

NEVADA STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS
Minutes of the Regular Board Meeting
Held in Las Vegas, NV, Thursday, January 20, 2022, at 8:30am

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

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.

Mr Kidd asked if there was any public comment.

Jay Dixon, participating virtually, had public comment.

Mr Dixon:

Hello everyone. My name is Jay Dixon. I'm a registered professional civil engineer in Nevada. I'm running for the assembly district 26 out of Reno. I just wanted to introduce myself to this group. I'm not asking for anything, I just want you to know that one of your own is running for the legislature. I want to understand your concerns. I want this group to know that I'll be there for this group and the industry in general. I also want to thank this group for the work that you did opposing SB 155, the bill last session to remove the PE requirement for the Nevada state engineer. I testified against it on behalf of the mining industry, where I come from. And I believe that if it were not for the well-articulated letter submitted by the board, that that bill would have gained traction. And it was your

letter that ultimately did it in. So, I wanted to thank you for that.

There was no additional 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 Spata recommended granting the request to waive NRS 625.183 (4) (b) made by Miguel Rodriguez applying for mechanical engineering licensure.

22-01 A motion was made by Ms Purcell, seconded by Mr DeSart to approve the waiver request. The motion passed unanimously. Ms Russell was excused and Mr Fyda was not present for the vote.

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

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

22-02 A motion was made by Ms Purcell, seconded by Mr Gingerich to approve the initial licensure applications contained in the board packet as noted. The motion passed unanimously. Mr Fyda and Ms Russell were not present for the vote.

The Board reviewed ten applications in the supplement to the board packet for initial licensure and recommendations were made.

22-03 A motion was made by Ms Purcell, seconded by Mr Gingerich to approve the initial licensure applications contained in supplement to the board packet as noted. The motion passed unanimously. Mr Fyda and Ms Russell were not present for the vote.

7. Discussion and possible action on approval of November 18, 2021, adoption of regulations public hearing minutes.

22-04 A motion was made by Mr Wright seconded by Ms Purcell to approve the November 18, 2021, adoption of regulations public hearing minutes. The motion passed unanimously. Mr Fyda and Ms Russell were not present for the vote.

8. Discussion and possible action on approval of November 18, 2021, board meeting minutes.

22-05 A motion was made by Mr Gingerich seconded by Mr DeSart to approve the November 18, 2021, board meeting minutes. The motion passed unanimously. Mr Fyda and Ms Russell were not present for the vote.

9. Discussion and possible action on approval of December 9, 2021, special board meeting minutes.

22-06 A motion was made by Mr Wright seconded by Ms Purcell to approve the December 9, 2021, interim board meeting minutes. The motion passed unanimously. Mr Fyda and Ms Russell were not present for the vote, and Mr Kidd abstained as he did not attend the meeting.

10. Discussion and possible action on financial statements:

a. October 2021

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

b. November 2021

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

c. December 2021

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

22-07 A motion was made by Ms Purcell, seconded by Mr Gingerich to approve the October 2021, November 2021, and December 2021 financial statements. The motion passed unanimously. Mr Fyda and Ms Russell were not present for the vote.

11. 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:

Dooley Riva, PE #18231
John Skwiot, PE #20561
Ralph Heninger, PE #5191

Lazell Preator, PE #14982
Robert Mercado, PLS #10352
Timothy Prockish, PE, 12391

Mr Blaney said there are two licensees currently on probation that are listed as status “pending review”. This is because they are not currently in compliance with the terms of their executed stipulated agreements with the board. He added the next two agenda items are related to these matters.

9:00 am

12. Discussion and possible action on compliance with terms of stipulated agreement for Robert Mercado, PLS, license number 010352, complaint number 20210001.

Mr Kidd:

We will call the call the meeting back to order, item number 12, the nine o'clock for Robert Mercado. Currently, it does not appear that Mr Mercado is present. We will move on to item number 21 and get our update from the government liaison.

Following agenda item 21, an update by the board’s government liaison representative, Mr Kidd returned to agenda item 12.

Mr Kidd:

We'll go ahead and go into agenda item number 12, discussion and possible action related to terms of stipulated agreement for Robert Mercado, Mr MacKenzie?

Mr MacKenzie:

Thank you, Mr Chair. I just wanted to confirm Mr Mercado is not here presently and no, he's not on the line. I don't see his name up there. Just want to make sure he's not there under somebody else's name on the line. Can we please confirm that?

