

NEVADA STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

**Minutes of the Regular Board Meeting
Held in Reno, NV, Thursday, November 7, 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; and Greg DeSart, PE. Also joining were Mark Fakler, Executive Director; Chris MacKenzie, Board Legal Counsel; Murray Blaney, Operations/Compliance; Jasmine Bailey, Licensing specialist; Cassidy Wilson, Government Affairs Liaison, and Dave Dazlich, Government Affairs Liaison.

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 625.183 (4)(b) made by Zachary Dugan applying for control systems engineering licensure.

24-63 A motion was made by Ms Purcell, seconded by Mr Gingerich to approve the waiver request. The motion passed unanimously.

Mr Dixon recommended approval of the request to waive NRS 625.193 (1)(a) made by Wesley Johnson applying for mining engineering licensure.

24-64 A motion was made by Mr Dixon, seconded by Mr DeSart to approve the waiver request. The motion passed unanimously.

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

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

24-65 A motion was made by Mr Wright, seconded by Mr Matter to approve the applications for initial licensure contained in the board packet with recommendations noted. The motion passed unanimously.

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

24-66 A motion was made by Ms Purcell, seconded by Mr Kidd to approve the applications for initial licensure contained in the board packet with recommendations noted. The motion passed unanimously.

7. Discussion and possible action on approval of September 12, 2024, board meeting minutes.

24-67 A motion was made by Mr Gingerich, seconded by Mr Kidd to approve the September 12, 2024, board meeting minutes. The motion passed.

8. Discussion and possible action on approval of October 10, 2024, interim board meeting minutes.

24-68 A motion was made by Mr Fyda, seconded by Mr Kidd to approve the October 10, 2024, interim board meeting minutes. The motion passed unanimously.

9. Discussion and possible action on financial statements.

a. July 2024.

b. August 2024.

c. September 2024.

Mr Fakler reviewed the July 2024, August 2024, and September 2024 financial statements as presented in the board packet and provided clarifications for the board.

24-69 A motion was made by Mr Kidd, seconded by Mr Wright to approve the July 2024, August 2024, and September 2024 financial statements. The motion passed unanimously.

10. Compliance officer report on complaints being investigated.

a. Compliance officer report on complaints being investigated.

Mr Blaney reported on the status of the seven (7) 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
Lyle Scott Mackay, PE #15131	

Mr Blaney reported on the status of licensees currently on probation. He said Mr Hammond has “pending” status on his probation as concerns haven’t arisen from the independent competency report relating to his professional land surveying work product. He added that the board would be updated after review by a board liaison.

11. Discussion and possible action on stipulated agreement for Lazell Preator, PE, license number 014982, complaint number 20240005.

Mr MacKenzie updated the board on communications with Mr Preator since the last regular board meeting. He said he has exchanged weekly emails with Mr Preator relating to his retention of counsel – where Mr Preator said he did have counsel but never responded with who that counsel was. Mr MacKenzie said Mr Preator then decided to accept the stipulated agreement previously offered.

Mr MacKenzie gave an overview of the history (as outlined in the meeting materials) with Mr Preator then introduced facts and the proposed terms of the stipulated agreement as shown in the board

packet. He asked if the board had questions or comments.

Mr DeSart asked for clarification on the current status of Mr Preator's license.

Mr MacKenzie said it has expired. Adding it was under suspension through January 2024 and was due for renewal by December 31, 2023, but Mr Preator did not apply for renewal.

Mr Fyda asked for confirmation that the terms listed in the stipulated agreement were general conditions without a timeline.

Mr MacKenzie answered that the conditions listed must be met before Mr Preator can reapply for licensure – and that there is no timeline set.

Mr Fyda followed up asking what the consequences would be assuming Mr Preator did try and practice engineering without a license in Nevada.

Mr MacKenzie said a cease and desist would be issued and if necessary, an injunction on the civil level would be sought through district court.

Mr Spata asked what the course of action would be for the client related to the stipulated reimbursement if Mr Preator does not seek relicensure.

Mr MacKenzie said they would need to seek civil relief through the court.

Mr Wright and Mr Fyda asked questions about the posting of the public record of the disciplinary action and if it can be viewed by other state licensing boards.

Mr Blaney said the action if ratified would be noted in Mr Preator's file on the Nevada Board's website and also shared on the NCEES Enforcement Exchange – added to past action already listed – as public information and for viewing by other licensing boards respectively.

24-70 A motion was made by Mr Kidd, seconded by Mr Fyda to approve the stipulated agreement for Lazell Preator, PE, license number 014982 as presented. The motion passed unanimously.

12. Discussion and possible action on stipulated agreement for Kevin Gutman, PE, license number 028002, complaint number 20240003.

Mr MacKenzie gave a summary of the stipulated facts relating to the complaint and outlined the terms of the settlement agreement as presented in the meeting materials for the board to consider.

Mr Spata asked for comments or questions from the board.

