

NEVADA STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS
Minutes of the Regular Board Meeting
Held virtually, Wednesday, July 14, 2021, at 10:00 AM

Board members present were Chairman Michael Kidd, PLS; Vice Chair Thomas Matter, public member; Karen Purcell, PE; Angelo Spata, PE; Matthew Gingerich, PLS; Lynnette Russell, PE; Robert Fyda, PE, and Greg DeSart, PE. Brent Wright, PE/SE was excused. Also present were Patty Mamola, Executive Director; Chris MacKenzie, Board Legal Counsel; Susan Fischer, Board Government Affairs Liaison; Murray Blaney, Operations/Compliance.

1. Meeting conducted by Chair Michael Kidd, call to order and roll call of board members to determine presence of quorum—board members Karen Purcell, Thomas Matter, Angelo Spata, Matt Gingerich, Robert Fyda, Lynnette Russell, Brent Wright.

Ms Mamola conducted a roll call and a quorum was present.

2. Pledge of Allegiance

3. Public comment period

There was no public comment.

4. Introductions

Those present introduced themselves.

Following introduction, Mr Kidd read the board's purpose and mission.

The purpose of the board as stated in Nevada Revised Statute 625.005 is to safeguard life, health and property and to promote the public welfare by providing for the licensure of qualified and competent professional engineers and professional land surveyors and our mission is founded on the board's purpose, the board's mission is to uphold the value of professional engineering and land surveying licensure by assessing minimum competency for initial entry into the profession and to insure on going standard of professionalism by facilitating compliance with laws regulations and code of practice and to provide understanding and progression in licensure by openly engaging with all stake holders.

5. Consideration of initial licensure applicant requests to waive certain requirements of Nevada Revised Statutes and Nevada Administrative Code Chapter 625

There were no waiver requests to be considered.

6. Board approval of non-appearance applications for initial licensure. Refer to Addendum A for list of applicants

The Board reviewed twenty-one applications in the board packet for initial licensure and recommendations were made.

21-47 A motion was made by Ms Purcell, seconded by Mr Fyda to approve the initial licensure applications contained in the addendum to the board packet as noted. The motion passed unanimously. Mr Wright was not present for the vote.

7. Discussion and possible action on approval of May 20, 2021, board meeting minutes

21-48 A motion was made by Mr Spata seconded by Ms Russell to approve the May 20, 2021, board meeting minutes. The motion passed unanimously. Mr Wright was not present for the vote.

8. Discussion and possible action on approval of June 10, 2021, special board meeting minutes

21-49 A motion was made by Ms Russell seconded by Ms Purcell to approve the June 10, 2021, special board meeting minutes. The motion passed unanimously. Mr Wright was not present for the vote.

9. Discussion and possible action on May 2021 financial statements

Ms Mamola reviewed the May 2021 financial statements as presented in the board packet. There were no questions from the board.

21-50 A motion was made by Ms Purcell, seconded by Mr Fyda to approve the May 2021 financial statements. The motion passed unanimously. Mr Wright was not present for the vote.

10. Discussion and possible action on compliance reports by Compliance Officer

a. Compliance officer report on complaints being investigated.

Mr Blaney reported on the status of the eight (8) open compliance case files. There were no questions from board members.

b. Consideration of probation reports:

Richard Warren, PE #17389
Dooley Riva, PE #18231
Lazell Preator, PE #14982

John Skwiot, PE #20561
Ralph Heninger, PE #5191

Mr Blaney said that the licensees currently on probation were all in good standing. He said Mr Preator's first payment is due on July 22, 2021. He added Mr Preator has requested a payment plan and discussions have begun.

Ms Purcell asked what will happen to Mr Preator if he does not pay by July 22.

Mr Blaney said Mr Preator would be notified that non-payment is considered a violation of the terms of his stipulated agreement.

Mr MacKenzie added that in stipulated agreements, there is typically a suspension of license, and the board will be given the opportunity to lift the stay of the suspension after the professional has an opportunity to be heard at an agendaized board meeting.