It was confirmed by board staff that Mr Mercado had not joined the meeting virtually.

Mr MacKenzie:

Mr Chair, thank you. This is the time duly noticed and set for Mr Mercado to appear, to answer for potential non-compliance with the stipulated agreement he entered in last year. For the record, in your packet, there's a letter that we sent to him setting forth that this was the time and place for it, for this hearing. I also have a follow-up email on January 3rd, he responded that he would be present for this. So, he's not here for the board to hear from him as to the proposed violations of his stipulated agreement. I would put forth that under the stipulated agreement that he entered in - and I'll give you a specific date, it's in your packet, the fully executed stipulated agreement, on July 14th, 2021 - that he had obligations that arose from that. Based on staff's report, he has failed to make a payment that was due on January 15th, and it has not, just to confirm with Mr Blaney, as to whether or not it's been received.

Mr Blaney:

No, it hasn't been received as of yesterday.

Mr MacKenzie:

And he was given an opportunity. You provided notice to him?

Mr Blaney:

Per the stipulated agreement, the amounts indicated were due in a lump sum. Mr Mercado said that he'd struggle to pay that in a lump sum. So, we offered a payment plan, with the requirement of a good faith payment and then subsequent payments to be made afterwards. The payment (good faith payment) after our discussion arrived late. The other items required by the stipulated agreement have also been late. Probation reports have been late, and the probation reports due by December 1 have still not been received. Also, as part of the stipulated agreement a whitepaper was due on November 1. I emailed

Mr Mercado to remind him of the due date, he called a few days later and said, he'll struggle to get it by November 1. So, although as staff we typically don't grant extensions without board consent, but we can go through and give a one-off 30-day extension through to December 1. To date, the white paper has not been received.

Mr MacKenzie:

Under the terms of the stipulated agreement, Mr Chair, we put him on a suspension, which is often typical for how we structure these settlement agreements. And his license was initially suspended for two years, but then we put a stay on that. And as long as he abides by the terms of the stipulated agreement that stay will remain in place. It is for the board to decide whether or not to lift that stay as to effectively immediately suspend his license, or if you so choose, maybe some lesser repercussions. It's up to the board's discretion as to what they'd like to do. But as of right now, your ultimate hammer, if you will, is to lift that stay on the suspension, lift the two-year suspension on the license. So, it's up to the board as to what they would like to do with Mr Mercado. And those are your possible solutions, you can also consider other options, it doesn't have to go straight to suspension, but if that's what you so choose, that's already in writing and part of the stipulated agreement.

Mr Kidd:

Thank you, Mr MacKenzie. I'd like to hear any comments or thoughts from any of the board members, the root of this entire issue, as I understand, it is being non-responsive. So, anyone with any thoughts, suggestions, or comments?

Mr Gingerich:

Matt Gingerich for the record, it seems he's just not cooperating. And I recommend that we remove the stay of suspension. Should I make a motion?

Mr Kidd:

You can, if we can have a little more discussion...

Ms Purcell:

I was just going to add, I agree with with Mr Gingerich, I think that it shows a complete lack of respect and, not communicating, I agree completely with his recommendation.

Mr Wright:

I just want to make sure I understand. So, he's not paid any of the fine?

Mr Blaney:

He's paid some of it, but It's not really the money issue. It's more the probation reports that are required by licensees on probation. It's not rocket science to put together. It's really listing a brief listing... it's what the board sees in the board packet.

Mr Wright:

And he has not done any probation reports?

Mr Blaney:

He submitted his first set, albeit it was six weeks late. What we do when somebody signs a stipulated agreement and it's accepted by the board, Mr MacKenzie notifies them, staff follow up with a full description of when items are due, due dates, probation report periods. If a probation report doesn't arrive, we send a reminder. We understand they're human. You could forget a couple of days, but when it's the first reminder, the second reminder, and he says, yes yes...I'll get to it. It's concerning because this type of pattern was at the root cause of his discipline.

Mr Wright:

So, when you reached out to him, he's actually responded to you, but then he hasn't followed through?

Mr Blaney:

Correct. He's responded, you know, within a day or two, but then just hasn't followed through on what he said he would do. Regarding the original disciplinary action, Jake Wolf, former investigator, would call Mr Mercado to get a survey recorded, he'd say, yep I'll do it on Friday. And this went on for a series of weeks. It's just concerning a little bit, I'd be a bit concerned for, whoever he's contracting with if due dates actually mean anything.