Mr Gingerich said he would like to see the inclusion of notice of the disciplinary action to future employers while Mr Gutman is on probation. He added that extending the probation period should also be considered.

Mr DeSart said this situation is a serious ethical concern and can put employers in a position of risk with the design liability. He added he agreed with Mr Gingerich about notifying employers of the action, and suggested the full legal cost as opposed to the partial assessment by considered.

Mr Wright said being this offense appears more serious than side job moonlighting and agreed with considering additional sanctions.

Mr Kidd agreed an upgrade of the current sanctions or additional terms be considered.

Ms Purcell said she was the board liaison who reviewed the complaint, and would be open to considering additional terms for the settlement agreement. She added that the biggest concern in the complaint was the lack of ethics shown by the licensee – hence the requirement of the completion of the Texas Tech intermediate level ethics course.

Mr Matter questioned whether including a notification to potential employers should be included when the mechanism to verify the status of a Nevada license and any disciplinary action can be done through the board's website. He said he thought that verification would be part of standard hiring practice.

Mr Spata said not all employers may know that the functionality exists. He added a reminder in the next newsletter would help inform the public and employers that they can verify the status of a license. (ACTION Item)

Mr Gingerich said he would also like to consider notification of clients if the license doesn't have employer oversight and is self-employed.

Mr Matter said he was not sure a notification of clients would be necessary in this instance. He said it appears to be an ethical issue relating to his employment and he believed the ethics course would get that point across.

Mr Fyda agreed that notifying of clients shouldn't be included – if the reason for notifying employers was for possible liability exposure. If the licensee is contracting directly with clients, then the liability is his to bear.

Mr Kidd said he believed an extension in the period of probation from one year to two years should be considered.

Mr Spata said before moving to a motion, he would add that any amendments decided by sent to back to Ms Purcell to review and approve before being re-represented to the licensee. He added that if the revised stipulated agreement is accepted it does not then need to come back to the full board, he would then execute on behalf of the board.

24-71 A motion was made by Mr Spata, seconded by Mr Dixon to reject the current stipulated agreement and present a revised stipulated agreement to the licensee, following review and approval by Ms Purcell, with the probation period extended to 24 months, legal costs adjusted to the full fees incurred by the board, and the requirement that future employers be notified of the disciplinary action for the duration of the probation period. The motion passed unanimously.

13. Discussion on Board Counsel Report.

Mr MacKenzie updated the board on the status of the Mackay stipulated agreement and other pending items.

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

Mr Fakler reminded board members of the strategic plan update session to be held on Wednesday March 12, 2025, at the Reno office.

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

Mr Fakler said the NCEES zone meeting in 15-17 May 2025 would be a combination meeting with the central and western zones, and that the meeting would be held in Albuquerque, NM.

15. Discussion and possible action on board committee reports.

a. Administrative Procedures Oversight Committee, Chair Brent Wright

i. Executive Director 6-month review

Mr Wright said APOC met on October 16 with the main item being the six-month check with our new executive director, Mr Fakler. He said the committee reports Mr Fakler is doing a terrific job and will check in again with Mr Fakler in April 2025 for his annual review. Mr Wright said in addition, staff gave updates on the new accounting firm and the progress on the new firm registration platform and the status of the respective vendor contracts.

b. Legislative Committee, Chair Greg DeSart

i. Staff QBS Review Procedure

Mr DeSart said the main agenda item at the last committee meeting was put forward by ACEC and concerned the qualifications base selection – NRS 625.530. He said the ACEC concern was that some agencies appear to be not interpreting the statutes correctly when issuing RFPs or RFQs for projects with planning elements – and whether or not the planning elements involved engineering. Mr DeSart said there was a robust discussion at the meeting about the issue.

Mr DeSart said the outcome of the meeting was a reiteration of the current process when the board – via board staff – is notified of possible violations of the QBS statute. He said the executive director would do an initial review and if straightforward issue a notice to correct letter to the agency on behalf of the board. If the possible violation – particularly on projects involving planning components – was not immediately clear, the executive director would confer with the board chair (or knowledgeable board liaison) to assist in the determination of the engineering component – and whether a notice to correct letter.

Mr Fakler said that each instance would be reviewed on a case-by-case basis. As part of the internal staff process, he would review possible violations with the other PEs in the compliance staff as part of his due diligence. He added that the board chair or designated board liaison would be consulted before action is taken in the form of a notice to correct letter.

Mr Spata said the direction to staff is a continuation of the process that had been in place in the past, but he liked the addition of internal review by the compliance PEs on staff. He suggested that informing licensees about the QBS statutes and their applicability would be a topic to be considered for a future newsletter and be included in presentations made by board members and board staff.

(ACTION Item)

c. Professional Association Liaison Committee, Chair Michael Kidd

i. Discuss details related to future strategic planning session

Mr Kidd reported that the committee had met yesterday and discussed the board's upcoming strategic plan review. He said a number of the participants indicated they would reach out to their associations about issues for consideration by the board and report back at the next meeting.

