

NEVADA STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS
Minutes of the Regular Board Meeting
Held in Las Vegas, NV, Thursday, May 12, 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; 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 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.

It was 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.

Ms Mamola read the following public comment from Hugh Ezzell, PE (Civil) # 010310, into the record.

Gentlemen and Ladies, as events have progressed regarding the electronic submittal of documents and plans to review agencies and the like, the State Board has come out on numerous occasions with guidelines regarding the generation and usage of digital signatures and stamps.

In the beginning, around the turn of the millennium, electronic generated stamps (and signatures in some instances) were beginning to be used by professionals. Initial guidelines by the Board mandated that digital impressions of the professional stamp were acceptable, however usage of a

digital signature impression over the stamp was prohibited and that the professional was still required to wet stamp each stamp impression.

Following this development around 2020, the Board subsequently came out with the referenced guidelines to allow submittal of electronic documents to agencies in the wake of COVID. Those guidelines, loosely outlined, referenced Adobe software and described, in some detail, the generation and usage of a digital signature. I have the original email sent by the Board on this topic. I believe it was also contained in the Boards newsletter and have now found that TMWA is providing the guidelines in their application packets.

Initially, I was skeptical of the generation of the digital signature and dependence of the professional world upon its security. I was so much concerned that the digital signature was not secure, that I refused to use one. I, personally, have relied upon a digital impression of my stamp with my signature upon it, accompanied by a serial number locking that particular signature to that particular document. I have kept a log of my stamps/signatures and can tell anyone what specific document was stamped/signed and the exact date of that occurrence. Any document with a digital stamp/signature bearing my name and signature which does not contain a valid serial number is an illegal usage of the same by an unauthorized person.

I found at the time I studied the generation and usage of digital signatures that the entire process is not secure. I called and spoke with a very nice gentleman in your office regarding my misgivings over the digital signature. He was very accommodating and understanding, but also very converted to the idea that the digital signature was completely secure and could not be intentionally used in an illegal manner. After our discussion(s), I was still not convinced – nearly to the point that I am ready to put myself on record as such.

Thus, I am noting the following to the Board:

- 1. A digital signature can be created by any person*
- 2. A certificate for the digital signature in #1 above can be created by any person at the same time the digital signature itself is created.*
- 3. That the digital signature can be used by that person indiscriminately.*

One could assert that the certificate would validate the digital signature, however, I wonder how.

I wish to illustrate my concern to the Board though the use of an example. I have discussed this dilemma with another engineer, who agrees with my assessment of the situation surrounding digital signatures. We have collaborated together to generate two identical documents with digital signatures. The documents used were generated by me (one single document made into two identical copies). We each, independently, generated a digital signature in my name on our separate computers. We did not generate certificates for the digital signatures as that process is a repetition of the process surrounding the digital signature itself.

Attached to this letter/email, you will find these two documents, created on March 17, 2022.

The challenge to the State Board of Engineers is to identify which document I created myself, and which document under everyday circumstances, would be a fraud. We eagerly await the Boards response to this challenge.

Should the Board be unable to differentiate the documents with the valid vs. invalid digital signature, then it becomes apparent that the process can and should be called into question.

Both I and the other engineer would be happy to address this situation to the Board itself in its meeting if invited. There do exist viable solutions to this dilemma, several of which we would be happy to elucidate.

Sincerely Yours, Hugh Ezzell, CE 10310

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 applicant 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 thirteen applications in the board packet for initial licensure and recommendations were made.

22-28 A motion was made by Ms Purcell, seconded by Mr Wright to approve the initial licensure applications contained in the board packet as noted. The motion passed unanimously.

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

22-29 A motion was made by Ms Purcell, seconded by Ms Russell to approve the initial licensure applications contained in the supplemental board packet as noted. The motion passed unanimously.

7. Discussion and possible action on approval of March 10, 2022, regular board meeting minutes.

22-30 A motion was made by Ms Russell, seconded by Ms Purcell to approve the March 10,

2022, board meeting minutes. The motion passed unanimously.

