

NEVADA STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS
Minutes of the Regular Board Meeting
Held virtually, Thursday, September 16, 2021, at 9:30am

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

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

2. Pledge of Allegiance

Following the Pledge of Allegiance, 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.

3. Public comment.

There was no public comment.

4. Introductions

Board members and staff introduced themselves.

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

Mr DeSart recommended granting the request to waive NRS 625.183 (4) (b) made by Johnathan Zittel applying for mining engineering licensure.

21-57 A motion was made by Mr DeSart, seconded by Mr Fyda to approve the waiver request. The motion passed unanimously.

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

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

21-58 A motion was made by Ms Purcell, seconded by Ms Russell to approve the initial licensure applications contained in the addendum to the board packet as noted. The motion passed unanimously.

7. Discussion and possible action on approval of July 14, 2021, board meeting minutes.

21-59 A motion was made by Mr Spata seconded by Mr Gingerich to approve the July 14, 2021, board meeting minutes. The motion passed unanimously with Mr Wright abstaining from the vote as he was not present at the July 14 meeting.

8. Discussion and possible action on approval of August 12, 2021, special board meeting minutes.

21-60 A motion was made by Ms Purcell seconded by Mr DeSart to approve the August 12, 2021, special board meeting minutes. The motion passed unanimously with Mr Matter abstaining as he was not present for the meeting.

9. Discussion and possible action on financial statements:

a. June 2021

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

b. July 2021

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

21-61 A motion was made by Ms Purcell, seconded by Mr Fyda to approve the June 2021 and July 2021 financial statements. The motion passed unanimously.

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 six (6) open compliance case files. There were no questions from board members.

b. Consideration of probation reports:

Richard Warren, PE #17389

Ralph Heninger, PE #5191

Dooley Riva, PE #18231

Lazell Preator, PE #14982

John Skwiot, PE #20561

Robert Mercado, PLS #10352

Mr Blaney reported that Mr Preator had requested a payment plan for the board reimbursement and administrative fine amounts in his stipulated agreement. As an act of good faith, Mr Preator has reimbursed the complaintants (\$7,100 and \$1,300 respectively) and is asking for consideration of a 24-month payment plan for the balance due of \$9,769.50 (administrative fine of \$7,000 and legal costs of \$2,769.50)

21-62 A motion was made by Mr Spata seconded by Mr Fyda to approve a 24-month payment plan for the balance due by Mr Preator. The motion passed unanimously.

Mr Blaney said he would notify Mr Preator and send him an outline of the installment amounts and monthly due dates. (ACTION Item)

11. Discussion and possible action on stipulated agreement for Timothy Prockish, PE, license number 012931, complaint number 20210002.

Ms Purcell said because the complaint was filing by her company she would be abstaining from any discussion and vote on the proposed stipulated agreement.

Mr MacKenzie said the stipulated agreement is for the board's consideration and vote and is related to a complaint against a professional electrical engineer. He gave an overview of the complaint and said Mr Prockish agreed to the proposed discipline and signed the stipulated agreement. Mr MacKenzie asked if board members had any questions or comments. There were none.

21-63 A motion was made by Mr DeSart, seconded by Mr Wright to approve the stipulated agreement for Timothy Prockish, PE, license number 0112931, complaint number 20210002.

The motion passed unanimously with Ms Purcell abstaining from the vote.

12. Discussion on Board Counsel Report.

Mr MacKenzie said, relating to compliance, he had received another signed stipulated agreement from a licensee, but before presenting to the board for consideration, he needed some additional clarification based on the respondent's initial response. He added the agreement should be available for the next regular board meeting.

13. 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 asked if board members had any comments or questions.

Mr Wright commended Ms Mamola on the efficiency of comity application processing and approval. He said his company's experience with the comity licensure process in other states had not been nearly as efficient.

b. Action items related to 2021-2025 Strategic Plan

There were no questions or comments from the board relating to the strategic plan.

