NEVADA STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS
Minutes of the Regular Board Meeting
Held in Las Vegas, NV, Thursday, September 12, 2024

Board members participating were Chairman Angelo Spata, PE; Vice Chair Brent Wright, PE/SE; Thomas Matter, public member; Karen Purcell, PE; Michael Kidd, PLS; Robert Fyda, PE; Matthew Gingerich, PLS; Greg DeSart, PE; and Jay Dixon, PE. Also joining were Mark Fakler, Executive Director; Chris MacKenzie, Board Legal Counsel; Murray Blaney, Operations/Compliance; Jasmine Bailey, Licensing; and Ed McGuire, Professional Standards. Jesse Patchett, PE, attended as a board guest.

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

Mr Spata called the meeting to order, and it was determined a quorum was present.

2. Pledge of Allegiance.

3. Public comment.

There was no public comment in-person, virtually or via email.

4. Introductions.

Board members, staff and the board guest introduced themselves.

Mr Spata read the board's purpose and mission.

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

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

Ms Purcell recommended approval of the request to waive NRS 625.193 (1)(a) made by Mohammad Alkhateeb applying for civil engineering licensure.

24-51 A motion was made by Mr DeSart, seconded by Mr Kidd to approve the waiver request. The motion passed unanimously.

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

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

24-52 A motion was made by Ms Purcell, seconded by Mr Fyda to approve the applications for initial licensure contained in the board packet with recommendations noted. The motion passed unanimously.

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

24-53 A motion was made by Mr Kidd, seconded by Mr Gingerich to approve the applications for initial licensure contained in the board packet with recommendations noted. The motion passed unanimously.

7. <u>Discussion and possible action on approval of July 18, 2024, board meeting minutes.</u>

24-54 A motion was made by Mr DeSart, seconded by Mr Kidd to approve the July 18, 2024, board meeting minutes. The motion passed. Mr Spata and Mr Matter abstained from the vote as they were not present at the meeting.

8. <u>Discussion and possible action on approval of August 8, 2024, interim board meeting minutes.</u>

24-55 A motion was made by Mr Spata, seconded by Ms Purcell to approve the August 8, 2024, board meeting minutes. The motion passed unanimously.

9. <u>Discussion and possible action on financial statements.</u>

a. <u>June 2024.</u>

Mr Fakler reviewed the June 2024 financial statements as presented in the board packet and provided clarifications for the board.

24-56 A motion was made by Mr Kidd, seconded by Mr Matter to approve the June 2024 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 nine (9) open compliance case files and answered questions from the board.

b. Consideration of probation reports:

Dooley Riva, PE #18231	Buckley Blew, PLS #24520
Jason Caster, PLS #19338	Armando Monarrez, PE #19652
Lazell Preator, PE #14982	Mark Johnson, PE #19830
Robert Mercado, PLS #10352	Andrew Hammond, PE/PLS #21191

Mr Blaney reported on the status of licensees currently on probation. He said Mr Riva had made the final payment of his administrative fine as an updated to the table of payments listed in the board meeting materials. There were no questions from the board.

11. 9:30 AM – Formal hearing and possible disciplinary action related to complaint number 20230 019, Lazell Preator, PE, license number 014982.

Mr Spata asked Mr MacKenzie to introduce the time specific (9:30 AM) agenda item, the formal for possible disciplinary action.

Mr MacKenzie said that this is the time and place set for the formal hearing, and due notice was provided for Mr Lazell Preator to come before the board regarding previously continued disciplinary matters. He added the amended complaint was provided, again with due notice was provided, Mr MacKenzie said he received an email two days ago from Mr Preator – and for accuracy – he would read it for the board and into the record.

Email received from Lazell Preator on September 9, 2024.

Mr. MacKenzie,

I have been trying to reach my counsel for the past two weeks....to no avail. As such, we parted ways yesterday, and I am working on getting new counsel. As I do have some issues which I believe would be served with Counsel during my hearing with the Board, I wish to have my hearing held until the October meeting so was to have representation.

As I am not currently living/working in Nevada (Henderson is still my "residence") it will not matter whether the hearing is in Reno or Las Vegas.

I will contact you when I have the contact information for new counsel. My apologies for the short notice, as I was under the impression he had contacted you and sent you information with regard to our concerns.

Sincerely,
Lazell Preator

Mr MacKenzie said sent the following reply to Mr Preator

Email response to Lazell Preator on September 10, 2024.