11. Discussion and possible action on stipulated agreement for Robert Mercado, PLS, license number 010352, complaint number 20210001

Mr MacKenzie introduced the stipulated agreement included in the meeting packet. He said the stipulated agreement is for the board's consideration and vote and is related to a complaint against a professional land surveyor. Mr MacKenzie said Mr Mercado agreed to the proposed discipline and signed the stipulated agreement that is presented for the board's consideration. He asked if board members had any questions or comments.

Mr Gingerich asked for clarification, as the board liaison on the complaint, whether he abstains from voting.

Mr MacKenzie said Mr Gingerich can vote but not participate in the discussion. If the board were hearing additional evidence in an official hearing Mr Gingerich would than abstain.

21-51 A motion was made by Mr Kidd, seconded by Ms Purcell to approve the stipulated agreement for Robert Mercado, PLS, license number 010352, complaint number 20210001. The motion passed unanimously. Mr Wright was not present for the vote.

12. Intentionally left blank.

13. Discussion on Board Counsel Report

Mr MacKenzie said that he is working on another stipulated agreement that is fully drafted and subject to review by the liaison, the executive director and staff. He said that there is another pending matter regarding a letter of concern that he is working on with Ms Mamola.

14. Discussion and possible action on administrative report by Executive Director

a. Approved licensees report

Ms Mamola reviewed the approved licensees report in the board packet and answered board member questions.

b. Action items related to 2021-2025 Strategic Plan

Ms Mamola said the revised strategic plan was a standing agenda item to allow for board discussion on any items related to the plan. She added since the revision in 2020, not all of the tactics and action items had been added to the document.

Mr Blaney said there is still a couple of board committees that have yet to discuss their assigned strategies and draft tactics and actions items. He added this should be completed before the end of the year.

Mr Kidd asked if change was happening as a result of the plan's revision.

Ms Mamola said yes. Tactics and actions that have been assigned by committees that have completed their review and are being used by staff now to guide work priorities.

Ms Russell asked if there was value in an annual check-in on the plan's revision in September – one year since the revisions were made.

Mr Blaney said with a couple of committees still to fully develop tactics, it would be better served to push the check-in to 2022.

Ms Mamola said that with the plan being a standing item, board members are able to discuss any issues related to the plan, and agenda items can be added to future committee or board meetings if action is required.

c. Items related to National Council of Examiners for Engineering & Surveying (NCEES)

Ms Mamola said that the NCEES annual meeting will be held in-person August 18th through August 21st in New Orleans, Louisiana. She added that only three people are allowed to attend from each state and said she, Mr Kidd and Ms Purcell would be representing the board.

i. 2021 Annual Meeting Action Items and Conference Reports

Ms Mamola said that the NCEES action items and conference report are included on page 249 in the board book. She said that a summary memo was added to Dropbox to help guide the discussion, and she opened a discussion for everyone to discuss their opinions on the memo that was prepared.

The contents of the memo were discussed and there was board consensus to support the recommendations contained within the memo with two caveats. The first was to not support UPLG motion 4 that removes the PLS license requirement for survey field experience and the second was to not support ACCA motion 2 that removes the requirement that the NCEES presiding officer give approval to emeritus members for the privilege of the floor.

Mr Spata stated as a board we are just expressing our opinion and discussing how we'll vote on the action items at the NCEES Annual Meeting. Since only three representatives from Nevada will be attending the meeting, obviously there will be debate at the NCEES meeting that could affect the final outcome/vote. Based on discussions today, those three members understand the board's consensus so that can be factored into discussions/decisions happening on the fly.

Ms Mamola stated that yes, Mr Spata was correct. She also stated she would inform David Cox, NCEES CEO, of Nevada's position on the items discussed today in advance of the annual meeting and if appropriate NCEES could work to address Nevada's concerns in advance of the meeting.

d. Consideration of board authorized digital signatures including the possibility of requiring third-party verification of digital signatures, input received from southern and northern Nevada building departments and licensees.