Mr Wright:

He's not given any reason about why?

Mr Blaney:

He says he has had his identity stolen, I can go into detail, but personally I don't think it would impact doing a probation report. It could impact the financial side of it, but it wouldn't really impact writing a white paper that you've known about since July.

Ms Mamola:

Another thing is not showing up today. Mr MacKenzie, as he said, sent him an email and he acknowledged he would be here. I sent him an email on Monday and said, you have the option to attend virtually because of the COVID situation. I sent it delivery receipt and read receipt. I got both of those back. And in the email, I said, please let me know what your intentions are, whether you're going to be in person or virtual and no response. So, he got the emails, read them, but failed to respond, which is his pattern of behavior. He's aware. He's just opting not to be responsive.

Mr Spata:

I've been on the board, I think going on five years, and this is the first time I've seen this for people who haven't responded and, and we got two of them. I know Mr Blaney and his team do a lot of effort to really validate all these cases, really study them and confirm the merit. The board goes through, I think generally fair with these stipulated agreements and works with each of those professionals that are receiving them. And even once the stipulated agreements are signed, as we hear, we'll work on payments, sometimes things slip, we get that, and we're being more than accommodating. But I think what I've heard, and I agree, we kind of got to have almost no tolerance for this, with all the things that we've done to this point to not be responsive and do what you say you're going to do. We'll work with everybody, but it sounds like that isn't really the case here, at least based on what Patty was even just saying. So, that's my statement, I guess, we'll determine the motion here in a minute, but you know, it's one thing like Mr Blaney even said, the money is one thing, but those other items, there should be no reason those items can't be performed in a timely fashion.

Mr DeSart:

To me, if Mr Mercado would have showed up today, I would have been willing to listen to what he had to say. But to what Karen said, and I agree with her, it does show a lack of respect, not necessarily for the board even, but for his profession, and also, it's somewhat of an integrity issue too. In my opinion, and integrity is a big part of being a professional and being licensed. So, if he would've showed up, I think I would definitely be willing to listen and come up with an alternative, but with him not showing up that's as much as him saying he doesn't care what we decide. And in that sense, I would be inclined to enforce the agreement, and pursue, you know, suspension.

Mr Kidd:

Mr Gingerich, do you want to present your motion for the record? I was okay facilitating, but I am going to abstain from voting. I know Mr Mercado, so I will abstain from voting.

Mr Gingerich:

I put forward the motion that the stay of suspension be lifted for two years.

Ms Mamola:

Just a comment. Do you want to lift the suspension for two years or just until he comes into compliance with his stipulated agreement?

Mr Gingerich:

I would say compliance.

Mr Kidd:

You're okay with that Ms Purcell with your second?

Ms Purcell:

Yes.

Mr Kidd:

Okay. So, the motion is to basically lift the stay until he comes into compliance.

22-08 A motion was made by Mr Gingerich, seconded by Ms Purcell to lift the stay of suspension until Mr Mercado comes into compliance with the terms of his stipulated agreement. The motion passed unanimously. Mr Kidd abstained and Ms Russell was excused and not present for the vote.

Mr MacKenzie:

And just to make part of the record, the communications from staff and from myself, with Mr Mercado, we made part of the record. And so, I just like to introduce that if that's okay.

Mr Kidd:

That is okay.

9:30 am

13. Discussion and possible action on compliance with terms of stipulated agreement for Lazell Preator, PE, license number 014982, complaint number 20190008 and 20200003

Mr MacKenzie:

This is an item page 236 in your board packet, a letter was sent from myself to Mr Preator regarding the stipulated agreement that he'd entered into with the board, on January 14th, 2021. He had a series of obligations under that stipulation and his license was to be suspended for 36 months following entry of this agreement, but that suspension was stayed pending his compliance with the terms of the stipulated agreement. First was that he shall he pay a fine of \$7,000 within six months of acceptance of execution of this agreement. Second, he was going to pay in full the amount that was incurred under the contract he had with Mr Kennedy, and he was to hire a Nevada licensed land surveyor to review, re-stamp, and sign for the contracted legal description. He was to notify clients and the relevant public entity with a copy of the board agreement as to the necessity of the legal description being resubmitted with a lawful stamp and signature. Mr Preator was to reimburse the full deposit that Mr Crawford paid for an autobody repair shop project. He was to pay \$2,769.50 to the board for reimbursement of administrative and legal expenses involved in the matter. Mr Preator was to register, pay for, and complete an entry-level ethics course with Texas Tech University, the Murdoch Center for Engineering Professionalism, provide proof of completion to the board within six months of acceptance and execution of the stipulated agreement, and was to provide the state board

