters in which we practice, that is in the name of public safety, and I understand I am a PE in Arizona and Utah and our 30 hours is a bit more than what other states require, but this is Nevada it needs to be that way. I think going to 3 especially with two of them being ethics and law is a horrible idea and I strongly encourage you to do away with that. It needs to stay 30. In fact, I would support making it higher and you think about it, I mentioned that I was I was at the Nevada Water Resources Association that is a phenomenal nonprofit organization attended by a lot of engineers in Nevada. That organization relies on, again nonprofit, relies on people there to get CEUs. It would be devastating to them if. Most of my CEUs that I file every two years are from NWRA and I hope you guys reconsider this, it needs to stay at 30 at a minimum. That's all I had. Thank you.

Mr Spata thanked Mr Dixon for his comments.

3. Approval of February 3, 2020, Legislative Committee meeting minutes

LGC 20-3 Mr Wright made a motion to approve the February 3, 2020 Legislative Committee meeting minutes. Motion was seconded by Ms Purcell. Motion passed unanimously.

4. Discuss potential changes to Nevada Administrative Code chapter 625 related to mandated ten-year review, refer to attached addendum A

Mr Spata said Item four on agenda is to discuss possible changes to NAC chapter 625, this is related to the mandatory ten-year review. Staff has taken an initial review and recommended changes, and they were provided for committee members to review.

Ms Mamola said she thought we could skip from 625.010 all the way through 625.125 as there are no recommended changes to those regulations. She suggested moving on to the sections on licensure, 625.210 through 625.420.

Mr Spata asked if there were any comments from the committee or other board members on those sections.

Ms Purcell asked staff to explain the colors used in the proposed changes.

Ms Mamola stated that blue or red is new language that is proposed to be added. Any language that was struck was proposed to be removed. And green text is editorial narrative to provide context.

Mr Spata stated we're going through the currently proposed changes to gain some agreement or concurrence of this committee. Ultimately, this gets pushed through to the board who will subsequently approve the proposed changes, so this meeting is not the one all be all.

Ms Mamola said if the committee agrees with the proposed language it then goes to the board and if the board agrees then we move forward with the public process, which is to hold public workshops, typically one in the north and one in the south. We are also required to do a small business impact study.

Ms Mamola further commented that in the proposed language on licensure staff is proposing a reduction in the application fee and explained that staff will need to take it to the APOC committee and if they recommend approval, it will need to go to the board for approval. We need to schedule an APOC meeting and talk about the financial impact, but we wanted to multitrack this to keep moving forward. (ACTION item)

Mr Spata asked if the proposed fee reduction was adequate to cover staff time for processing.

Ms Mamola said, yes, it will be reviewed and discussed at a future APOC meeting.

Mr Spata asked if there were any other comments on 625.210. Hearing none, he asked to move on.

Ms Mamola said the next proposed change was 625.21X, a possible new NAC to address the “double-dipping” issue that we had with recent Master’s degree applicants, who requested 4-years of experience in a 2-year period because of the 2-year experience credit given for a Master’s degree. Ms Mamola said she drafted language, and we need to give it some thought to determine if the suggested text addresses the situation.

Ms Purcell stated she thought the proposed language addressed the issue.

Mr Kidd sated he thought it was a good clarification based on some of the past issues.

Mr Spata said he agreed.

Mr MacKenzie asked if applicants could get one-year credit.

Mr Spata asked if we needed to clarify the language if that was the case.

Mr MacKenzie said yes, if an applicant can't get two years credit for a master's degree concurrent with work experience, could the applicant get anything for a master's degree that was earned concurrently with work experience.

Ms Purcell stated we are trying to avoid "double-dipping", earning 4-years' experience in a 2-year period, if someone is working full-time and getting their master's degree at the same time.

Mr Spata thanked Mr MacKenzie for the good comment and said we would consider how best to modify the language.

Ms Mamola agreed to consider further changes to the language. (ACTION Item)

Mr Spata pointed out that before we move on to NAC 625.220, there were other changes noted, but they were to NRS 625.570.

Ms Mamola stated that yes, when reviewing the regulations for possible updates, the associated statutes were also reviewed, and when needed those changes to statutes were included.

Mr Spata said so let's talk about NRS 625.270 on page 19 of your PDF.

Ms Mamola stated staff was proposing to update the taking of the PLS exam to whenever the applicant is ready without having to get permission from the board first, similar to the PE, decoupling of exam from experience.