Ms Mamola said she had nothing to report on this item.

15. Discussion and possible action on board committee reports.

a. Administrative Procedures Oversight Committee, Chair Michael Kidd

Mr Kidd said the APOC committee had not met since the last board meeting and he had nothing to report.

b. Legislative Committee report, Chair Angelo Spata

Mr Spata said before getting to the listed items on the agenda, he wanted to summarize the other items discussed at the committee's meeting on June 17, 2021.

- LCB file number R141-20P.

The updated regulation amendments relating to disciplinary action advisory committees is not yet back from LCB. Last talked with LCB in mid-May to give context to our requested revisions but have not heard back since – suspect they have been tied up with legislative session.

- Consider future licensing of engineers as it relates to emerging technologies and blended engineering degrees including considering retention and/or modification of specific disciplines licensed by the board.

Decision made to develop position statement of the issues to be addressed. This item to encompass discipline specific vs PE state discussion action item from the previous LegComm meeting on 5.20.2020. Ms Purcell and Ms Mamola will draft the statement. The committee recommended a working group be formed to discuss and identify possible solutions to the issues identified by a position statement. Ms Purcell will lead the working group.

- Consider alternative paths to licensure for teaching professors and PhD applicants.

The committee recommended no action be taken on this item. Committee discussed public comment from 5.20.2021 board meeting requesting consideration of waiving license renewal fees for university faculty. The committee recommended no action be taken on this item.

- Consider alternative option to state specific exam for Western state professional land surveyor endorsement applicants.

Committee recommended no action at this time, to be reconsidered following the release of NCEES PLSS module.

i. Consider eliminating application fees for military veterans and spouses of military veterans.

Mr Spata said the committee considered this item and made the recommendation to reduce all application fees to \$0 for veterans and veteran spouses. The item has been agendaized for full board consideration. Mr Spata said the memo included in the board packet provides background for this item.

Mr Gingerich asked what the annual financial impact would be.

Mr Blaney said sampling was done of applicants over the last three years to get the estimated revenue

reduction of \$5,000 per year. He added the reduction applies only to application fees for initial and endorsement licensure – the proposed change would not impact pro-rated initial license fees or license renewal fees.

21-52 A motion was made by Mr Spata, seconded by Mr DeSart to approve eliminating application fees for military veterans and spouses of military veterans. The motion passed unanimously. Mr Wright was not present for the vote.

ii. Consider eliminating Nevada specific exam for PE endorsement licensure applicants and in its place institute an attestation confirming familiarity with Nevada Revised Statutes and Nevada Administrative Code Chapter 625.

Mr Spata said the committee considered this item and made the recommendation to eliminate short take home exam on Nevada statutes and regulations for endorsement licensure applicants and replace with attestation confirming familiarity with the laws and rules of the state. He said the item was added for discussion and consideration by the full board.

Mr DeSart said he had a hesitation because not knowing Nevada laws was a root cause of many disciplinary actions and moving from an exam to attestation may reduce the attention due by new licensees.

Ms Mamola said she believed moving to an attestation would increase the attention paid to Nevada laws. She added the introduction to the attestation and the attestation itself can be worded that ignorance to Nevada laws is not an excuse when subject to disciplinary action.

Mr Kidd suggested that any attestation text include some acknowledgement that the licensee has review and understand the laws, but also that the understand and acknowledge that is their responsibility to stay current with amendments to statutes and regulations.

21-53 A motion was made by Mr Spata, seconded by Mr Fyda to approve eliminating the Nevada specific exam for PE endorsement licensure applicants and its place institute an attestation confirming familiarity with Nevada Revised Statutes and Nevada Administrative Code Chapter 625, with the legislative committee to review and approve the attestation text. The motion passed unanimously. Mr Wright was not present for the vote.

Ms Mamola said draft text would be prepared and presented to the legislative committee for review. (ACTION item)

iii. Consider a future bill draft request to update Nevada Revised Statute 338.173 related to certificates of eligibility.

