

MINUTES

MEETING OF THE NEW MEXICO BOARD OF
LICENSURE FOR PROFESSIONAL ENGINEERS
AND PROFESSIONAL SURVEYORS held 9:00 a.m.,
Friday, April 21, 2017,
Governing Body Overflow Conference Room
City of Rio Rancho
3200 Civic Center Circle, NE. Rio Rancho, NM 87144

Members Present – Ron Bohannon, PE, Board Chair
Karl Tonander, PE
Glen Thurow, PS
David Cooper, PS
Cliff Spirock, PS
Augusta Meyers, Public Member
Josh Skarsgard, Public Member
Paul Brasher, PE

Members Absent – Julie Samora, PE

Others Present – Perry Valdez, BLPEPS, Executive Director
Annette Thompson-Martinez, BLPEPS, Deputy Director
Audrey McKee, Legal Counsel

1. **Convene, Roll Call and Introduction of Audience**

Mr. Bohannon convened the meeting at 9:05 am, roll call was taken and a quorum noted.

2. **Meeting Notification**

Mr. Valdez informed the Board the meeting was noticed in the Albuquerque Journal as well as the Board's website.

3. **Approval of Agenda**

MOTION by Mr. Tonander to approve the agenda as presented, **SECOND** by Ms. Meyers, **PASSED** unanimously.

4. **Approval of Minutes**

a. **Minutes of January 27, 2017**

MOTION by Mr. Tonander to approve the minutes of January 27, 2017 as presented, **SECOND** by Mr. Spirock, **PASSED** unanimously.

5. **Public Comment/Correspondence**

There was no public comment or correspondence.

6. **Director's Report**

a. **Legislative Report Update**

Mr. Valdez informed the Board House Bill 188 and House Bill B295 passed this legislative session and signed into law. He also stated the changes will become effective July 1, 2017 and the Board will need to compile rule changes. Mr. Valdez stated he has been in contact with the Executive Committee to set up rules committee meetings and hold a special meeting for the full Board to review the proposed changes. He explained the poll taken for the availability of meetings.

Mr. Skarsgard inquired how the Statute of Limitations section was removed from the Bill.

Mr. Thurow explained the section died in the Senate Judiciary Committee. He also expressed the New Mexico Trial Lawyers spoke against this specific section of the Bill.

Mr. Valdez stated House Bill 295, which extended the Sunset for Boards, also included a Committee substitute, which removed the language replacing a professional member with a public member. He reported this did not change the make up for the Board of Licensure for Professional Engineers and Professional Surveyors. He explained the Private Investigator's (PI) Board will be required to comply with the change.

Chairman Bohannon suggested he would like to move the rules through the process quickly.

Mr. Valdez informed the Board there was a Bill, which passed changing the process for adopting rules. The changes will include more steps of approval for rule changes.

Chairman Bohannon directed staff to develop a flow chart to explain the approval process for the additional steps for adopting rule changes.

The Board discussed the proposed dates for a special full board meeting. Mr. Valdez verified who would be available for the proposed dates.

The Board agreed on meeting at 9:00 a.m. on May 23rd in Albuquerque.

Chairman Bohannon stated the rule changes should be straightforward and some will be discussed at length.

Mr. Spirock stated the Surveying Committee would like to take this opportunity to amend the rules to provide clarity of surveying issues and assist with interpretation of the code.

Mr. Tonander reported there is an existing form, which ties professionals and companies together to an extent. He suggested the form will need to be looked at and asked Mr. Thurow if he could review the form and modify it as needed.

Mr. Thurow agreed the form would need to reflect the changes that have passed this session and stated he would work off the existing form.

Mr. Valdez stated he would send out the form to the full board for their review.

Chairman Bohannon questioned when the creation of the form took place.

Mr. Valdez reported the form has been in use since he has been with the Board.

Mr. Thurow asked if thank you letters were mailed out to the Sponsors of the legislative bills.

Mr. Bohannon clarified the thank you letters were signed and mailed.

b. Certificates of Appreciation

No discussion took place.

c. Staff Vacancies

Mr. Valdez reported Felicia Martinez was hired in the licensing position. He also reported interviews were held for the Executive Assistant which was conducted by Julie, Annette and himself. This position will be filled by Angelica Urioste. Mr. Valdez stated the Board is fully staffed.

d. Staff Space Update

Mr. Valdez informed the Board GSD has become involved in the move and have reviewed the space and provided their approval. He also reported Brian McBain is attending a meeting today regarding the space modifications.

Mr. Valdez reported the budget needed to pay for these modifications will be taken from the 400 category of the budget. He also stated the modifications would need to be completed by the end of June in order for the services to be paid from this current fiscal year. Mr. Valdez informed the Board the projected period for the move to take place is in July or August.

Mr. Brasher inquired if the Board would have a receptionist.

