

NEVADA STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS
Minutes of the Regular Board Meeting
Held virtually, Thursday, November 18, 2021, at 10AM

Board members participating 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; Greg DeSart, PE; and Brent Wright, PE/SE. Also joining were Patty Mamola, Executive Director; Chris MacKenzie, Board Legal Counsel; 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, Brent Wright, Greg DeSart.

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

2. 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.

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-four applications in the board packet for initial licensure and recommendations were made.

21-69 A motion was made by Ms Russell, seconded by Mr Fyda 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 September 16, 2021, board meeting minutes.

21-70 A motion was made by Ms Purcell seconded by Mr Wright to approve the September 16, 2021, board meeting minutes. The motion passed unanimously.

8. Discussion and possible action on approval of October 14, 2021, special board meeting minutes.

21-71 A motion was made by Mr Spata seconded by Mr Fyda to approve the October 14, 2021, interim board meeting minutes. The motion passed unanimously.

9. Discussion and possible action on financial statements:

a. August 2021

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

b. September 2021

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

21-72 A motion was made by Ms Russell, seconded by Mr Gingerich to approve the August 2021 and September 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 eight (8) open compliance case files. There were no questions from board members.

b. Consideration of probation reports:

Dooley Riva, PE #18231

Lazell Preator, PE #14982

John Skwiot, PE #20561

Robert Mercado, PLS #10352

Ralph Heninger, PE #5191

Timothy Prockish, PE, 12391

Mr Blaney reported on the status of licensees on probation. There were no questions from the board.

11. Discussion and possible action on white paper submitted by Robert Mercado, PLS, license number 010352, complaint number 20210001 —white paper is a term/condition of Mr Mercado’s stipulated agreement.

Mr Kidd noted that staff had granted a 30-day extension until December 1, 2021, for the submittal of Mr Mercado’s whitepaper. Mr Kidd asked Ms Mamola if Mr Mercado does not meet the extended deadline, and considering his disciplinary action related to him not being timely, would it be appropriate that he be asked to appear before the board at the January meeting.

Ms Mamola said it would. If the whitepaper is not submitted by the revised deadline Mr Mercado will be notified and sent a notice to appear at the January 20, 2022, board meeting.

12. Discussion and possible action on stipulated agreement for Weidong Liu, PE, license number 025669, complaint number 20210006.

Mr MacKenzie gave an overview of the California disciplinary action that resulted in the complaint being filed by the Executive Director. The complaint was reviewed by a board liaison and a stipulated settlement proposed. He said in response, Mr Liu has asked whether he can surrender his Nevada license as opposed to signing the agreement. Mr MacKenzie said the determination isn't for the board to accept a stipulated agreement at this point in time, because he did not sign one, he did not accept the stipulated agreement. It's whether surrendering of his Nevada license is sufficient moving forward, knowing that it's always going to be part of his record in this state, and if that's going to be sufficient to satisfy your concerns with him ever practicing in Nevada. It is an unusual situation to consider. Mr MacKenzie added he believed the surrender could suffice in this instance because the underlying violations were in California – but if they were in Nevada, it would not likely be a viable option.

Mr Spata said he is concerned about not knowing if the pattern of violations committed in California could have also happened in Nevada – and if the agreement were signed, we would have the opportunity to investigate that. That being said, Mr Spata said he accepted the surrender of his Nevada license as sufficient.

Mr Kidd said he would accept the surrender of the license as sufficient.

Mr Matter asked if record of circumstances of his license surrender would be “red flagged” in our licensing system should he ever reapply.

Ms Mamola said the signed rejected stipulated agreement, including note of his license surrender, would be permanently kept on file and attached to his record in the licensing database.

Mr MacKenzie added that record of his California discipline and underlying actions would also remain part of his permanent record and be considered at time of re-application to Nevada, and likely action taken, if he were to reapply.

Mr DeSart asked whether it makes sense to do a new stipulated agreement, that's where he agrees that he is voluntarily surrendering his license, and that in the event he does apply for licensure in Nevada he would be subject to re-evaluation of the reciprocal disciplinary action.

Mr MacKenzie said it would be a question of whether or not we have the power to deny his surrender of license and disciplining someone that's no longer licensed under our statutes. We can discipline licensed individuals, applicants, and interns, but I'm not sure what basis, if he has now surrendered his license, what basis we would we have to discipline him.

Mr DeSart asked for clarification if Mr Liu had already surrendered his license. Ms Mamola said he had.