Mr Spata said the committee considered this item about the update or repeal of NRS 338.173. It was decided to consult with PAL committee participants for the input and move to the board for consideration. Mr Spata said the memo included in the board packet gives background to item.

Mr Gingerich said there was no pushback from the attendees at the PAL meeting.

Ms Mamola said would connect with ACEC (Mr Hannafin) for the association's perspective.

Mr DeSart said he thought repealing the statute would be best – in that it is a bad law. He added he doubted there would be any negative feedback from public entities.

Ms Mamola agreed that repealing versus amending was the better course of action.

21-54 A motion was made by Mr Spata, seconded by Ms Russell to approve a bill draft request to repeal NRS 338.173 related to certificates of eligibility. The motion passed unanimously. Mr Wright was not present for the vote.

Ms Mamola said the bill draft request would be added to the legislative committee action item list. (ACTION Item)

iv. Consider a future bill draft request to update Nevada Revised Statute 625.050 related to engineer in responsible charge of observation, inspection, and testing of construction.

Ms Mamola gave the background related to the item and reviewed the supporting memo. She asked for board member comments.

Mr DeSart said as an area he practices, and where licensees have been disciplined for not complying with the statutes as a professional engineer while in responsible charge of inspections and materials testing, it is a great idea to clarify the NRS. The way it's written right now, it's open to interpretation. He stated he was in support of an amendment to clarify that material inspections and/or materials testing, must be done under the responsible charge of an engineer.

Ms Mamola said the recommended language in the white paper replaces the text *responsible supervision of construction operations* with *observation, inspection and testing of construction for the purpose of providing the client with a greater degree of confidence that the construction complies with the project documents*.

Mr DeSart suggested adding the text of *construction and construction materials* for further clarity.

21-55 A motion was made by Mr Spata, seconded by Mr Fyda to approve a bill draft request to

to update Nevada Revised Statute 625.050 related to engineer in responsible charge of observation, inspection, and testing of construction *and construction materials* (amended). The motion passed unanimously. Mr Wright was not present for the vote.

Ms Mamola said the amended text would be presented to the legislative committee for review as part of the BDR process. (ACTION Item)

Mr MacKenzie clarified for the board the items discussed and voted on would still need to go through the regulatory and statutory public review processes before going into effect.

c. Professional Association Liaison Committee, Chair Matt Gingerich

Mr Gingerich updated board members on PAL Committee activities. He said the committee is recommending to separate the quality-based plan submittals issue away from PAL as it was dominating the recent meetings and diverting from the core purpose of the committee. A taskforce will be formed, and we are looking to the agencies to take a leading role and the board will move to a position of facilitation.

Ms Mamola added, if the board agrees, we could look for a champion outside of the board to chair the taskforce, with a representative of the board just participating – someone who can champion the issue from the board's perspective.

Ms Russell expressed interest in being involved as a board representative.

Mr Kidd suggested Mr DeSart, as a possible chair because of his involvement in the early meetings related to issue.

Ms Mamola suggested that since the City of Henderson brought the issue to us, maybe they would want to provide a champion and possibly chair the task force.

Mr Kidd agreed and said he would connect to see if they were willing and then pass on the contact information to Ms Mamola.

Ms Mamola said she would work on the formation and structure of the taskforce with those interested. (ACTION Item)

Mr Gingerich said the next PAL meeting was scheduled for September 16, 2021, at 8am.

d. Public Outreach Committee, Chair Brent Wright

Ms Mamola said the committee had not met since the last board meeting and there was nothing to report.

e. PLS Standards of Practice Subcommittee of the Legislative Committee, Chair Matt Gingerich

Mr Gingerich said the committee has not met since the last board meeting and there are still some homework items that need to be completed before the next meeting can be scheduled.

Ms Mamola added that staff has received some items from the committee and need to follow-up on others, but other items are taking priority at the moment.