within 30 days of execution of this agreement, the list of projects that were submitted for government review in 2017 and 2018 and provide project names and clients to which agency submissions were made, these submissions are to be reviewed by a board staff to determine and identify any possible statutory or regulatory violations. He was to submit bi-monthly probation reports commencing two months from entering into the agreement, and throughout the duration of his suspension that was stayed for 36 months. And finally, Mr Preator is to provide proof of completion of 30 professional development hours as required for license renewal. These are the stipulated terms accepted by Mr Preator under the agreement. Since that time, Mr Blaney, compliance enforcement for the board, has had some back and forth with Mr Preator as to the completion of all those terms, and I'll ask Mr Blaney to elaborate.

Mr Blaney:

Mr Preator has been in compliance with most of the stipulated terms, but the issue before the board today is probation reports have been arriving late. Mr Preator's most recent probation report was due on December 1, but it did not arrive until January 18. As I mentioned in the previous case with Mr Mercado, a list of dates is sent to those who are on probation stating when the probation reports are due. We're not sticklers that they arrive before the exact date, we just need them in a timely manner so they can be presented for board review at board meetings. Mr Preator's first two reports arrived on time. The next two arrived three weeks late, and at the time that the letter was sent by Mr MacKenzie, the December 1st reports had not been received. The other item outstanding is the Texas Tech basic study in engineering ethics. It was due to be completed by July 1, 2021. Mr Preator provided proof of payment of enrollment in the course, and that payment was made in July 2021. I have not received notification as to whether Lazell has completed the course. The completion was due by July 21, 2021.

Mr Preator:

I did sign up for the course and then I was sick for several months during the summer. I was hospitalized. And by the time I got back on my feet, the course had changed from, because it runs September to September. So, I reinitiated the process and then got back into the course. I am not complete yet. I did meet with, or discuss yesterday with the instructor at Texas tech, and discussed how long it would take to complete the course because you have to write papers and then have the instructor review them. He is saying that based on the scheduling and everything I should be totally complete by the end of February with the three papers and everything. I wanted to make sure that I understood the best way from me to complete it for you, and not put myself in a position of not being able to meet that obligation.

I do apologize for the late submittals. I have now put a tickler in my calendar so that I can complete them. I know the next one next set is due February 1st so that I can stay on top of that. Also note, the first payment to the major recompense was late. I've realized I have to drop it off directly at the post office so that I can meet it. I know that this month did make it by January 15 to meet that obligation. I am working on the 30-hour course. I have actually talked to the professor about the 60-hour course to follow it up just because of what he says is in that course, I believe would be good for me and my career. I do plan on taking that course as part of the end of February obligation, you know, for the 30-hour course, that will put me over my 30 hours to submit to you for that full obligation of the number of PDH hours, along with some other courses I've taken through some other parties.

Mr Kidd asked if board members had questions.

Mr Gingerich:

How much of the course have you completed at this point?

Mr Preator:

I've completed a little over half.

Mr Gingerich:

What is yet to be completed?

Mr Preator:

There are a bunch of question courses you have to answer ethical questions and also some engineering questions in, you know, how to do things in each one of those takes, you know, four or five hours sitting in front of your computer and answering your questions. So, I've completed more than half of those. I just have the two minor papers and one major paper to go, and you cannot submit those until you get to the point that I'm at now.

Mr Wright:

When was it you informed Murray or the board about, you're not being able to take that course because of your illness?

Mr Preator:

I did not.

Mr Wright:

So, this is the first time the board has been informed of your illness?

Mr Preator:

Yes, unfortunately being as sick as I was, I did not think about notifying the board about, you know, me being ill and not taking a course. I'm sorry.

Mr Wright:

And was there any reason that you were late on submitting the probation reports?

Mr Preator:

Just not giving myself a notification in my calendar saying they're due, I have now put that into my calendar. It was, I'll be honest, several times. It was when Mr Blaney reminded me that I finished up the paperwork. So that is an oversight on my part that I have rectified, and no, I do not have a valid reason why I didn't, other than just forgetting, but I've rectified that.