21-73 A motion was made by Mr DeSart, seconded by Mr Spata to accept Mr Liu's license surrender with it on the record that in the event he reapplies for licensure in Nevada the circumstances that lead to the stipulated agreement (and the agreement itself) and would be subject to consideration and investigation (including any Nevada projects he was involved with since his first comity licensure in Nevada – amendment by Mr Spata) and would be considered in the reapplication process. The motion passed unanimously. Mr Gingerich abstained as he was the board liaison on the complaint.

13. Discussion on Board Counsel Report.

Mr MacKenzie said that he had two draft stipulated agreements drafted pending staff and board liaison review and comment before being finalized and sent to the respective respondents.

14. Discussion and possible action on issuing an Engineer Intern certificate to Douglas Fellenz.

Mr Kidd said Mr Fellenz had requested that this item be held in closed session.

21-74 A motion was made Mr Fyda, seconded by Mr Gingerich to approve going into closed board session. The motion passed unanimously.

The board interviewed Mr Fellenz in closed session. No minutes were taken.

21-75 A motion was made by Mr Gingerich, seconded by Ms Purcell to approve coming out of closed board session. The motion passed unanimously.

The board deliberated following the closed session interview with Mr Fellenz.

21-76 A motion was made by Mr Spata, seconded by Ms Purcell to issue and Engineering Intern certificate to Mr Fellenz with the following conditions:

- the Engineering Intern certification when issued shall be suspended and then stayed for a period of 24 months and a period of probation shall be imposed during the 24 months stay
- Mr Fellenz shall submit bi-monthly probation reports
- Mr Fellenz shall take an engineering ethics course and provide proof of completion before the end of the probation period
- during the probation period, Mr Fellenz shall disclose this discipline and its circumstances to any organizations or individuals that hire Mr Fellenz

Ms Mamola said an EI application had been received by Mr Fellenz and a certification would be issued to him. She added that following a draft of the Order of the Board and signature by the board chair, it would be forwarded to Mr Fellenz outlining the conditions of the stay and probation period. (ACTION Item)

15. 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. There were no questions.

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)

Ms Mamola said this agenda item is related to the National Council of Examiners for Engineering and Surveying and that she had nothing new to report at this time.

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 agenda item is a placeholder for any discussion relating to the topic. She added since the Electronic Submittal Digital Signature Guide has published on the board's website things have been going smoothly. Ms Mamola said she had nothing additional to report.

Mr Kidd said the topic can be removed as a standing agenda item. (ACTION Item)

15. Discussion and possible action on board committee reports.

a. Administrative Procedures Oversight Committee, Chair Thomas Matter

Mr Matter reported that Ms Neilon of Casey Neilon gave an overview of the draft Financial Audit Report. He said Ms Neilon said the audit was conducted in accordance with government accounting standards and there were no compliance or internal control findings, the audit resulted in a clean opinion on the financial statements which is the highest level of assurance that can be given.

Mr Matter said staff gave an overview of the situation with our current vendor relating to the delivery of an upgraded platform. He said the committee recommended the current vendor be put on notice and a firm delivery date be requested. Mr Matter added that staff had requested permission to explore developing a scope of work and explore other vendor options, which the committee approved.

Mr Matter said the committee gave staff approval to seek proposal/cost estimate to upgrade cameras from USB to video over IP, and to add an additional room viewer camera to serve virtual meeting participants when in-person board and committee meetings resume. Mr Matter said the project cost estimate would be presented to the board for consideration at a future meeting.

i. Discussion and possible action on independent financial audit report for fiscal year 2020-2021.

21-77 A motion was made by Ms Purcell, seconded by Mr Spata to approve the financial audit report for the 2020-2021 fiscal year. The motion passed unanimously.

b. Legislative Committee report, Chair Angelo Spata

Mr Spata said there was no update since the last board meeting, other than completion of the public hearing earlier this morning which saw the approval of the final group of regulatory amendments. Mr Spata said he would schedule a future meeting to work on the remaining list of actions items.

c. Professional Association Liaison Committee, Chair Brent Wright

Mr Wright reported that the committee had met this morning and those participating gave an update on their organization's activities. He added that there was no item of note to be reported to the board.

d. Public Outreach Committee, Chair Robert Fyda

Mr Fyda said there was nothing to report since the last board meeting. He added he would connect with Ms Mamola and Mr Vogel to schedule a committee meeting in January before the next board meeting. (ACTION Item)

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

Mr Gingerich reported that the committee was planning to reconvene in the new year.

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

Ms Purcell reported the committee met last week and discussed event outline and possible speakers for the event. She added there was a discussion about giveaway swag and whether contributions of items can be made by board member's firms in addition to the NCEES budgeted gift – and the committee was looking to Mr MacKenzie for a clarification.

Mr MacKenzie said having an exclusive avenue for firms connected to board members would be problematic. He said any opportunity to contribute would need to be open to all.