Mr. Valdez explained Mr. McMurray has relayed the current receptionist would assist walk-ins for the Board.

e. Financial Report

Mr. Valdez informed the Board a projection was prepared for FY18 to determine the projected amount needed to operate since the Board will have a full staff. He stated because the amount appropriated in salaries and benefits would not be sufficient, the Board will have to move the appropriated budget from categories and request the remaining amount from the fund balance. The Board has the ability to request an additional 5% of the approved operating budget, which is approximately \$40,000.

The Board discussed the cost for Disciplinary Hearings and received a breakdown of costs incurred and decided the costs be added to fines and penalties pursuant to the Uniform Licensing Act.

Mrs. Thompson-Martinez reported the worksheets provided were prepared to receive an accurate projection for FY17 and FY18. She presented a synopsis of the FY18 revenue for the Board to review since the fees will be reduced in FY18. A summary was provided reflecting the Board was appropriated 797,900 and projected amounts needed for the fiscal year. Ms. Thompson-Martinez briefly explained each budget category and stated the budget will need to be closely monitored to ensure the projected amounts do not exceed the Boards abilities. She

also stated this renewal was successful which subsequently increased the cost for online renewals by approximately 4,000.

Mr. Thurow inquired if a convenience fee could be assessed to the online credit card charges.

Ms. Thompson-Martinez explained the amount of revenue received by the Board has continuously been more than the amount appropriated by the Legislature. The budget requested was significantly different from the approved FY18 budget appropriation.

Chairman Bohannon asked what the process would be to receive an increase in the budget.

Mr. Valdez stated the Board has the ability to request a budget increase not to exceed 5% of the operating budget.

Ms. Thompson-Martinez informed the Board Mr. Valdez and herself were in communication with the DFA Analyst to try to resolve the deficiencies once the Board received the recommendations. The analyst advised staff if additional budget is needed a supplemental budget increase may be requested during the next legislative session.

Mr. Valdez reported he has been informed credit card transactions are not allowed to be entered by staff for security reasons. He stated a new credit card machine would need to be purchased and be used only if a licensee walked in and entered the card independently. He reported this change would not be cost effective to continue using the credit card machine.

Ms. Thompson-Martinez provided an overview of revenue with the fee reductions and a projected amount of fund balances at the end of FY18. A budget adjustment request projected at 15,000 will be submitted this fiscal year to move monies from personnel to operating costs. She also explained due to vacancy savings in personnel category the remaining budget amounts would revert to the fund balance at the end of this current fiscal year.

Chairman Bohannon agreed the budget needs to be monitored regularly.

The Board thanked staff for all their work on the budget.

f. Licensing Status Report

Mr. Valdez reported as of April 17, 2017 the Board has 8530 Active of those 8022 are Engineers 490 are Surveyors and 18 are dual licensed. He reported 1367 PE, 140 PS, 142 PEPS and retired, 33 interns and 2 surveyors interns certified since October 26, 2016.

Mr. Brasher inquired how many licensees have failed to renew this cycle.

Chairman Bohannon reported when he was originally appointed to the Board the average was 30% and currently it was less than 10%.

Mr. Valdez stated the automated online and the proactive e-mail notifications assisted with the decrease.

Chairman Bohannon complemented the staff and informed the Board he has received many compliments regarding the licensure renewals and the overall process.

Mr. Valdez reported there were no findings for the FY16 Audit and provided a copy of the audit to each of the members.

7. Old Business

a. NMSU Surveying Program Status Update

Mr. Valdez informed the Board the program did pass thru the Senate Faculty and the Scholastic Committee. The program outline is currently referenced in 26-16-17.

Mr. Spirock reported NMPS will be assisting NMSU by providing \$100,000 a year.

The Board discussed options to ensure the program has sufficient monies to continue. Board also discussed the ability to make contributions.

Chairman Bohannon directed staff to research the options for providing donations to the University.

b. Website-Disciplinary Actions Update

Mr. Valdez informed the Board the disciplinary actions have been added referencing the time line. Currently the automatic removal is being tested and will provide an update at a later date.

c. Renewal Form Review-Disciplinary Question

Mr. Valdez asked the Board to review the disciplinary question to determine if any changes need to be made.

The Board discussed the current two-year timeframe.

MOTION by Mr. Tonander to amend the language on the renewal form to change language to read: from the date of your last renewal (include original language), **SECOND** by Mr. Brasher. Motion **PASSED** unanimously.

Mr. Skarsgard was not present for the vote.

The Board recessed at 10:15 a.m.

The Board reconvened at 10:34 a.m.

Discussion regarding the affidavit as prescribed by the changes in the statute and discussed whether to require an affidavit during renewals.

Chairman Bohannon informed Mr. Valdez a business license is required in Oklahoma, Tennessee and Texas so we can take a look at the forms for informational purposes.

Mr. Tonander clarified not all Professional Engineers will need to be tied to a company but all company's must have a Licensed Professional Engineer.

