

State of Nevada Board of Professional Engineers and Land Surveyors
Minutes of the Special Board Meeting
Held August 6, 2018 at 4:00 pm in the Ed and Mary Alice Pine Board Room, Suite 130,
1755 East Plumb Lane, Reno, Nevada 89502

Board Chairman Robert LaRiviere, PLS, called the meeting to order at 4:00 pm, in the Ed and Mary Alice Pine Board Room, Suite 130, 1755 East Plumb Lane, Reno, Nevada 89502. Board members present via telephone conference were; Greg DeSart, PE; Kent Anderson, PE; Michael Kidd, PLS; Tracy Larkin-Thomason, PE; Vice Chairman Karen Purcell, PE; and Thomas Matter, Public Board Member. Also present were Patty Mamola, PE, Executive Director; Louisa Kern, Administrative Assistant; and via telephone conference; Christopher MacKenzie, Board Legal Counsel and Susan Fischer with McDonald Carano. Board members Angelo Spata, PE, and Brent Wright, PE/SE, were excused.

1. Call to order

A quorum was present and the meeting was called to order by Chair LaRiviere.

2. Public Comment Period

There was no public comment.

3. Discussion and possible action on proposed changes to Nevada Administrative Code 625 as drafted by Nevada Legislative Council Bureau, LCB file number R085-18 (For possible action)

- a. NAC 625.260 revises provisions concerning structures and buildings that are required to be designed by professional engineers licensed as structural engineers, also clarifies highest point reference.**

Ms Mamola said that the language received back from the LCB was recommended for approval by the Legislative Committee. Mr Kidd confirmed that was correct. Ms Mamola asked if there were any questions regarding NAC 625.260. There were none.

18-51 A Motion was made Mr Kidd, seconded by Ms Purcell, to approve NAC 625.260.
The motion passed unanimously.

- b. NAC 625.545 adds professional liability insurance disclosure to contract requirements, if professional liability insurance is carried, disclosure of the limits of coverage provided by the policy.**

Mr LaRiviere asked for any discussion on this item. Mr DeSart said he did not agree with adding the limits of coverage as a disclosure. He asked if the requirements put forward in the amendment would be required in proposals. Ms Mamola clarified that the language just says that when you enter a contract with a client that you need to provide a disclosure as to whether you carry professional liability insurance and if you do carry it, what the limits are and the limits of the coverage by the policy of insurance.

Mr DeSart said he believes there is a problem releasing your limits of coverage. He continued saying that if a policy has been arrogated by claims the exact limits of coverage of the insurance may not be available or easy to keep track of. Mr DeSart added for that reason I think it could be interpreted that you would have to keep track of that and that's why I don't agree with it. Mr MacKenzie said that Mr DeSart's point is valid, and may not have been considered by the LCB in their review of the language. Mr DeSart said, from a public protection position, an engineer can say that he has a million dollars worth of remaining coverage but when in reality he has arrogated \$900,000 of it and he has only \$100,000 worth of coverage. He also said, claims could have been made against a policy since a contract was signed resulting in reduced coverage. Ms DeSart continued saying there are a few complications with it and he did not believe the proposed language adequately addresses those concerns.

Mr MacKenzie said he wasn't sure if the limits change or if the remaining balances change. He added that we are now probably getting into insurance defense language now. Mr DeSart said, that is his concern, the limits of available coverage may not be the same as the limits of coverage on the policy.

Ms Mamola said currently someone who hires an engineer assumes that the engineer has insurance but often they don't. She continued, so when something really goes wrong they do not have any recourse but to file a civil suit or to come to this board and we can't typically address what they need to be made whole because we can only discipline the engineer and try to take some corrective action. Ms Mamola added, so that is why we wanted this change, with the intent that a homeowner can make a fully informed decision when selecting a professional. She continued, they can decide if they are going to hire this engineering firm that has \$50 of professional liability insurance or \$1 million dollars professional liability insurance.

Mr DeSart said he had no problem with an engineer disclosing whether they have professional liability insurance, but thinks the limits of coverage issue is a grey area. He said it could be interpreted in several different ways, and the way it is written right now, some clarifying language is needed.

Mr LaRiviere said that if client is aware an engineer has a number of claims against them, they may consider a different professional.

Mr Anderson questioned whether the state board should be involved in the terms of a contract between two parties. He added that it should be a discussion between those two parties.

Mr Kidd asked for clarification on whether the four proposed NAC revisions were joined in submission to the LCB or individual. Mr MacKenzie said the proposed regulation changes were under one file number.

18-52 A Motion was made Mr Kidd, seconded by Ms Purcell, to approve NAC 625.545. The motion passed 4 to 3. (Mr Anderson - nay, Mr DeSart - nay, Mr Matter - aye, Mr Kidd - aye, Mr LaRiviere - aye, Ms Larkin-Thomason - nay, Ms Purcell - aye).

- c. **NAC 625.610 revises provisions related to stamps, seals, and signatures of professional engineers and professional land surveyors.**

Mr LaRiviere asked if there any questions regarding this item. Ms Mamola clarified the dimensions of the stamp or seal to be approximately 1.7”

18-53 A Motion was made by Ms Larkin-Thomason, seconded by Mr Kidd, to approve NAC 625.610. The motion passed unanimously.

- d. **NAC 625.630 revises provisions related to advertising for or offering to preform land surveying or engineering – removing the physical requirement of full-time PE/PLS at each business location where work is being completed.**

Ms Mamola said that this amendment basically removes the requirement to have a full time engineer in every office that offers/provides engineering or land surveying services. Continuing to say that the regulation currently requires that every office that offers or provided PE/PLS services must have a full time licensed professional in each office, and the proposal is to remove that requirement.

18-54 A Motion was made by Ms Larkin-Thomason, seconded by Mr Kidd, to approve NAC 625.630. The motion passed unanimously.

4. **Public Comment Period (Discussion Only)**

There was no public comment.

5. **Adjourned**

Robert LaRiviere adjourned meeting at 4:23pm

Respectfully,

Patty Mamola
Executive Director