8. Discussion and possible action on approval of April 14, 2022, interim board meeting minutes.

22-31 A motion was made by Mr DeSart, seconded by Mr Fyda to approve the April 14, 2022, interim board meeting minutes. The motion passed unanimously.

9. Discussion and possible action on financial statements.

Ms Mamola reviewed the February 2022, March 2022, and April 2022 financial statements as presented in the board packet. There were no questions from the board.

22-32 A motion was made by Mr Fyda, seconded by Mr Wright to approve the February 2022, March 2022, and April 2022 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:

Dooley Riva, PE #18231	Lazell Preator, PE #14982
John Skwiot, PE #20561	Robert Mercado, PLS #10352
Ralph Heninger, PE #5191	Timothy Prockish, PE, 12931
Jason Caster, PLS #19338	

Mr Blaney reviewed the status of licensees on probation. He said there had been no movement from Mr Mercado toward addressing the outstanding items in his stipulated agreement. Mr Blaney said he has been in contact with Mr Mercado a number of times and outlined the action needed, but nothing has been received to date.

Mr Spata asked what action would be taken with regard to Mr Mercado.

Ms Mamola said no further action was required by the board. His license is currently suspended because on non-compliance with his stipulated agreement and would remain in that state until he abides by the terms of the stipulated agreement.

11. Discussion and possible action on stipulated agreement for Ali Fakh, PE, license number

28788, complaint number 20210007.

Mr MacKenzie introduced the stipulated agreement included in the meeting packet and described the facts relating to the complaint. He said the focus of the action was that the respondent was not licensed when he contracted to offer and perform engineering services in the state. Although the initial complaint spoke to issues of contract performance, we did not address that aspect because of already initiated and ongoing litigation between the complainant and the respondent. Mr MacKenzie said Mr Fakh has 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 asked for clarification on why the disciplinary action focused on the licensing only and not the other matter.

Mr MacKenzie said the without going into too much detail of the investigation, the issue of contract performance was clear cut, and putting the board in the position to make a ruling on an issue that has parallel pending litigation can potentially create a situation of conflicting results.

22-33 A motion was made by Mr Spata, seconded by Mr Matter to approve the stipulated agreement for Ali Fakh, PE, license number 28788, complaint number 20210007. The motion passed unanimously.

12. Discussion and possible action on revised white paper submitted by Timothy Prockish, PE, license number 12391, complaint number 20210002, white paper is a condition of the stipulated agreement.

22-34 A motion was made by Mr Fyda, seconded by Mr Gingerich to accept the revised white paper as written to satisfy the condition of the stipulated agreement. The motion passed unanimously.

13. Discussion and possible action on white paper submitted by Jason Caster, PLS, license number 19338, complaint number 20210004, white paper is a condition of the stipulated agreement.

Following review and discussion of the whitepaper it was determined that Mr Caster must expand detail regarding what specific actions he would take to ensure responsible charge of work and avoid the negligent issues that resulted in his disciplinary action. It was suggested that Mr Gingerich redline the whitepaper where more detail is requested, and then on behalf of the board, review the revision for acceptance. It was also noted in the discussion that in future requests for white papers relating to disciplinary action, specific requirement be included for the licensee to outline in detail what they will do in the future to correct and prevent the issue they were disciplined for. (ACTION Item)

22-35 A motion was made by Mr Gingerich seconded by Ms Purcell requesting Mr Caster revise his white paper based on feedback from the board discussion, with Mr Gingerich to review and decide on acceptance on the board's behalf. The motion passed unanimously.

Mr Blaney said following the redlining by Mr Gingerich he would coordinate with Mr Gingerich and contact Mr Caster to convey the board's request for revision of the whitepaper. (ACTION Item)

14. [Intentionally left blank]

15. Discussion on Board Counsel Report.

Mr MacKenzie said the main matter of discussion is going to be under the next agenda item and he didn't have anything additional to report.