Mr Wright:

It just seems, and just seems shocking to me that you didn't make it a higher priority, and this is how

you, this is how you make your living. And knowing that if you didn't comply, the board could remove your ability to practice engineering. Right. Just seems amazing that a professional that is in a business driven by deadlines wouldn't be more careful to meet those very important deadlines.

Mr Preator:

Yes. I should've made it a bit higher priority.

Mr Spata:

I need a clarification from Murray, just to make sure I heard it correctly. More effort could have been made to notify you about the course, but I could also understand if the illness was pretty severe that maybe that got overlooked. What I thought I heard Murray say was the class was to be completed by July. So theoretically that would have meant it would have been started earlier in the year before the said illness. Did I hear that correctly?

Mr Blaney:

That's correct. Per the stipulated agreement, the course was to be completed within six months of the agreement being signed and executed. And the date of execution was January 21st.

Mr Spata:

So, I heard the reason may be why you weren't notified that the course wasn't being conducted following the notification that it was paid for, but was there a reason that it wasn't just completed in July? That question is for Mr Preator.

Mr Preator:

I put in my application to Texas Tech in June, took them a little while to get everything squared away, and I was working, you know, wanted to work on the course. I did spend most of July and August sick. And when I notified them to get back, they're like, well, the course runs September to September, and you're not far enough in for us to carry you over to the next cycle. So, and that's when I started working toward the September and got busy, my wife got sick, and I just did not complete it when I should have.

Mr Spata:

So, Murray, remind me, when was the stipulated agreement signed that gave the six-month window?

Mr Blaney:

The stipulated agreement was signed January 21st. So really, he should have enrolled in January or February to make the July deadline. Enrolling in June would've made it a little bit tougher to get completed by July.

Mr MacKenzie:

If I may, Mr Chair, Mr Preator, this is your chance before the board to explain why they might have an understanding for your situation, why things weren't complied with it. So please take this opportunity. Anything you'd like to add to the board as to maybe how they can rely on you in the

future and maybe to get things done. I recommend you don't give up the chance that you have now to explain things.

Mr Preator:

Yes, this last year has been extremely difficult. You know, I'm a sole proprietor. It's just me, because of the issues that got me to this point of having the agreement, I've changed my business model to where it's just me. I'm not relying upon, you know, an outside person. So, with me being sick, followed by, you know, with all the issues with COVID, you know, it was tough, making sure that I met my client deadlines and everything. I unfortunately put this on the back burner, but prior to even getting this, I decided I needed to make some changes. I have put in now into my calendar, you know, bimonthly reports that they're due, what day they're due so that I can do those, get those out, so, and I working with the professor to finish the course as soon as I can, and you know, I would like to, you know, say if I don't have it completed before your next board meeting that, you know, there's definitely a problem. Because I know you guys are every other month also. So, my goal is to have completed the Texas Tech course by the end of February. And then shortly thereafter start the the next course out to six 60-hour course. So, you know, I do not want to lose my license. This is the only thing I have done for 30 years is engineering. I don't know how to do anything else, and the reason I'm here is because I do care, you know, I want to stay, you know, continue with this stay and fulfill the obligations through the end, uh, and not have to come back before you.

Mr Kidd:

I have a question for you, Mr Preator. Would you be able to shed some light on a gap from January to June and just any insight? Was it just pure procrastination or was there something happening as far as why you didn't get started earlier?

Mr Preator:

It was, changing my business model, of the type of projects that I was doing, going from the larger projects where I need help to doing small little projects that I can do by myself and not relying upon somebody else. Cleaning up those old projects and transitioning to a different, you know, working model and in doing so I was also trying to be able to meet the financial obligations of paying back Mr Crawford and Quantum Survey. Those were my priorities, getting those bills paid and so the ethics course was a little bit lower on their priority list on wanting to get those three things done.

Ms Purcell:

A question for Mr MacKenzie, what are our choices or options in this situation?

Mr MacKenzie:

You have quite a bit of leeway. The biggest hammer out there is to lift the stay, but I think you could get creative in terms of coming up with other options that you thought might help facilitate compliance. The board still retains jurisdiction on this matter through the stipulated agreement.

Mr Gingerich:

My concern is that it's not staff's job to be constantly monitoring this, it's Mr Preator's job to provide

these items in a timely fashion. Being frank, we don't want to see this back on the agenda. I think we were concerned last time when we saw the "pending" comments on probationary report status. So, I'm not sure if there are some additions we can do to enforce the terms of the stipulated agreement. I don't think it warrants the lifting of the stay, but there's got to be some reminder that Mr Preator takes responsibility to meet deadlines and not rely on staff to remind him.