Mr. Preator,

This is to confirm that I have not received anything from any purported legal counsel for you regarding the hearing scheduled before the Board this Thursday. Further, regarding your request for continuance, I do not have authority to grant a continuance on my own, as it up to the Board, but I will reluctantly recommend such a continuance to the Board at the time of hearing. If a continuance is granted, the next scheduled Board meeting is tentatively scheduled for November 7, 2024, in Reno.

If you do intend to have legal counsel going forward, I implore you to retain such as soon as possible, as your desire for counsel is the basis for me being willing to recommend a continuance. Also, should the hearing be continued, I am very curious to hear the issues that you have with the Complaint, and I am hoping that your yet-to-be-retained counsel would convey those concerns to me, as you have not.

Sincerely,
Chris

Mr MacKenzie said his recommendation to the board, based on the importance of counsel in this matter with a license at issue, would be to allow a continuance. He added Mr Preator is not currently licensed in Nevada, his suspended license expired last January, and he has not applied for re-licensure.

Ms Purcell asked if it was possible to put a time limit on the continuance.

Mr Spata said it would be appropriate to allow time for any new counsel to get familiar with the complaint materials and to engage with Mr MacKenzie.

Mr MacKenzie said setting a specific timeframe would difficult now because without connecting with the new counsel to understand what Mr Preator’s contention is, and just the time it takes to prepare for a formal hearing – contacting witnesses, determining exhibits etc.

Mr DeSart said any continuance should have specific requirements of Mr Preator. He suggested that Mr Preator need to have counsel retained and said counsel has to have had communication with Mr MacKenzie by our November board meeting in order for us to even consider moving it further out.

24-57 A motion was made by Mr Spata, seconded by Ms Purcell to grant a continuance today, but any further continuance consideration be predicated on Mr Preator retaining counsel, and his counsel has communicated with Mr MacKenzie prior to the next regular board meeting on November 7, 2024. The motion passed unanimously.

12. Discussion and possible action on stipulated agreement for Lyle Scott Mackay, PE, license number 015131, complaint number 20240006.

Mr Spata asked that Mr MacKenzie review the stipulated agreement for the board.

Mr MacKenzie introduced facts and the proposed terms of the stipulated agreement as shown in the board materials. Mr MacKenzie asked if the board had questions or comments.

A discussion ensued with the board members outlining their individual point of view and asking for clarification on the facts from Mr MacKenzie.

Mr Kidd said he did not see how it would be possible for an individual to recover good standing and character given the nature of the offence, and that he was not in favor of accepting the stipulated agreement.

Mr Fyda requested a modification to the terms of the stipulated agreement. He said for him to consider acceptance he would need to see an additional clause relating to protection of future clients if Mackay were to leave his current employer and become self-employed.

Mr Dixon agreed and suggested that the board be able to revisit the terms of a stipulated agreement should the respondent’s employment situation change, where possible additional safeguards could be put in place relating to any new circumstances.

Mr MacKenzie said he understood the direction given – although it would need wordsmithing – in that upon a change of employment circumstances, and notification to the board, he would be subject to further review by this board.

Mr Fyda agreed with Mr MacKenzie’s summation and said he would be available to review the redrafted language.

Mr DeSart put forward that the board could consider a motion to approve the stipulated agreement now, pending Mr Fyda's review and acceptance of the revised term language.

Mr MacKenzie said that was an option for the board to consider.

Mr Spata agreed and asked for a motion.

24-58 A motion was made by Mr Wright, seconded by Mr Dixon to approve the stipulated agreement for Lyle Scott Mackay, PE license number 15131, complaint number 20240006 with the caveat that Mr Fyda review and accept the revised language as discussed. The motion passed 8-1.

13. <u>Discussion on Board Counsel Report.</u>

Mr MacKenzie said we have seen an increase in the number of complaints that are moving toward disciplinary action. He said in addition to the stipulated agreement presented today three others are at various stages in the process and will be seen by board in upcoming regular meetings.

Mr MacKenzie said he has received information on the governor's efforts to bring occupational licensure boards under the umbrella of the Department of Business and Industry (B&I) that will begin being considered in the upcoming legislative session. He added he has not yet seen any of the bill draft request (BDR) text, but the impacts for autonomous/independent boards like this one could be significant.

Mr Spata asked Mr MacKenzie if there anything the board or staff could do as this process develops.

