

**Nevada State Board of Professional Engineers and Land Surveyors
Minutes of the Legislative Committee Meeting February 4, 2019
Held at 3:00 pm in the Ed and Mary Alice Pine Board Room,
Suite 130, 1755 East Plumb Lane, Reno, Nevada 89502**

Vice Chair Karen Purcell, PE, called the meeting to order at 3:07 pm, in the Ed and Mary Alice Pine Board Room, Suite 130, 1755 East Plumb Lane, Reno, Nevada 89502. Committee members present were Karen Purcell, PE; Patty Mamola, PE, Executive Director. Also present was Susan Fischer, Board Lobbyist. Joining via teleconference were; Committee Chairman Michael Kidd, PLS; Angelo Spata, PE Christopher MacKenzie, Board Counsel; Lisa Kremer, Clark County Director of Real Property Management; Temple Mullen, Clark County Property Acquisition Coordinator, Colleen Lyum; Clark County Construction Project Management Coordinator; and Les Lee Shell, Clark County Chief Administrative Officer

1. Call to order

Ms Purcell called the meeting to order. Mr Kidd had not yet joined the teleconference.

2. Public Comment Period

There was no public comment.

3. Approval of October 23, 2018, Legislative Committee meeting minutes

LGC 19-1 A motion was made by Mr Spata, seconded by Ms Mamola, to approve the meeting minutes. The motion passed unanimously (Mr Kidd was not present for this vote).

4. Discuss potential changes to Nevada Administrative Code Chapter 625 as proposed by Legislative Council Bureau (Discussion Only)

a. Consider Clark County bill draft request 54-487, Assembly Bill 2 increasing public works qualifications based selection requirements from \$35,000 to \$100,000

Ms Mamola said this item was added to the agenda on the board's concern after reading the LCB digest's description of the bill. The bill summarizes the law by saying that the existing law exempts a public work project of \$35,000 or less from requiring the work of professional engineering or land surveying being executed under the supervisions of a PE, PLS, or registered architect, and that the proposed bill increases the threshold exemption to \$100,000 or less. Ms Mamola added that the interpretation caught the board by surprise, where it had not been understood to exempt the use of licensed professionals from being used under that dollar threshold. The board had interpreted the law as exempting a public works agency from selecting a professional based on qualifications. She said when the language was reviewed with a fresh perspective, we understand that interpretation and also now read the law as the LCB describes.

Ms Mamola said that if the county is interpreting it as an exemption from using professionals, and the Legislature interprets it that way, there is an issue because the law would be in direct conflict with

portions of NRS 625 that doesn't have any exemptions for the practice of professional engineering and land surveying. This could put an individual in jeopardy of violating our law. Ms Mamola said this is why it is an item for discussion to see if we could possibly work to a solution that would work for the board and work for Clark County. She added that board counsel was asked to draft language that might appease both parties.

Ms Shell said it was not their intent to allow people who are not engineers to do engineering work. The genesis was for projects under the dollar threshold, generally tenant improvement projects, to be able to be expedited without the process having to gauge professional qualifications.

Ms Kremer agreed that the intent was not to circumvent engaging professional engineers or land surveyors when it is a requirement of the work needed to be done – regardless of the project price. She added that what we are trying to do is look at projects that exceed the \$35,000 or that fall in between the \$35,000 or underneath the \$100,000, that are of the type of work that a general contractor can do that does not require a licensed engineer or licensed surveyor. The county would like to be able to go to that general contractor and have him pull permits that are within his purview versus having to engage a professional consultant or professional architect. Ms Kremer said it is getting harder to engage a consultant on smaller projects with the volume of work in the area at present.

Ms Mamola asked if the county was aware that there is an exemption in NRS 625 as it is currently written for general contractors performing work for the type of projects that Ms Shell mentioned, that are within their area of competency. Ms Kremer was not sure and asked that Ms Mamola send over the language indicating the licensed general contractor exemption. (ACTION Item)

General discussion ensued and then Ms Mamola outlined what she believed were the two issues at hand. She said the first, was as mentioned before, where that the law as currently written could be interpreted, apparently has been interpreted by the LCB, as providing an exemption where unlicensed individuals could be selected to do work up to \$35,000 that is typically performed by licensed engineers and land surveyors. The second issue is the consideration of the threshold project \$ amount, where QBS is required, increases from the current level of \$35,000 to the new proposed level of \$100,000.