Mr Spata said since there was consensus, and no further the comment, that we would move on to NAC 625.220 on page 20 of your PDF.

Ms Mamola stated the proposed changes to NAC 625.220 are made to align with NCEES PE exams.

Mr Spata asked if there were any comments and there were none so moved on to 625.230.

Ms Mamola stated the updated language added using a NCEES record as part of the Nevada application process.

Mr Spata asked for confirmation that this was one of the board initiatives.

Ms Mamola stated it was and that currently our statute says an application form provided and prescribed by the board which would already allow a NCEES Record as an application, we just need to update the regulations to add the specifics and be clear on the application process.

Mr Spata said the next item was 625.240 on page 22 of your PDF.

Ms Mamola said, 625.240 codifies the board policy to allow endorsement licensure for those jurisdictions that are signatory to the International Engineering Alliance mobility agreements. And the change aligns with the 2017 legislature Senate Bill 69 that allowed for endorsement licensure.

Ms Mamola further stated that in item 8. of NAC 625.240 changes are proposed to align with the NCEES model rules for comity licensure. She said this would be a change to our current practices

Mr Kidd asked if there was a reason to remove the board chair from the process of reviewing/approving comity applicants.

Ms Mamola stated the proposed change is to codify the comity licensure process, which it currently is not codified, and at the same time to align with NCEES model rules.

Ms Purcell stated that from her experience with reviewing comity applications there was no reason the board chair needs to be involved in the process for model law engineer or land surveyor NCEES Record holders. She said she felt it was appropriate to make this change.

Mr Wright said he would support Ms Purcell's endorsement of changing the process.

Mr Spata agreed.

Mr Spata said the next item is NAC 625.310 on page 25.

Ms Mamola said staff is suggesting this change because the board no longer hosts or proctors any national exam. Exams are administered by NCEES.

Mr Spata said it seems like something's wrong with the language after you strike, make those couple of changes, it seems like it doesn't make sense. Missing a word, the board will offer this examination at times as the board determined, I don't know what it needs but it doesn't read correctly.

Ms Mamola said staff would review and see what additional changes might be needed for clarity. (ACTION Item)

Mr Spata asked if there were any other comments other than cleanup for clarity. And the next NAC 625.320 on page 27.

Ms Mamola stated that the proposed change is to delete NAC 625.320, it's no longer applicable and redundant to NAC 625.310.

Mr Spata hearing no comment stated let's move on to NAC 625.330 on page 29.

Ms Mamola stated that this too was no longer applicable since the board does not offer NCEES exams, NCEES administers all its exams.

Mr Spata said so that is also the same then for 625.340 on page 30.

Ms Mamola said yes, it is.

Mr Spata said next is NAC 625.350 on page 31 and 625.360 on page 33.

Ms Mamola said yes, those are minor changes to align with current practices.

Mr Spata said we then have a few edits on page 34 for NAC 625.410, looks like the changes are just editorial.

Ms Mamola said yes, the board prorates the initial license fee. She said she did not know why the language stated application fee, that was never right, we would never prorate an application fee, but we would and do prorate the license fee.

Mr Spata said okay, then on page 35, NRS 625.390, associated with NAC 625.410, it is proposed to change the cost of land surveyor fee intern which has already been approved by the board.

Mr Spata stated that NAC 625.430 is related to continuing education for professionals and there are several regulations that would be affected by any changes the board would make to continuing education

requirements. Since we recently surveyed our licensees to get their input on the issue, it might be premature to discuss any regulation changes until after we analyze the survey results. Mr Spata asked if others felt differently, if so, the committee could consider a different approach. He asked if Mr Wright, who has been leading the effort to consider possible changes to continuing education requirements would like to lead this discussion.

Ms Mamola asked that before Mr Wright began that since Mr Hugh Ricci was present for public comment on the issue, if we should allow him time to speak now or wait until the end for public comment.

Mr Spata asked Mr Ricci if he would like to provide public comment at this time.

Mr Ricci asked to wait until the end of our meeting, to hear the discussion first, and reserve the opportunity to speak at the end of the meeting.