Mr MacKenzie said B&I has begun reaching out to other board administrators so there could be information gathered as to what they have heard. He added he had heard some boards are being considered for a "carve out" (remaining autonomous/independent) with unconfirmed reports that contractors board is one of them.

Ms Wilson said she had a meeting with Dr Sanchez, the head of B&I, who is running the bill two weeks ago. The BDR is about 400 pages and is still in draft form with the LCB, but essentially the goal is consolidation with state oversight and five super boards are proposed. She added Dr Sanchez is open to meeting with board administrators to discuss the plan further. Ms Wilson said it is in the early stages and estimated that it could take three sessions to be fully wrapped up – and that is not considering election cycles and the terming out of the current governor.

Mr Spata said working with Ms Wilson and Mr MacKenzie in the determining what we need to get in front of the developments is important, and beginning discussions at the committee level would be a good starting point. He recommended it be added as an agenda item to a future Legislative Committee meeting. (ACTION Item)

Mr Patchett asked what challenge is trying to be solved by wrapping all the boards under B&I.

Ms Wilson said there is an issue having a large number of boards in the state, and a number of them fail to meet a minimum standard – with that being not actually meeting, while maintaining a high overhead.

Mr MacKenzie said a lot of the impetus began a number of years ago with a US Supreme Court decision against the North Carolina Dental Board. There was concern expressed about the profession being in charge of the licensure and discipline of its own, where the opportunity exists for protectionism and anti-competitive effect of that. Mr MacKenzie added Nevada is high in the national ranking of the number of occupational boards compared to other states, so that concern is amplified here.

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

a. Approved licensees report.

Mr Fakler reviewed the approved licensee report as presented in the board packet and answered questions from board members.

b. Action items related to 2021-2025 Strategic Plan.

i. Discuss details related to future strategic planning session.

Mr Blaney said based on an action item from the July board meeting, a date had been tentatively set for a strategic planning session to be held in Reno the day before the March 13, 2025, regular board meeting in Reno. He added the item was added for any additional discussion.

Mr Spata suggested that the planning for the strategic session and the consideration of inviting industry stakeholders to participate be moved to the PAL Committee for discussion and to formulate a plan of action to be presented to the board.

Mr Kidd agreed and asked that the item be added to the agenda of the next scheduled PAL meeting.

(ACTION Item)

Mr DeSart asked that a calendar invite be sent out the tentative date of March 12, 2025, in Reno. (ACTION Item)

Mr Wright asked if it would be appropriate for a topic to be discussed at the PAL Committee relating to the degree requirement for licensure versus licensure by years of experience. It would interesting to gauge the opinion of the committee members and industry participants.

Mr Spata said that could be an agenda item for consideration for a future PAL Committee meeting. (ACTION Item)

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

i. <u>Annual Meeting Conference Report and Action Items.</u>

Mr Spata said the full conference report along with action items and vote results were available in the board meeting materials. He asked if board members had any questions or comments. There were none.

Mr Kidd suggested that it might be worthwhile for Mr MacKenzie to attend the next NCEES Annual in May 2025.

Mr Spata agreed and asked staff to provide Mr MacKenzie with dates so he can add to his schedule. (ACTION Item)

ii. <u>Content of NCEES Record as used in the application for initial licensure.</u>

There was no discussion related to this agenda item.

15. <u>Discussion and possible action on board committee reports.</u>

a. <u>Administrative Procedures Oversight Committee, Chair Brent Wright.</u>

Mr Wright reported that APOC has not met since the last board meeting, but had a committee meeting scheduled for October 16, 2024, at 9:00 AM.

Mr Spata suggested that with APOC being the venue for Executive Reviews, that the committee conduct a six-month check in with Mr Fakler is that was appropriate.

Ms Purcell agreed and recommended the check-in be added as agenda item for the next committee meeting.

Mr Wright said he was in support of the recommendation and asked that staff note to add to the agenda. (ACTION Item)

b. <u>Legislative Committee, Chair Greg DeSart.</u>

Mr DeSart said the committee has not met since the last board meeting, but a Legislative Committee meeting is being held on September 17 at 2:00 PM. The big topic will be Qualification Based Selection (QBS) and ACEC is invited to attend and express their concerns with the statute, and when it is not being adhered to in the procurement process. Mr DeSart added there will be a report back to the board following the meeting based on recommendations and feedback from the conversation.