Mr Gingerich said the urgency to move forward is not pressing but we would like to be moving again before the end of the year.

f. Committee for Planning and Hosting of 2022 NCEES Western Zone Meeting in Nevada

Ms Purcell said there had been no further meetings of the committee – so there was no update.

16. Discussion and possible action on board committee assignments for July 1, 2021, thru June 30, 2022.

Mr Mackenzie said before assignments are finalized for committees, a reminder that the board members on any given committee, who are voting members, cannot constitute a quorum of the board. He added that no more than four board members can participate, as guests so to speak, but they cannot vote.

Mr Kidd reviewed committee assignments with the board and adjustments were made. He said Ms Mamola will finalize the assignment list and notify board members. (ACTION Item)

17. Discussion and possible action on legislative session report from Board's government Liaison, Susan Fisher.

Ms Fisher said the overview provided in the board packet outlined the major bills worked on gives a summary of the major themes of the legislative session. She gave an overview of the priorities of the session, touching on the healthcare and mining tax bills and their outcomes and impacts. Ms Fisher also recapped AB 173 – the bill put forward by the board – the bill passed and SB 155, relating to the State Engineer which the board opposed, that did not pass.

Ms Fisher addressed the occupational licensing bill, directed at health care regulatory boards, that did not pass, and discussed SB 402 – which also didn't pass – but said the elements in that bill, that the

board has voted to pursue/support will be shared with the primary driver of the bill, Senator Spearman.

Ms Fisher said relating to the regulations the board has that are still to go before the legislative commission, she will be reaching out to the members of the commission to brief them so that they don't have any questions that may hold up the approval process.

Ms Fisher said the legislature is going to experience significant turnover before the next session. A number of sitting members are terming out and others are not seeking re-election. She said the turnover will create an experience gap and building new relationships will be a focus as the change unfolds.

Mr Kidd asked what the timeframe would be for finding a bill sponsor for our pending bill draft requests.

Ms Fisher said it would be around 12 months, but she would be talking to potential sponsors well ahead of time to make the process easier.

Ms Mamola said to get a head start on the process, staff would draft the language for the BDRs to include as an agenda item on the next scheduled legislative committee meeting. (ACTION Item)

Mr DeSart said with board members being appointed by the Governor, and we have a very full election race coming up – and knowing that candidates may request donations of a board member, that as an individual making a donation there is no ethical violations – the issue of contributions has potential to put board members in a compromising position. He added if an instance arose where board members were approached by candidates, and someone was to make a connection and say I might be able to help you get on the board or it may help you stay on the board or whatever the case may be hypothetically, would that be considered an ethical violation.

Ms Fisher said to put a board member in that hypothetical situation would be an ethics violation.

Mr Spata said his thought would be stay neutral and not donate to any candidate.

Mr DeSart agreed with Mr Spata, that as a board member, staying neutral would be the best practice.

18. Discussion and possible action on status of Board and staff assignments.

Ms Mamola said the action item list and status of board and staff assignments is shown on page 294 of the board packet. The list included all action items from board meetings as well as committees so that anyone who is interested can see all action items in one document. Ms Mamola asked if any

clarifications were needed or if the board had questions. There were no questions from the board.

19. Discussion and possible action on meeting dates.

Ms Purcell said she had a conflict with the July 14, 2022, board meeting date, and requested consideration of July 21, 2022, as an alternate.

Following discussion it was agreed to move the board meeting to July 21, 2022. (ACTION Item)

Ms Mamola reminded board members of the schedule for brief interim board meetings to review applications for initial licensure.

20. Discussion and identification of topics for future meetings including possible proposed amendments to the Nevada Professional Engineers and Land Surveyors Law, Nevada Revised Statutes and Nevada Administrative Code Chapter 625.

No topics were put forward for future discussion.

21. Public comment.

There was no public comment.

22. Adjournment

Mr Kidd thanked board members for their participation and adjourned the meeting at 2:00pm.

Respectfully,

Patty Mamola
Executive Director