Mr Wright stated that the purpose of the survey was to just see what the licensee's opinions were about the proposed change in regulation. The primary question was, how do you think focusing continuing education requirements only on professional ethics and knowledge of Nevada laws and regulations will impact public protection. 72% of licensees said it will improve or have no change in public protection, 28% felt the change would reduce public safety. He said a large majority feel that it will have no change, or it would improve public safety. There were hundreds and hundreds of comments, in general there were some that were negative towards CEUs as you would expect that there are many that were positive towards CEUs, comments like, it's not a burden or engineers need continuing education or I have to do it in another state anyway. He said he thinks many people were confused by the question, should there be state-mandated continuing education requirements to improve the practice and confidence of engineers and protect the public, should it be required versus should engineers get continuing education. He said he thought everybody agreed that engineers should get continuing education. And, he thought the confusion was around whether the state should mandate. As we discussed previously, California, Colorado and Arizona are the three states that have no continuing education requirements mandated by the state. There's a study from Colorado that justified why they don't have continuing education, it showed there is no evidence that state-mandated continuing education improves engineering practice as it relates to public safety. There is a national research study in 1985 that concludes that continuing education of engineer's is important but that there's no evidence that state-mandated continuing education is the solution. And if you look at that the states that have mandated continuing education there are three arguments maybe four—one is the practice of engineering is changing and mandating continuing education is the only way to ensure that licensees remain minimally competent to protect the public, second, referring to the study he mentioned, that there's no evidence that state-mandated continuing education is a solution, and third, because all these other states are doing it, we should do it, and then fourth, as mentioned earlier, during public comment is that engineering professional societies and organizations need it for financial support, which Mr Wright stated he doesn't think it's a valid reason for mandating continuing education.

Mr Spata asked what the next steps are after we evaluate the survey results.

Mr Wright said the purpose of the survey was to see if the licensees felt like it was worth pursuing and 72% think that it is according to the survey results, so it seems like the next step might be to hold the required workshops.

Ms Mamola the next step is to place the item on the agenda for the next board meeting. The board will need to agree to continuing moving forward and if there is agreement to the language changes in the regulations, we would proceed with SBI study and public workshops

Mr Spata asked if we should have a complete discussion now or wait and have it at the next board meeting since the board members would likely have strong opinions on the matter

Ms Mamola said she thought it would be more fruitful to take it to the board and let the board debate it at its next meeting.

Mr Spata agreed that he thought that is what we should do.

Ms Purcell stated she thought each board member was going to have their own opinion and thought it was important for all board members to be heard on this topic.

Mr Spata said let's move on and work to get concurrence on the rest of the items that we need to consider today. He said the next item is 625.425 on page 37, and asked Ms Mamola if she wanted to provide any comments.

Ms Mamola staff is suggesting that we no longer should be registering branch offices. She said we should just register the firm or the office that is doing work in Nevada. Registering branches confuses professionals and consumers. If a firm is doing work in Nevada, then the firm would register each office doing work in Nevada and identify the professional in responsible charge of the work for that office.

Mr Spata asked if there were any comment. There were none, and Mr Spata said, okay, NAC 625.430 on page 39. He said since this is related to the PDH discussion that we would skip and move on. He said that brings us to page 47 NAC 625.520, relations with the public.

Ms Mamola said she would like the committee to consider repealing NAC 625.510, 525, 535 and 540 and replace with the shown proposed language which is adoption by reference of NSPE code of ethics, this is similar to what the Architects board has in its regulations. Or, we could consider replacing our current regulations related to ethics with NCEES model Rules.

Ms Purcell suggested the committee should take time to consider and suggested holding until the next leg com meeting. (ACTION item)

Mr Spata agreed and suggested committee members take some time to consider and asked staff to include in agenda for committee's next meeting.

Ms Mamola said staff would do as committee requested. Committee then moved on to NAC 625.550 on page 50.

Ms Mamola said this regulation is the "three strikes" related to submittals to building departments. The NAC states that building departments **shall** report professionals to the board who have had plans rejected three or more times for the same project. The board received a complaint from an agency employee because the employee's supervisor had not reported professionals who had plans rejected more than three times. Staff wanted to bring to the committee's attention but is recommending no change to the current language.

Mr Wright said he thought the intent was for building officials to report professionals that are incompetent and unable to get a set of plans completed competently. He said it was his experience there are times when a plan checker just throws out comment after comment after comment, boilerplate comments resulting in two, three, four rounds of plan checks often the comments are not the same ones previously given, new comments are given every round of plan check. He said we need to be careful, the NAC ought to clearly state that plan check comments that cannot be resolved after three rounds, when it is because a plan

checker is being unreasonable or doesn't understand or want to understand, and sometimes plan checkers aren't even licensed, and they are trying to override a licensed professional, that the NAC is not intended to apply in those situations.