Mr Kidd:

I agree. I don't know what it would take to instill a sense of urgency or if anyone has thoughts or ideas for that.

Mr Spata:

I know we haven't made a motion and we're just discussing, but if we put a "x" date for the item to be delivered. Then if that's not met, then that stay is lifted automatically. That might be an option to put a fire under things getting done timely unless it's previously discussed and agreed with Mr Blaney.

Mr Wright:

I really like that the board, for the most part, is a kinder gentler board than maybe it's been in the distant past, and I think it's important that we take other things into account. We do understand that people have lives and things happen and you get sick, and you have family things. And we do that. And I know that that Murray you take all that into account. I don't think we should lift the stay, but I think, unless you're back in the hospital, which hopefully you will not be, but if you're going to be late, you should be able to at least reach out to the board with a valid reason why, other than "I procrastinated or I forgot, or I didn't make it important". I would assume that after today, if the reports are late or if this course doesn't get completed or anything else isn't complied with it, the board would have a much different disposition towards this the next time. That is my comment.

Mr DeSart:

When you talked earlier, you had said that your plan is to finish the course by the end of February. And your plan was to submit your reports right after that. What I was hoping to hear was that you were committed to doing that and that you were going to do that. Not that you just had hoped to do it. In that sense I kind of support the concept of an automatic lifting of the stay if he tells us the date he is going to get it done by - today, and if it's not met that date then it's an automatic lift. That's what I would be in support of.

Mr DeSart said he would make a motion to that effect.

Mr Wright added that he would second the motion with a caveat, unless there is a valid reason, acceptable to the board, for any delay.

Mr MacKenzie asked for a clarification on due dates for the respective items.

Mr Blaney asked Mr Preator if he could commit to February 1, 2022 for probation reports and March 1, 2022 for the notification of completion of the Texas Tech engineering ethics course.

Mr Preator said he would commit to both dates.

Mr Blaney asked that if there were any issues related to the completion of the ethics course that the board be notified by Mr Preator in advance of the March 1, 2022 due date.

Mr Preator said he would agree to that.

Mr Spata asked that a grace period be added for fine and probation report due dates if there was a valid reason for delay and the board is notified in a timely manner.

Mr MacKenzie asked for clarification on who would make the determination on whether a the reason for delay was legitimate.

Mr Spata said he would defer to board staff to make the determination.

22-09 A motion was made by Mr DeSart, seconded by Mr Wright to maintain the stay of suspension if Mr Preator meets the following due dates unless there is a valid reason for delay, with advanced notice, and the validity of the delay to be determined by board staff.

- *Bi-monthly probations reports – due by February 1, 2022*

- *Engineering ethics course – due by March 1, 2022*

If the due dates are not met with no advanced notice of valid reason for delay, the stay of suspension on Mr Preator's license will be lifted automatically.

The motion passed unanimously. Ms Russell was not present for the vote.

14. Discussion and possible action on stipulated agreement for Jason Caster, PLS, license number 19338, complaint number 20210004.

Mr MacKenzie introduced the stipulated agreement included in the meeting packet and described the facts relating to the complaint. 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 Caster 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 DeSart:

Not being a land surveyor, it is common for an employee to go out and do field work, and then somebody in the office to review that work can stamp it. Isn't that still considered being in responsible charge?

Mr Kidd:

It is, with the correct oversight in place of the field activities, yes.

Mr DeSart:

I'm having difficulty understanding what made this case different? What was not proper about the oversight or was there no oversight?

Mr Kidd:

My impression is that the oversight needed from the field to office was lacking.

Mr DeSart:

So there was inadequate oversight or zero oversight?

Mr Kidd:

It sounds like zero. There should be procedures in place. Having the people in the field do the work, whether it is one person, a field crew, or ten field crews, the person with the license is responsible for the procedures for the data coming in from the field getting to a finished product. Having procedures set up to make sure that it is back checked so you're putting out a good product. To me it appears, and what the stipulation appears to be agreeing to, that either these were not in place, or it broke down. But it sounds like it was not in place if I'm understanding correctly.

22-10 A motion was made by Mr Spata, seconded by Ms Purcell to approve the stipulated agreement for Jason Caster, PLS, license number 19338, complaint number 20210004. The motion passed unanimously. Mr Gingerich abstained as he was the liaison and Ms Russell was not present for the vote.