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

i. 2021 Annual Meeting Action Items and Conference Reports

Ms Mamola gave an overview of the key action items discussed and voted on at the NCEES annual meeting, which was held virtually, and asked if board members had any questions. There were none. Ms Mamola added that a summary of the issues and voting will be distributed by NCEES as part of their annual report, and that will be circulated to board members.

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 this item is a standing agenda item for discussion and she had nothing to report at this time.

15. Discussion and possible action on board committee reports.

a. Administrative Procedures Oversight Committee, Chair Thomas Matter

Mr Matter said no meeting had taken place since the last board meeting, but the committee will be scheduled to meet before the November 18, 2021, regular board meeting.

b. Legislative Committee, Chair Angelo Spata

Mr Spata reported that the committee had not met since the last regular board meeting.

c. Professional Association Liaison Committee, Chair Brent Wright

Mr Wright said a PAL meeting was held this morning at 8am and was well attended. He said the industry participants reported that were starting to have in-person meetings and that was being well received by their membership. He added the next meeting is scheduled for November 18, 2021, just before the board meeting, at 8am.

d. Public Outreach Committee, Chair Robert Fyda

Mr Fyda said the committee had not met recently and he would connect with Ms Mamola about possible agenda items for future meetings. (ACTION Item)

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

Mr Gingerich said the committee had not met recently and he would connect with Ms Mamola about a future meeting.

f. Committee for Planning and Hosting of 2022 NCEES Western Zone Meeting in Nevada, Chair Karen Purcell

Ms Purcell said the committee had not met recently but anticipates the next meeting being held in early November before the next regular board meeting.

15. Discussion and possible action on board liaison, Greg DeSart's report on City of Henderson Quality of Plan Submittal Task Force meeting.

Mr DeSart said the task force met for the first time yesterday and there was a lot of interest and great dialog. Close to 50 people participated from a variety of public entities and industry groups, and a good geographic spread from the north and south. Mr DeSart said the taskforce meetings are

sponsored by the City of Henderson, led by Ed McGuire and Jamie Fitzgerald, which may encourage more free statements and general participation. He added that he is participating as an observer and board liaison, to listen and offer support and offer an interpretation of perceived board issues – and bring those issues to the board for a considered opinion. Mr DeSart said some action items were developed in the meeting and an initial listing of problems and possible solutions will be drafted as a starting point. The starting conversation at yesterday’s meeting focused on the Blue Book, which if you aren't familiar is put together by the various boards in the construction sector, and outlines standards for submitting documents to public agencies and what the roles and responsibilities are for engineers, contractors, architects, and entities. We started out with the basics and reminding people that that book exists, and that it could be a guide for entry into the process. We are also going to consider agency processes for submittals.

Mr DeSart said the taskforce is planning to meet the second Tuesday of each month at 3:00pm, and Ms Mamola is providing the board’s zoom address as the virtual meeting room.

Mr Matter asked for an overview of what underlying issue the taskforce is addressing.

Mr DeSart said several entities believe that the quality of the submittals has decreased and there's a sense that incomplete plans are getting submitted on a regular basis, where there is a sense some consultants are engaging in design by review. But that's one side of the story, and it's a little bit more complicated than that. The consultants are saying entities have different reviewers through the submittal process and claim a consultant will address the reviewer's comments and then they get a new reviewer for the second review, and they come up with all new submittal comments, and sometimes those comments might contradict the first comments. Adding to that, owners/developers say the entities are taking too long and they can't get their plans approved quickly enough – although they often contribute to the problem by giving consultants unrealistic timeframes, putting pressure on the process. Mr DeSart said it really is a multi-faceted issue. Having many entities involved as well as ACEC and NSPE representing consultants, and now we also have groups participating on behalf developers, makes for a great forum to put everything on the table and come up with solutions.

16. Board approval of non-appearance applications for endorsement licensure for Patrick High and Peter Seckinger.

Mr Kidd said these items relate to two applications for endorsement licensure where the applicants disclosed felony convictions. Both applicants have the required qualifications and experience, but as a new board chair I’m looking for background from counsel and input and guidance from the board in how these and similar situations in the future should be addressed.