Mr Spata said it might be good to know how states have similar statutes or regulations relating to QBS, and if they experience similar issues and how they handle them. He asked Mr Falker to gather some research. (ACTION Item)

c. <u>Professional Association Liaison Committee, Chair Michael Kidd.</u>

Mr Kidd said like the other committee chairs, there had been no meeting since the last regular board meeting. He said he would connect with Mr Falker about a date and time and look forward to seeing a draft agenda. (ACTION Item)

d. <u>Public Outreach Committee, Chair Jay Dixon.</u>

Mr Dixon said the committee met on August 27 and were updated in the public outreach activities. He said the metrics were reviewed for performance of the social media channels since the last POC meeting, and an outline was provided for outreach activities for the remainder of the fiscal year. Mr Dixon added that a request for an additional $2,500 to be added for video work social media content. A request was conditional approved by the committee, pending consideration by the board.

Mr Blaney said staff can review the funds budgeted and see if realigning activities can accommodate any additional video work without having to augment the current budget.

i. <u>Consider possible recognition events for initial licensure recipients.</u>

Mr Dixon said staff made a presentation on a “Welcome to the Profession” program that is set to launch includes website, social media recognition for initial licensees, and includes a virtual badge component that new PEs and PLS’ can download and add to their individual social media profiles. He added that staff made the point instant recognition (gratification) versus waiting for a formal in-person event would likely be more desirable for today’s new professionals.

Mr Fakler added there was some committee discussion about resurrecting the in-person receptions and certificate ceremonies that the board use to host. He said they apparently were discontinued in 2008 with the onset of the recession.

The board discussed the possibly of restarting similar events, with staff indicating the differing situation today with exams now being on demand.

Mr Spata asked that staff research costs associated with hosting in-person recognition receptions (South and North) and present findings to the POC to consider and make a recommendation to the board. (ACTION Item)

e. <u>PLS Standards of Practice Subcommittee of the Legislative Committee, Chair Matt Gingerich.</u>

Mr Gingerich reported the committee had not met since May. He said a couple of items that are now pending. The first is the consideration of the draft language proposed by the Nevada Association of Land Surveyors (NALS) to amend NRS 327 relating to the national datum update. The second being a request from NALS for a board opinion on NRS 625.380 relating to the durability of monuments. Mr Gingerich said he would look to schedule at PLS Sub-committee meeting in the next few weeks to consider those issues. (ACTION Item)

Mr Kidd reminded the board that changes are moving forward with the national PS exam and modules relating to the public land survey system (PLSS). He said it would be good to get out in front of the change and have the relevant statutes and regulations reviewed in preparation for the change coming. Mr Kidd added the best initial forum would likely be the Legislative Committee.

Mr Spata agreed and asked that it be noted for a future LegComm meeting agenda. (ACTION Item)

16. <u>Discuss legislative and regulatory matters with board’s government liaison, Cassidy Wilson.</u>

Ms Wilson said the 2025 legislative session begins February 3rd, 2025, and will last for one hundred and twenty days. She said the first round of BDRs were dropped and at last count there are over 520 BDRs in the hopper. Ms Wilson said their team is going through and compiling which ones of interest and will work with Mr Fakler on a tracker of bills that the board should be aware of. She added the next deadline for bills is in December, which gives a shorter time for review as we won't have all the language upfront. Ms Wilson said she had met Mr Fakler and Ms Mamola last week regarding the board's BDR specifics and is now preparing for possible questions from the potential bill sponsors.

17. <u>Consider any bill draft requests proposed by the Legislature to amend Nevada Revised Statutes related to regulatory boards and/or changes to Nevada Revised Statutes chapter 625, 329, and 327.</u>

There were no additional items put forward for discussion.

18. <u>Discussion and possible action on status of Board and staff assignments.</u>

Mr Blaney gave an overview of action items still pending and answered questions from the board.

19. <u>Discussion and possible action on meeting dates.</u>

Mr Spata asked if the date and location of the strategic planning session be added to this section. (ACTION Item)

20. <u>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.</u>

No topics were put forward.

21. <u>Public comment.</u>

There was no public comment in-person, virtually or via email.

22. <u>Adjournment.</u>

Mr Spata thanked Mr Patchett for taking the time to attend and asked for his feedback on the meeting.

Mr Pachett said it was good to see how the process goes, and he enjoyed being part of the meeting and learned a lot.

Mr Spata thanked the board members for their participation and adjourned the meeting at 10:35am.

Respectfully, Mark Fakler
Executive Director