15. [intentionally left blank]

16. Discussion on Board Counsel Report.

Mr MacKenzie said beyond the matters we're dealing with this morning, we have another pending potential stipulated agreement that's having some back and forth with counsel, therefore, it should be before the board at the next meeting of the board. Also, we prepared the decision in order for Fellenz petition at the last board meeting, and it has been executed by the board chair and been received by Mr Fellenz.

17. 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 from the board.

b. Action items related to 2021-2025 Strategic Plan

Ms Mamola asked if there were any questions relating to the strategic plan or strategic plan action items.

Mr Spata asked to be reminded of the outcome following the board's strategic plan update in September 2020.

Mr Blaney said from strategic plan update, the board agreed that the overall goals would stay the same, but strategies were adjusted for relevance – where some were added and others revised. He said since the planning session, staff along with the committees of the board, have been developing action items and tactics to support the strategies.

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

Ms Mamola said relating to the Western Zone meeting, we need to identify three delegates to be funded by NCEES. NCEES would cover registration and travel expenses for funded delegates.

After discussion, Mr Kidd, Mr Spata and Mr DeSart were identified as the delegates to be funded by NCEES. (ACTION Item)

18. Discussion and possible action on board committee reports.

a. Administrative Procedures Oversight Committee, Chair Thomas Matter

Mr Matter said the committee has not met since the last board meeting, and he had nothing to report.

b. Legislative Committee report, Chair Angelo Spata

Mr Spata said the committee has not met since the last board meeting, but a meeting was scheduled for March 2, 2022. He said he would be connecting with Ms Mamola to review any outstanding action items for the committee to review and to draft the meeting agenda.

Ms Mamola said she would send the list of committee action items for Mr Spata to review. (ACTION Item)

c. Professional Association Liaison Committee, Chair Brent Wright

Mr Wright said PAL committee met yesterday afternoon and had quite a number in attendance representing the different organizations, but he didn't have any specific things to report.

d. Public Outreach Committee, Chair Robert Fyda

Mr Fyda said the committee met on January 10 and discussed the social media analytics for the previous campaigns and our options to move forward. He said it was decided to continue doing the three main platforms - Twitter, LinkedIn and Facebook - and then the committee will meet again to kind of go over some of the preliminary social media metric numbers from the revised program.

Mr Kidd asked what the impact of the period of reduced posting activity had on the overall social media metrics.

Mr Fyda said for the most part, our followers have been staying steady even with the decreased number of posts, the only question is if we reached a saturation point in terms of our followers, or if essentially more posts will generate more followers. He added we are going to monitor the status quo and see what kind of engagement we get.

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

Mr Gingerich said the committee had not met since the last board meeting, but a meeting has been scheduled for March 17, 2022

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

Ms Purcell said the committee has not met since the last board meeting, and she had nothing to report.

19. 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 per se has reached its end point. A meeting is scheduled to memorialize the ideas that were compiled through this effort and to prepare a draft best practices document that would be able to be distributed to industry for comment. Mr DeSart said a question he had for the board, is whether the board would be willing to endorse the best practices document created as a result of the City of Henderson led taskforce. Although the practices were not developed by the board, the board was supportive of the process, and these are industry comments, having some sort of cover letter that the board endorses the document, in his opinion, would be a good idea.

Mr Kidd said he agreed with direction Mr DeSart was suggesting.

Ms Mamola said what she was envisioning, following the board review of the document, that would be something similar to the best practice guide for electronic submittals and digital signatures – and be posted as a reference for industry on the board's website.

Mr DeSart said he agreed, but the difference between the two items is that the electronic submittal/digital signature guide was produced by the board as opposed to this document that is not produced by the board. The board didn't develop the best practices, so we're not going to be enforcing this per se, but we can definitely use it as a reference tool when we're talking with licensees.

Mr Spata said without seeing the document it is hard to respond. Until we have a chance to review and consider the document it would be hard to commit to any endorsement.

Mr Kidd said no action is required at this time. We will need to see the final draft that comes from the taskforce before we consider any action.

Mr DeSart said once the document is finalized by the taskforce, it could be brought to the board for consideration as to what extent the board is comfortable with endorsing it or posting it or something similar.

20. Discussion and possible action on support for Karen Purcell candidacy for NCEES Western Zone Vice President and issuance of board letter of support.