Ms Mamola said, relating to the first issue, the language of the law as currently written, board counsel Chris MacKenzie has drafted proposed language that would clarify the intent of the law and remove the apparent exemption to select unlicensed practitioners. She added the draft language would be forwarded to the county to review and ideally the county and the board could work together to fix the law. Ms Mamola stated that the proposed amendment did not include the stating of any revised \$ amount threshold as the legislative committee of the board had not yet had a chance to discuss or make a recommendation to the full board to vote on.

Ms Shell and Ms Kremer agreed to review the law as written with county staff and the DA, and to also consider Mr MacKenzie's proposed amendment to remove the alluded to exemption. Ms Shell said that if it is decided that a change is needed to the statute, then that would be a future discussion. Ms Mamola suggested that a follow-up call with herself, Mr MacKenzie, and Ms Fischer after the county's initial review may be appropriate. (ACTION Item).

[The Clark County representatives left the teleconference at this time]

Ms Mamola said the committee would now need to consider a recommendation to the board regarding the proposed increase of the project \$ amount from \$35,000 to \$100,000. She added that she calculated the inflation adjustment \$ amount, to where \$35,000 in 1987 would have the approximate equivalent of \$86,000 in today's dollars.

Mr Kidd said that during the initial discussion at the board meeting there seemed to be some confusion on what the threshold amount pertained to. He said the amount relates to the full project fee not just the design fee component, the amount of the total complete project. Mr MacKenzie confirmed that it did relate to the complete project \$ amount. Ms Purcell said that with it being clarified what the amount related to then the \$100,000 threshold doesn't seem unreasonable.

Ms Mamola said if the committee is in agreement with the proposed changes drafted by Mr MacKenzie, she would schedule a follow up meeting with the county to start the process of getting the law changed. Mr Kidd, Ms Purcell and Mr Spata agreed. Ms Mamola said she would hopefully have something to report at the special board meeting scheduled for February 14. (ACTION).

b. Consider bill draft request 309 revising provisions relating to professional engineers and land surveyors sponsored by Senator Ratti

Ms Mamola said that on Chairman LaRiviere's suggestion, Senator Ratti was approached and agreed to sponsor the BDR for the proposed amendments to NRS 625 and NRS 329. She added that Ms Fischer would be the lead on the board's behalf with the Senator.

5. Consider any other 2019 legislative bill draft requests that may impact regulation of professional engineers and land surveyors

Ms Mamola said that she and Ms Fischer reviewed the BDR list and didn't identify any that need discussion today, but added there were a number that the full detail had not yet been released. She said there were some that are related to regulatory boards and administrative processes. Ms Fischer added that there has been some discussion about an umbrella board to oversee boards in general, where larger boards would retain individual directors and smaller boards report up to some form of "master" board. Ms Fischer said that she didn't think that this proposed change would be considered during this session.

Ms Fisher said that during session the timeframes for bill introduction and hearings can be very short, to where compliance with open meeting law public notice requirements can be very difficult, so getting a committee to meet for consideration of a response or action is tough. Ms Fischer said that it may be worthwhile delegating an initial response to Ms Mamola so she had an opportunity to voice a concern that we can relay in saying this is not an official action, as the board has not had time vote, but this is a general line of thinking on the issue.

Ms Mamola said it would likely be an item for special board meeting to discuss authorization for the executive director to speak in those situations in general terms about the likely concerns of the board.

Mr Purcell and Mr Kidd said they would support that.

6. Discuss potential future changes to NRS/NAC 625

Mr Kidd requested that regulations relating to digital signatures and electronic submissions stay at the forefront. He added that he would also like to see if it was possible to add clarifications to the requirements for doing revisions to civil plans. The process of tracking down the EOR after a significant time period has passed is problematic. Ms Mamola said she would add those items to the legislative committee agenda. (ACTION)

Ms Mamola also said that Legislative Commission hearing which included the board's temporary regulations was held last week. She said the items remained on the consent agenda and were passed by vote, so they are now permanent regulations. Mr MacKenzie added that the originals were returned by the LCB and have they have been sent to the SOS along with a copy to the State Archives.

7. Discuss draft collateral for legislative meet and greet

Ms Mamola reviewed the collateral. There was no discussion from the committee.

8. Public Comment Period (Discussion Only)

There was no public comment.

9. Adjourned

Ms Purcell adjourned the meeting at 3:44 pm

Respectfully,

Patty Mamola
Executive Director