16. Discussion and possible action on board disposition for addressing complaints that involve pending litigation.

Mr MacKenzie introduced the agenda item and outlined potential situations with complaints where pending or ongoing litigation was involved between the complainant and the respondent, and highlighted instances where a stay on proceedings – a tolling agreement – may be appropriate. Board members asked questions on instances where there were concerns for public safety identified in the complaint information. Mr MacKenzie said the complaint issues being considered can be parsed out, where determinations related public safety can be addressed with immediacy, and other items deferred. In the discussion it was highlighted that guidelines as to when a stay on certain issues may come into play, each complaint situation is different and would be considered on a case-by-case basis, and that decisions would not be made without extensive discussions between board counsel, the board liaison, and staff.

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 answered board member 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 reviewed the upcoming dates for the NCEES Western Zone and Annual Meetings.

18. Discussion and possible action on board committee reports.

a. Administrative Procedures Oversight Committee, Chair Thomas Matter

Mr Matter reported on the most recent committee meeting March 28, 2022, the items considered were the executive director work performance and salary, we reviewed and discussed the proposed budget for the fiscal year, starting July 1st, 2022, we also discussed board staffing, board application, licensing systems, government liaison services and the committee's strategic plan tactics and action items.

i. Executive director work performance and salary

Mr Matter said following the review of the ED work performance, the committee felt, and I think the board will agree, we're very fortunate on who we have running our board, managing it from the executive director position. We recommend to the board a merit increase bringing her salary up to \$160,000 annually, and that'd be just under a 15% increase. We believe this is a warranted adjustment to bring Ms Mamola to above the median salary for similar positions throughout the United States.

22-36 A motion was made by Ms Purcell, seconded by Mr Wright to accept Ms Mamola's evaluation and approve the salary increase. The motion passed unanimously.

ii. Budget for fiscal year July 1, 2022, to June 20, 2023

Mr Matter said the committee also reviewed the proposed budget for the fiscal year, July 1st, 2022, through June 30th, 2023, as presented in the board materials. We make the recommendation to the board to accept and approve the proposed budget. Mr Matter added that Ms Mamola can answer any questions from the board. There were none.

22-37 A motion was made by Ms Purcell, seconded by Ms Russell to accept the proposed budget for fiscal year 2022-2023. The motion passed unanimously.

b. Legislative Committee report, Chair Angelo Spata

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

Ms Mamola said that she had been in contact with LCB and state printing about getting new law

books published. She said the LCB was working to complete the codification of our updated regulations and when complete, state printing could begin formatting for print. The timeframe given was that the regulations should be codified by early June with printing possible by July.

c. Professional Association Liaison Committee, Chair Brent Wright

Mr Wright said the committee had not met since the last board meeting and was adjourned for the summer and will reconvene meetings in the fall.

d. Public Outreach Committee, Chair Robert Fyda

Mr Fyda said the committee had not met since the last board meeting and he had nothing to report, but a meeting would be scheduled around the end of the financial year to review the outreach metrics. He added he would work with Ms Mamola to coordinate that meeting. (ACTION Item)

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

Mr Gingerich said the committee members had an assignment to review and comment on draft amendments suggested by staff. The committee's feedback was due a couple of weeks ago and the comments are currently being assimilated and he would review those with Patty and Murray before the committee meets again on June 2.

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

Ms Purcell said the committee had its final meeting last week and all the planning is complete, and we are now in the final count-down until the event kicks-off next Thursday.

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 chair of the task force had sent out an email at the end of March asking for people to help put together a best practices manual. He said he would follow-up to see if there was any progress and give a status update at the July board meeting.

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

Ms Fisher said that the public utilities commission took up the recommended amendments from assembly bill 173, our bill, which was carried by assembly committee on commerce and labor last

session by chairwoman Sandra Jauregui. During an earlier hearing to adopt the proposed regulations, which NV Energy and South-west Gas participated in, there were no comments or questions, and the regulations were accepted unanimously. Ms Fisher said the regulations will still need to go before the legislative commission to be adopted.

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 includes 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 reviewed the meeting dates as listed in the board materials and asked there were any questions from the board. There were none.

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.

There were no future meeting agenda topics put forward.

24. Public comment.

There was no public comment.

25. Adjournment

Mr Kidd thanked the board members for their participation and adjourned the meeting at 10:15 am

Respectfully,

Patty Mamola
Executive Director