Ms Mamola said past board chair Karen Purcell has expressed the desire to run for Western Zone, Vice President. With that, we're looking for a board motion of support and a vote on that item. Ms Mamola added, with board support, a letter would be sent to the nominating committee alerting them to Ms Purcell's desire to run and then they would determine whether she's qualified.

22-11 A motion was made by Mr Wright, seconded by Mr Spata to support Ms Purcell's candidacy for NCEES Western Zone Vice President and issuance of a board letter of support. The motion passed unanimously. Ms Russell was not present for the vote.

Ms Purcell thanked the board for their support.

21. 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 Fisher reported that interim committee meetings are getting started and that the structure of the interim committees has changed somewhat. She said there is now standing interim committees that are precisely the same name as they are during the legislative session, which is a little bit different. These committees will each have 10 bill drafts to move forward. They are going to be looking at actively developing legislation, as opposed where they just make recommendations to the legislature.

I have been in touch with the staff for the Commerce and Labor Committee and let them know that we would be happy to come in and present to them about the board and what we do and what improvements we've made that streamlines the licensing process. Opportunities for that presentation will be at a later date.

Ms Mamola said with the committees having 10 bill draft requests each, do we need to identify a BDR sponsor, and do we need to get going on our bill draft requests? She also asked what Ms Fisher's thoughts were on the timeline for BDRs.

Ms Fisher said she had not yet talked to committee chair, assembly woman Sandra Jauregui, but she did a terrific job with our last bill draft request. I have not yet talked with the chair on this, but I will talk with her about that and see if she wants to do it as a committee introduction - she would be my first choice.

22. Discussion and possible action on board sponsored/offered training related to ethics and Nevada law continuing education requirements.

Ms Mamola said before discussing the item, Steve Hiner, the new investigator hired by the board, has been doing a great job with his ethics presentation. In response to requests by professional associations, Steve has built a base presentation that he continues to modify and adjust as professional societies need or dictate. Ms Mamola added that service is free.

Mr DeSart said relating to the new PDH regulation, I have had a lot of people ask me, how do I comply with this? The self-study option, which is a new part of the new law, is pointed out, but I also think it would be helpful and it could be done a number of different ways to explicitly describe what changes every time things change. He continued to say it's one thing to say just go read all the regulations all the time, as someone who reviews documents for a living – and loves the track changes feature – without knowing what changed, things can go unnoticed. Mr DeSart said he would be in favor of a couple of options. A YouTube video describing the changes would be one and sending board members or board staff to conferences and to luncheons to talk explicitly about what has changed, and to be able to have a Q&A interaction would be another. It's not only just talking about what changed, but to give some context. Why were they changed and what impact did we receive and what were the controversial aspects of this change? I think that that would be good, useful information for people to know.

Mr Kidd said he agreed with the idea. Getting in front of industry is just another way for the board to expand its presence, board or board staff. Whether it is something that is done annually in an executive summary format, or after each legislative session. Also have something in a format that can viewed on the board's website would be beneficial.

Mr DeSart said if staff could compile all this information into a presentation – PPT and supporting cheat sheet – then board members can easily use it to make presentations locally, so Patty or staff don't always need to travel. He added, having a board member do the presentation would also be an extension of public outreach.

Mr Wright said to add to Mr DeSart's comments, in addition to what's changed, maybe some things in the law that people commonly overlooked, like the requirement for a contract, and maybe there are others similar items that could be included.

Ms Mamola said a base presentation on the NRS and NAC changes does exist and can be adapted per today's discussion and made available to board members. She added relating to the professional

ethics component of the PDHs, consideration for videoing the current ethics presentations for sharing on the website or hosting live ethics webinars could be options.

Mr Wright said he had attended the online ethics presentation online conducted by Mr Hiner, and suggested the content be expanded to include local case studies. He said it would be helpful to the awareness of licensees to see examples of common ethical issues that have come before the board.

Ms Mamola said staff have made note of the comments and will take action. (ACTION Item)

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

Ms Mamola asked if there were questions from board members related to the master list of action items in the board packet. There were no questions from the board.

24. Discussion and possible action on meeting dates.

Ms Mamola asked that the February interim meeting date be move to February 17, 2022. There was no objection from the board. (ACTION Item)

25. 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.

There were no topics put forward for future discussion.

26. Public comment.

There was no public comment.

27. Adjournment

Mr Kidd thanked the board members for their participation and adjourned the meeting at 10:30am.

Respectfully,

Patty Mamola
Executive Director