Mr. Cooper asked to clarify how the language should read on the affidavit.

Mr. Valdez stated he would draft language and provide the form to the Board.

8. **New Business**

a. **Fiscal year 2018 Meeting Calendar**

Mr. Valdez proposed the 2018 scheduled dates and meeting locations.

Mr. Spirock questioned the State specific surveying exam dates listed on the schedule.

Chairman Bohannon suggested leaving the exam dates on the schedule and the Board could amend the dates as needed.

MOTION by Ms. Meyers to approve the meeting schedule as presented with the ability to amend as needed, **SECOND** by Mr. Tonander. Motion **PASSED** unanimously

b. **2022 NCEES Annual Meeting Site Selection**

Mr. Valdez informed the Board NCEES has asked if any Boards are interested in hosting the Annual Meeting in their State in 2020.

The Board agreed to suggest New Mexico as a potential site selection in 2020.

Mr. Valdez provided the Board with the list of information requested by NCEES to select the meeting location for 2020.

MOTION by Mr. Thurow to recommend New Mexico as a possible site selection for 2020, **SECOND** by Ms. Meyers. Motion **PASSED** unanimously

Ron suggested Ms. Meyers lead the task of receiving information from the Convention Bureau in Albuquerque.

Ms. Meyers stated she would be happy to assist with the task.

Mr. Thurow stated he would be glad to assist Ms. Meyers as well.

9. Committee Reports

a. PS Committee

Mr. Spirock reported Ms. Meyers chaired the meeting. He also stated the Committee will be presenting code amendments. Mr. Spirock informed the Board the Committee will be voting on a policy advisory authored by Mr. Cooper in June and briefed the Board on the disciplinary issue discussed and the applications reviewed.

b. PE Committee

Mr. Tonander thanked Mr. Thurow for his participation to accommodate the Committee's quorum issue. He stated a discussion took place regarding design drawing, which are re-used, and stated the Committee will continue to look at the issues around re-stamping drawings. Mr. Tonander clarified fire designing do fall under the Act of Professional Engineers and Professional Surveyors. He reported on the number of licensees and stated the committee approved approximately 112 on the consent agenda.

Mr. Bohannon stated the Committee approved an applicant for Naval Architecture and Marine discipline.

Mr. Tonander reported on the disciplinary cases and stated the committee tabled four of the cases. He also thanked Mr. Valdez for providing the administrative cost breakdown. The Committee closed nine of the cases due to a settlement agreement and one case was referred to the investigator.

Mr. Tonander informed the Board two cases passed the statute of limitation deadline. The prosecuting attorney based his decision of not going forward with the NCA for the following reasons: The cases are related and some are in a Civil Suit and referenced the Investigator's report. Mr. Tonander inquired with Legal Counsel what the process would be when the Committee votes to approve and the Attorney General does not want to proceed.

Ms. McKee stated it was in the purview of the Attorney General's Office to decide whether to prosecute a case. She explained the decisions are usually based on reasons the prosecutor could not prevail.

Chairman Bohannon asked Legal Counsel if the Board wanted to proceed could an Attorney be hired.

Ms. Mckee stated she could research the options. She also suggested facilitating a meeting with Regina who is the Head of the Prosecution Division to help improve the communication.

Mr. Thurow stated the Board should still have the prerogative to go forward with prosecuting the case if the Board deems necessary.

c. Executive Committee

Chairman Bohannon requested uploading the current committee assignments.

The Board discussed who would attend the NCEES meeting in August.

Mr. Vadez, Ms. Thompson-Martinez, Mr. Thurow and Chairman Bohannon will proceed to attend the meeting.

d. Joint Practice Committee

Mr. Valdez reported the JPC has not met.

e. Public Information, Exam and Licensure Promotion Committee

Ms. Meyers informed the Board the Committee has not had a meeting; therefore, there is no report at this time.

f. Rules and Regulations Committee

The Committee has no report.

g. Legal Enforcement Committee

The Committee has no report.

h. NCEES Committee Members

The Committee has no report.

10. Executive Session

- a. Compliance Officer and Staff Communication.
- b. Review of the MOU with RLD.

11. Action on Items Discussed During Executive Session

The Board did not go into executive session.

12. Next Scheduled Meeting Date:

- a. TBD-Special Full Board Meeting, Albuquerque, NM
May 23, 2017 – Albuquerque, NM (The Board decided to hold a special meeting)
- b. June 2, 2017-Santa Fe, NM

13. Adjourn

MOTION by Mr. Brasher to adjourn the meeting, **SECOND** by Mr. Spirock, **PASSED** unanimously.

Meeting adjourned at 11:25 am

Submitted by:

Approved by:

s/ Annette Thompson-Martinez

s/ Ron Bohannan

Mrs. Annette Thompson-Martinez, Deputy Director

Mr. Ron Bohannan, Board Chair

May 23, 2017 Approved Date