

NEVADA STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS
Minutes of the PLS Standards of Practice Committee Meeting
Held virtually, Thursday, February 25, 2021

Participating in the meeting were Chairman Matthew Gingerich, PLS; Jason Higgins, PLS; Michael Kidd, PLS; and Mark Cormier, PLS. Committee members Wayne Handrock, PLS; and Dan Church, PLS, were excused from the meeting. Also joining were Patty Mamola, Executive Director; Murray Blaney, Operations/Compliance; and Louisa Kern, Administrative Assistant.

1. Meeting conducted by Matt Gingerich, call to order and roll call to determine presence of quorum.

Mr Gingerich called the meeting to order at 2:00pm. Those participating introduced themselves.

2. Public comment period.

There was no public comment.

3. Discuss regulations related to standards of practice for land surveying, refer to Addendum A for list of regulations.

Mr Gingerich said, reflecting on the last few meetings and the fact that these regulations have not been updated for a significant period of time, I think we should take a step back and look at the bigger picture. We are not under a time crunch and we have opportunity to add real clarity to the regulations by removing any that are unnecessary and focusing in on our mission of public protection.

Ms Mamola agreed that reviewing all the regulations together and taking our time, gave an opportunity to get it right. The goal is public protection and that's what we should be thinking about when we're doing the regulations, with a mind on what's currently missing to protect the public and what public entity issues we see that we need to address.

Mr Gingerich said a first step maybe to ask the agencies specifically where they are seeing issues, where are the standards lacking clarity.

Ms Mamola said for committee members that don't deal with regulations all the time, regulations are there to support the statutes. We really need to go back to the statutes and see what they say about surveying and then see where the gaps are that we need to fill in to address these other issues, in particular agency concerns. Ms Mamola added we should just set aside what the current regs are and go back to square one. Look at the statutes and match to relevant regulations and identify the gaps. We can then review regulations from other states to help address where we are deficient. Ms Mamola said we also need to be cognizant of the current regulatory climate. There is an attitude about anti-regulation, so we need to look at how we can reduce the regulations and only have those regulations that are absolutely necessary to address land surveyor standards of practice.

Mr Gingerich asked if the committee members were in favor of the suggested direction.

Mr Kidd said he agreed. But we also need be sure there is enough in the regulations that when licensees are underperforming there is something to point to and be able to say this is where you deviated from an accepted standard and balance with not getting the regulation too heavy – that's the fine line that this group has to walk.

Mr Higgins agreed that the committee needs to be mindful of over-regulation, but we also can't pare the regulations down so far that the practitioner is not going to be able to glean what they need to do. Striking that balance with all of that is going to be you know challenging for all of us, because there's stuff I know that all of us want to see in there to give the regulatory authorities something to point to, to give the practitioner something to follow so they fully understand what their responsibilities are while still maintaining protection of the public.

Mr Cormier said as someone formerly in private practice who is new to the agency perspective, I am constantly amazed at the excuses I get from people that have a lack of information or lack of surveying on their plans that need to be addressed. I have had a good glimpse of where the issues are and what we will need to cover. Mr Cormier added we need regulations that are clear and to the point – they don't need to be overly elaborate as some states are – to where we can sit down with a licensee and refer to a regulation and say you didn't this.

Ms Mamola said it would be helpful if Mr Cormier could forward a list of issues he sees on a regular basis. (ACTION Item)

Mr Cormier said he would. He added working with the current regulations he found them fragmented and several covered the same thing. Starting fresh without bias would be the best approach and using a style similar to the NSPS model rules, that are short and concise.

Mr Higgins said to be considered when the committee gets to the point of drafting new language is the consideration of the word *must* versus *shall*. New ALTA standards went into effect yesterday and the national committee decided to move away from the word *shall* within those regs due to a 2005 Supreme Court case that actually determined the word *shall* also means *maybe*. Mr Higgins said he would share the information with the group. (ACTION Item)

Mr Kidd said to develop a broader framework of issues, we should connect with a number of agencies around the state and ask them to put together a bullet point list of issues they are experiencing related to standard of care.

Mr Gingerich agreed. He said Mr Handrock who is the Washoe County Surveyor was unable to attend today's meeting would be a good source. He added he would ask Mr Handrock to forward a list to the committee. (ACTION Item)

Ms Mamola said when the lists are received from Mr Cormier and Mr Handrock, we will combine them and forward that information to other entities for their input. (ACTION Item)

Mr Kidd said following comment from additional agencies and when we have a little better framework on how the regulation review will move forward, we should consider inviting agency staff to participate in some of the committee meetings as a guest and involve them in the discussion moving

forward. (ACTION Item)

Ms Mamola said the next steps will be to get the list of issues from major agencies and then recirculate to the rural counties for their thoughts. Staff will pull and review all statutes relating to land surveying and match with current regulations to do a gap analysis. Ms Mamola continued, when we have reached that point, we will connect with the committee to schedule a meeting to discuss the findings. (ACTION Item)

4. Public comment period.

There was no public comment.

5. Adjourn

Mr Gingerich thanked the committee members for their participation and adjourned the meeting at 2:28pm.

Respectfully,

Patty Mamola
Executive Director