

State of Nevada Board of Professional Engineers and Land Surveyors
Minutes of the Special Board Meeting
Held February 14, 2019, in the Ed and Mary Alice Pine Board Room, Suite 130,
1755 East Plumb Lane, Reno, Nevada 89502

Board members present were Chairman Robert LaRiviere, PLS; Michael Kidd, PLS; Greg DeSart, PE; and Tracy Larkin-Thomason, PE. Also present were Patty Mamola, Executive Director; Murray Blaney, Compliance Officer; and Louisa Kern, Administrative Assistant. Joining via telephone conference were; Brent Wright, PE/SE; Angelo Spata, PE; and Thomas Matter, Public Member. Also joining via teleconference were; Christopher MacKenzie, Board Counsel; and Susan Fischer, Board Lobbyist.

1. Call to order

Chairman LaRiviere called the meeting to order at 4:23pm.

Ms Purcell and Mr Anderson were excused. Ms Larkin-Thomason joined the meeting at 4:55pm, following the closed session oral interview.

2. Pledge of Allegiance

3. Public Comment

Mr Brendon Grant, a candidate for licensure in Civil Engineering read the following statement during public comment:

Good Afternoon Mr Chair and Nevada Board of Professional Engineers and Land Surveyors. My name is Brendon Grant. I would first like to thank you for giving me the opportunity to go before you today for an oral interview. I was born and raised in the Reno/Sparks area. In august 2009 I started my studies in Civil Engineering at UNR. In October 2013 I passed the FE. In June 2014 I earned my bachelors in science for Civil Engineering and a minor in Spanish language and literature from UNR. In August 2014 I was hired by Nevada Division for Environmental of Protection in the Bureau of Safe Drinking Water NDPESDW for short as a staff one associate EI as an under field professional engineer position. Two years later in August 2016 I was promoted to a staff two associate EI in the same position, again as an under field for a professional engineer position. I am currently employed in the same position as a staff two associate EI. In October 2018 I took the Civil PE and received a passing grade in December 2018. During my four and a half years at NDPESDW I have been working under the engineer branch and direct supervisor of Mr Jim Balderson, PE and Dr Mylan Wynn, PE, chief of NDPESDW. I am happy to answer any questions the board may have regarding my work experience to qualify me for professional engineering licensure in the state of Nevada. Again, thank you.

4. Action on Approval of January 17, 2019 regular board meeting minutes.

Mr LaRiviere said that that he would defer the approval of the January 17, 2019 Regular Board Meeting minutes until the March 14, 2019 board meeting.

5. Brendon Grant oral interview, consideration of initial licensure as a Civil Engineer

Mr Grant elected to have the oral interview conducted in closed session.

19-11 A motion was made by Mr DeSart, seconded by Mr Kidd, to conduct the oral interview of Mr Grant in closed session. The motion passed unanimously.

The interview of Mr Grant was conducted in closed session.

The meeting was brought back to open session at 4:55pm for the board to deliberate on Mr Grant's interview.

Mr DeSart and Mr Spata expressed concerns that the candidate had not actually designed a water system even though that is his area of expertise, where someone who has never done a design is approving the plan of someone who is doing the design, albeit with a clear understanding of the required code standards.

Mr Grant said that he is in communication with the engineers' whose design work he is reviewing and that he gets an understanding of the design process through that interaction. He added that he works under the supervision of, and works alongside, professional engineers and interacts with them daily about elements of design in the work he is reviewing.

Mr Wright said that is not uncommon that professional engineers in the plan review sector and in education are not involved in engineering design. He added that those licensees understand principles of engineering and the relevant code yet do not have experience in design.

Mr DeSart said he would be willing to make a motion to approve as long as Mr Grant stays within his area of competency as he has described. He added that at a later time should Mr Grant wish to move into designing water systems he should start out under the direction of another professional engineer with design experience.

19-12 A motion was made by Mr DeSart, seconded by Mr Wright, to grant licensure to Mr Grant. The motion passed unanimously. Ms Larkin-Thomason did not vote as she was not present for closed-session portion of the oral interview.

6. Legislative Committee report

- a. Consider Clark County bill draft request 54-487, Assembly Bill 2 increasing public works exemption for retaining a professional; engineer or professional land surveyor from \$35,000 to \$100,000 and also exempting qualification based selection requirement for projects less than \$100,00. Also consider proposing alternative language.

Ms Mamola stated that Clark County Assembly Bill 2 proposes increasing public works exemption for retaining a professional engineer or professional land surveyor from \$35,000 to \$100,000 and also exempting qualification based selection requirement for projects less than \$100,000. She said at the last board meeting we expressed or discussed some concerns relate to the language. Ms Mamola said the Legislative Counsel Digest describes that a public works entity would be exempt from retaining a PE, PLS or Architect for projects up to \$100,000 which is what the county says. She said it is of concern as we didn't realize that that type of exemption existed in the law.