17. Discussion and possible action on budget augmentation for equipment in the amount of \$5,000 to purchase desktop computer to replace existing computer nearing its end of use and to increase computing memory and speed.

Ms Mamola said we're looking to upgrade at least one of our computers in our office to enable website and graphic capabilities. We're also looking at replacing the monitors as our current desktop computers don't have the ability for audio visual. Ms Mamola said we are asking board approval for a budget augmentation in the amount of \$5,000 for the purchases.

21-78 A motion was made by Mr Fyda, seconded by Mr DeSart to approve a budget augmentation in the amount of \$5,000. The motion passed unanimously.

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

Mr DeSart said the taskforce was making good progress. Meetings have been held monthly with a core attendance of 15-20 people, and we have a good geographic representation across the state. The meetings have been a great opportunity to encourage dialogue and to raise awareness of the different perspectives. He added City of Henderson is leading the taskforce and Ed McGuire is the chair, it is not a board led function and his roll is as a liaison only.

Mr DeSart said in the series of meeting the initial implication was the issues with plan submittals lay mainly with the competence of the licensees submitting, but as the taskforce dug deeper it become apparent that the entities also had room for improvement in terms of consistencies of their reviews and inconsistency of applying review requirements.

Mr DeSart said the current action item is for Mr McGuire and Mr Fitzgerald to draft a list of best practices based on the summary of topics that have been discussed by the taskforce, that will then be circulated internally within the group to build a general consensus. The group is wanting to come up with best practices that entities can use to encourage good submittals and improve the submittal quality, and then also be used by engineers to have more consistency in the submittals itself. The

finished document would then be public and used as a guide for the submittal process – and possibly be endorsed by the board after review and consideration – and possibly become an addendum to the “Blue Book”.

Mr Spata said it sounds like some progress has been made, and that there is some genuine understanding of each side’s perspective. He added it that it is good that those directly involved in the process are working together to find a solution.

Mr Fyda asked if the representation on the entity side had mainly been at the local level, or were some state agencies involved.

Ms Mamola said NDEP had been engaged from the outset and there had been some involvement from NDOT, but any state agency is more than welcome to participate.

19. Discussion and possible action on Nevada Administrative Code 625.260(2).

Mr Wright said the item relates to a question asked of him by a civil engineer regarding the regulation and its clarity. He said the question had been posed before and there may be a need for some discussion to clarify the intent of that section of the regulation.

Ms Mamola said she was on the board at the time the regulation was amended and the intent was that someone who is not licensed as an SE can design a component part of a building greater than 45 ft in height, with component part being something not integral or impacting the structural integrity of the building. She added, reading the section there can be some ambiguity relating to that section of text and it may need reconsideration to improve the clarity

Mr Wright said the instance he was questioned about was a propriety component part was of a special moment frame of a building over 45 ft that required special expertise – and the engineer with that expertise was not licensed as a SE in Nevada.

Ms Mamola said in that situation if the reviewing entity was not familiar with the system or comfortable with a CE with the expertise doing the design, they are within their purview to mandate a SE. She added it may be best to move this to the legislative committee to consider the clarity of the section and issue of special expertise of a non-structural, and the board could involve SEASoNs and ASCE in the discussion and recommendations.

Mr Wright agreed and said there could be a few different ways that this could be handled and clarified and make it so that a licensed civil engineer, that is an expert in specialized components that may not be a structural engineer, could work in conjunction with the overall structural engineer of record for the building to make sure that the whole system works well together.

Ms Mamola said the item would be noted as an action item and put it on the agenda for the next legislative committee meeting. (ACTION Item)

20. Discussion and possible action on information provided by government liaison representative from McDonald Carano related to Nevada’s legislative special session and other board related matters.

Ms Warden gave an overview of the special session and its impacts and asked if there were any board member questions. There were none.

21. 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.

22. Discussion and possible action on meeting dates.

Ms Mamola asked if there were any questions related to future meeting dates.

Mr DeSart asked that in addition to calendar invites being sent for all board and committee meetings, that save the date reminders be included for any future NCEES meetings and events. (ACTION Item)

23. 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.

Mr DeSart said relating to the adopted regulation requiring PDHs in ethics and review of Nevada statutes and regulations, he would like to discuss at a future board meeting whether the board should, a) develop an offer that training and or b) if the board could or should come up with some options that they could post on the website - links to other trainings that the board considers acceptable or something similar – to help licensees understand what is considered acceptable. (ACTION Item)

24. Public comment.

There was no public comment.

25. Adjournment

Mr Kidd thanked the board members for their participation and adjourned the meeting at 11:55am.

Respectfully,

Patty Mamola
Executive Director