Mr MacKenzie said in determining initial licensure the board has a standard that the applicant must be of good character and reputation, but these applicants are both licensed already in other states

and have gone through the process elsewhere. For the board in considering these comity/endorsement applications, there is still discretion to determine whether or not to grant a license in Nevada. Mr MacKenzie said the parameters you have to satisfy is that the applicant be of good character and reputation – so it's up to the board to determine whether or not they meet that standard for licensure. He added that if these people were already licensed, and it was a matter that was coming up for discipline under NRS 625.410, you can discipline an applicant if they're convicted of a felony, if an essential element of the crime is dishonesty. Mr MacKenzie said looking at Mr Seckinger, even though it may not be the most savory of offenses, in his opinion the conviction does not involve dishonesty. So, it wouldn't provide grounds for discipline if he was already licensed. He said the same would be true for Mr High, where the offense does not have the essential element of dishonesty – so it too wouldn't be a basis for discipline.

Mr MacKenzie added the board still has discretion in its analysis, even if a disclosed felony conviction does not involve elements of dishonesty or are directly related to the practice of engineering or land surveying, whether or not an applicant satisfies a standard of good character and reputation.

21-64 A motion was made by Mr Fyda seconded by Ms Purcell a to approve the applications for endorsement licensure. The motion passed unanimously.

Ms Purcell noted that although Mr Seckinger applied for a mechanical license, his experience states that he is also doing electrical design and asked that staff remind him to stay within the discipline of mechanical engineering.

17. Discussion and possible action on proposed regulation changes as drafted by the Nevada Legislative Counsel Bureau, LCB file number R141-20P.

Ms Mamola said this is the final grouping of regulations that the board is proposing to update. The regulations relate to complaint procedures, complaint investigations and disciplinary actions.

Mr Spata said the board had previously voted on the content of the regulations and this revision is how the LCB is proposing the regulation be written. He said the board is considering the LCB edits, making sure they are true to the intent of the proposed amendments, and voting to move the regulations forward to a public adoption hearing.

Mr Blaney said it is to be noted there are a couple of minor errors (highlighted in the document) in the LCB text where some language inadvertently remains from the previous version of the regulation and had inadvertently not been deleted. We are proposing we move forward and accept this LCB text but note in any public hearing that the errant words would be deleted before adoption.

Mr Wright noted a typo on page 9, section 9, item 2, where the word *participant*, in the context of the

sentence should be replaced with *participate*.

Ms Mamola agreed and said the edit would be noted in the document moving forward. (ACTION Item)

21-65 A motion was made by Mr Spata seconded by Ms Purcell to approve the language with the noted edits to move forward in the public review process. The motion passed unanimously.

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 in 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 none.

19. Discussion and possible action on meeting dates.

Ms Mamola asked if there were any questions related to meeting date. There were none.

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 items were put forward.

21. Public comment.

Before moving to public comment, Mr Kidd asked that Ms Fisher give her report to the board.

Ms Fisher said following up on the PAL committee discussion from their meeting earlier this morning, the Public Utilities Commission (PUC) has opened a docket as a result of our bill from the last legislative session – assembly bill 173 – which removed the licensure exemption for utilities companies related to gas line design. Ms Fisher added the comment period ended last night at five o'clock and a hearing will be held October 12 at 9:00am. She said contact had been made with Southwest Gas and NV Energy to make sure that they were going to be providing comments and participating as we had worked with them closely during the legislative session. They have confirmed they are involved in the process and are coordinating their efforts with the PUC pipeline safety staff, and they are going to attend the workshop in October. Ms Fisher said they indicated they are supportive of the legislation and its intent but wanted to consider the legislation that was put forward in the state of Virginia before anything is finalized. Ms Fisher said she was not quite sure of the PUC's

intent in using the Virginia legislation as a basis for Nevada's regulations.

Ms Fisher said one or more special legislative sessions are likely, one relating to the allocation of federal funding and the other connected to redistricting.

There was no additional public comment.

22. Adjournment

Mr Kidd thanked the board members for their participation and adjourned the meeting at 10:55am.

Respectfully,

Patty Mamola
Executive Director