AB2 section 1 item 1 says in the state of Nevada or any political subdivision including a County, City, or town shall not engage in any public works requiring the practice of PE's or PLS's; unless the map specifications report and estimates have been prepared by and the work executed under the supervision under a PE, PLS, or registered Architect. Section 2 then says the provisions of this section do not apply to any public work wherein the expenditure for the complete project of which the work apart does not exceed \$35,000 – basically stating they are exempt from using a professional if the complete project cost is less than \$35,000.

Ms Mamola said the legislative committee discussed it last week and representatives from Clark County joined via teleconference. She said there was confusion and that she didn't think the County connected on what the real issue was. Ms Mamola said the legislative committee shared with the County staff our proposed changes to the law to fix it. It was left that they would review it with others and reconnect with us. Ms Mamola said she has been in follow-up contact with the County and expressed concerns that the exception in the law is in conflict with other portions of our law allowing unlicensed people to practice, all we are asking to do is move that language from 2A to 3 and include a dollar amount.

Mr MacKenzie said the effect would be to eliminate the exemption. Anyone performing professional engineering or land surveying would have to be licensed and QBS would only apply to projects over \$100,000.

Mr DeSart said he could be agreeable with dollar amount change as long as it is clear that the \$100,000 relates to construction and engineering, as construction costs have increased. He added that if the project alone was just engineering, then the inflationary argument is flawed as in many cases fees are the same now that were being charged 20 years ago because of efficiencies with technology. Mr DeSart suggested a more realistic amount would be \$50,000. Mr Kidd suggested that language could be proposed to make that distinction.

Ms Fischer said that there may be an impression by representatives of the County that the board's position is toward trying to protect engineers and land surveyors jobs. They are viewing it as possible protectionism – which is a misunderstanding on their part.

Mr MacKenzie said it would be worthwhile meeting with the County again to provide clarification for all involved as it is a many layered issue. He said it is important to note that it is hard for all involved when an older poorly constructed statute which has been modified over the years amount comes under review, and getting a complete fix of all these matters is going to be very difficult. Mr MacKenzie said we would have to determine what an acceptable minimum option is to strive for, and if we have

an opportunity to improve, that would be best case. He said he was hoping to connect with county representatives with the help of Ms Fischer and the representatives for ACEC. (ACTION)

Ms Fischer said that it would be meaningful to include Washoe County in the conversation going forward as the bill would also impact them. (ACTION)

Mr DeSart suggested that in moving forward, that board should work toward correcting the structure of the statute – to remove the exemption – as a goal of the current legislative session and the focus in any future session can be QBS and the associated dollar threshold.

19-13 A motion was made by Mr DeSart, seconded by Mr Spata, that the board’s position on Clark County bill draft request 54-487, Assembly Bill 2, was to oppose as currently written. The motion passed unanimously.

b. Consider bill draft request 609 revising provisions relating to professional engineers and land surveyors sponsored by Senator Ratti.

Ms Mamola said the BDR is not yet an assembly bill and that she would report to the board when the situation changed.

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

Ms Mamola said issues that may be of interest to the board can arise very quickly at the legislature, where the board may need or want to offer an opinion but there isn’t sufficient time to notice a public meeting to discuss a formal position. Ms Mamola said understanding that, she would like to be granted authority to speak on behalf of the board, as has been granted in the past, to be able to make a statement based on prior history and experience with the board. A statement that would essentially say the board would likely not support or they would likely support the item up for review, as an indication of the board’s prospective position.

19-14 A motion was made by Ms Larkin-Thomason, seconded by Mr Kidd, to grant the authority to Ms Mamola to present a prospective position of the board at the Legislative Session. The motion passed unanimously.

d. Discuss potential future changes to NRS/NAC 625

Ms Mamola said that there was nothing further to report to the board at this time.

7. Comity licensure administrative processes as it relates to NCEES Model Law Engineers (MLE), Model Law Structural Engineers (MLSE) and Model Law Land Surveyors (MLS)

Ms Mamola said that at the previous board meeting there had been discussion about comity applications for licensure being approved at the staff level and initial applications continuing to be

reviewed and considered by the full board. She said that this item was added to the agenda for the board to take action. Ms Mamola added that if a comity application was an anomaly or involved a unique situation, it would be forwarded to a board member for further review and approval. Mr DeSart said that he agreed and asked that Ms Mamola compile a list of possible anomalies. (ACTION)

19-15 A motion was made by Mr DeSart, seconded by Ms Larkin-Thomason for comity applications to be approved at the staff level.
The motion passed unanimously.

8. Topics for future meeting including possible proposed amendments to the Nevada Professional Engineer and Land Surveyors Law, NRS/NAC Chapter 625

No additional topics were brought forward.

9. Public Comment

There was no public comment.

10. Adjourned

The meeting was adjourned by Chairman LaRiviere at 5:45pm

Respectfully,

Patty Mamola
Executive Director