Mr Kidd said another topic discussed was the PLS Nevada licensing activity for the years 2000 to 2023. Some interesting data was presented showing nationally the average age of a professional getting a new license as a land surveyor is roughly 39 years old, and that in Nevada 47% of the current resident PLS licensees are over the age of 61. Mr Kidd added those statistics viewed with the replenish rate of new licensees entering the profession is a concern. He said the committee discussed if there maybe alternative licensing that could be considered. Mr Kidd said the issue of the number of PLS in the state, and how to address the decline could be something that be considered by the board at the strategic planning session.

d. Public Outreach Committee, Chair Jay Dixon

Mr Dixon said the committee had not met since the last the board meeting, but would meet in the new year, likely before the March 2025 board meeting.

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

Mr Gingerich said there had been no meeting since the last board meeting, but the sub-committee would reconvene to consider the comments received during the regulation adoption hearing this morning. (ACTION Item)

16. Discussion and possible action on independent financial audit report for fiscal year 2023-2024.

Mr Fakler said the item relates to the consideration of the independent audit of the past fiscal year by Casey Neilon the auditing CPAs retained by the board. He said Nicola Neilon, the principal auditor, has joined the meeting and will review the report and answer any questions from board members.

Ms Neilon gave an overview of the draft Financial Report presented in the meeting materials and highlighted variances of note from last year's report. Ms Neilon said the audit resulted in an unmodified opinion, which is the highest level of assurance that can be provided on a set of financial statements.

There were no questions from the board.

24-72 A motion was made by Mr Dixon, seconded by Mr Wright to approve the financial audit report for fiscal year 2023-2024. The motion passed unanimously.

17. Discuss legislative and regulatory matters with board's government liaison, Cassidy Wilson.

Ms Wilson and Mr Dazlich gave an overview of the election results as they stand and which races were too close to call. Ms Wilson said a full government affairs update – full recap of the election outcome - would be sent to Mr Fakler.

Ms Wilson said bills and bill drafts are starting to be available for review. A bill tracker will be created and be sent to Mr Fakler within the next couple of weeks to get early feedback from the board to identify bills of importance that should continue to be tracked. (ACTION Item)

Ms Wilson added the tracker will be updated as more information comes to hand.

Ms Wilson said a sponsor has been identified for the board's BDR. She said he has questions on how the ask relates to what our neighboring states – because what is being proposed is proactive. Patty and Mark are working on that information, and it will be forwarded when available. Ms Wilson said a follow-up meeting may be needed if he has any questions.

Ms Wilson said her and Mr Fakler met with Dr Kris Sanchez and Nikki Haag from the B&I about the proposed Governor's bill. Although we haven't seen the actual language, it is proposed that state boards and commission move under B&I and consolidated into a number of super-boards. This board is slated to be combined with architects, landscape architects, environmental health and a few others, with the members being a cross section of the occupations/professionals under their purview. Ms Wilson said the fiscal (no cost to the state) and the efficiency of this board's processes have been conveyed to Mr Sanchez and Ms Haag.

Ms Wilson said the executive summary of the bill is expected to be out by Thanksgiving – the bill itself is still being drafted by the LCB, with the page count running over a 1000 – and we will share that with the board when available.

Mr MacKenzie said the amount of information for the board to digest may not be as ominous as the predicted page count implies. He said the size likely relates to each board having its own set of statutes, but the gist will be uniform types of changes – so just focusing on what is specific to this board should not be too time consuming. He reminded the board that this is a governors bill and recommended a reasonable and cautious approach to any response.

18. 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.

No items were put forward for discussion.

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

Mr Spata asked for an update relating to the electronic submittal/digital signature demonstration video.

Mr Blaney said the plan was to produce the content early in the new year and release on the board's YouTube channel in mid-to-late February 2025.

Mr Spata asked about the progress in identifying board guests for upcoming regular board meetings.

Mr Fakler said he was unable to secure a guest for this meeting but has guests lined up for the next two meetings.

Mr Spata encouraged board members to connect with the professional community about attending board meetings and let Mr Fakler know so he can extend invites to those interested. (ACTION Item)

20. Discussion and possible action on meeting dates.

There was no discussion relating to future meeting dates.

21. 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 Kidd suggested an agenda item relating to the nomination process of the next vice chair.

Mr Spata said it would likely be best moved for discussion on possible processes through the APOC committee. (ACTION Item)

Mr MacKenzie suggested an agenda item be added in January to give the authority to the Executive Director to speak on behalf of the board during the upcoming legislative session.

Mr Spata agreed and directed staff to add to the January 2025 meeting agenda. (ACTION Item)

22. Public comment.

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

23. Adjournment.

Mr Spata thanked the board members for their participation and adjourned the meeting at 11:45 am.

Respectfully,

Mark Fakler
Executive Director