Ms Mamola offered that staff could evaluate with Mr MacKenzie and work to determine if there was possible language change that the committee could consider. (ACTION item)

Mr Wright said he wasn't sure if there was a way to clarify but if the intent of the NAC was related to competency, we needed to be cautious to establish whether the complaint is related to the competency of the engineer and not the competency of the plan checker.

Mr Kidd said from his perspective he thought there could be some improvement with language that addressed the plan package submitted, that it is to be in a complete form when submitted. He said a lot of submittals are submitted to agencies under pressure from the client to just get it submitted to the agency and then do the design by submittal review. He said he thought that's an area that could be improved with adding new language.

Ms Mamola said that was a good point and that there would be an agenda item to have a discussion at the next PAL committee meeting. She suggested we get input from the PAL committee and staff would work on drafting language. (ACTION Item)

Mr Spata said next is NRS 625.565, on page 56.

Ms Mamola asked if the statute needed to be updated. She asked if the board wanted to continue to allow PLSs to be able to do grading and drainage plans.

Mr Kidd said speaking as a PLS, that he thought it could be removed, and it wouldn't be challenged.

Mr Spata asked if we removed the word "minor" does that imply something more than minor.

Mr Kidd said we should just completely remove the ability of a surveyor to do drainage design.

Ms Mamola suggested the board could discuss at its next meeting and provide staff direction. (ACTION Item)

Mr Spata said next is NAC 625.611 with minor changes being proposed for this item. There were no comments. He then moved on then to page 61, NAC 625.613. He said this looks like housekeeping and since there were no comments, suggested moving on to page 62, NAC 625.615. He said again this is more housekeeping, so he moved on to NAC 625.620, fictitious names.

Ms Mamola suggested staff discuss offline with board counsel, Chris MacKenzie. (ACTION Item)

Mr Spata said scanning ahead and to save time, let's move to NAC 625.642 on page 70 in the PDF. He said this is proposing to increase the time for reporting discipline from 30 to 60 days.

Ms Mamola stated that the problem is by the time the licensee in another state gets a copy of the final signed disciplinary action signed by that state board, the time can easily exceed the current 30 days in our regulations, therefore staff is suggesting increasing the time to 60 days for reporting disciplinary actions taken by other states.

Ms Purcell stated that seemed reasonable.

Mr Spata said okay with no further comments let's move on to NAC 625.64X on page 72, a possible new regulation about considering prior disciplinary actions when considering current disciplinary actions.

Ms Mamola suggested staff work with Chris MacKenzie and bring back to the committee at a future meeting. She also suggested that staff work with Mr MacKenzie on the remaining regulations related to advisory committees and disciplinary action and consider codifying rules or practice. (ACTION Item)

Mr Spata agreed. He said since we are running out of time to cover the full agenda and staff did a great job reviewing regulations for the 10-year review and suggesting updates, he suggested the committee recommend the board consider the updates at its next meeting.

LGC 20-4 Mr Kidd made a motion for the committee to recommend the board consider at its next meeting, updating regulations as noted during this committee meeting. Ms Purcell seconded the motion. The committee voted unanimously to have the board consider proposed regulation updates at its next meeting.

5. Discuss potential changes to Nevada Administrative Code chapter 329 related to perpetuation of corners

Ms Mamola said there are no proposed changes to consider at this time.

6. Consider the following changes to Nevada Revised Statute 625, 327:

- **NRS 625.040—practice of land surveying, consider changes that may be needed for future national exam changes**
- **NRS 625.270—qualifications of applicant for licensure as a professional land surveyor**
- **NRS 625.500—utility company exemption**
- **NRS 625.530—public works exemption from using a licensed professional engineer**
- **NRS 625.398—professional development hours**

Mr Spata said a few of these items we have already discussed, for the remainder, he suggested the committee defer discussion and address them at a future committee meeting. Hearing no objection, he asked for public comment.

7. Public Comment Period

There was no public comment.

8. Adjourn

Mr Spata hearing no further public comment adjourned the meeting at 4:00pm.

Respectfully,

Patty Mamola
Executive Director