

Meeting Minutes

MEETING OF THE PROFESSIONAL ENGINEERING
COMMITTEE of the Board Licensure of Professional
Engineers and Professional Surveyors held at
1:00 p.m., Thursday, June 6, 2024,
Carruthers Building, Yucca Room
1209 Camino Carlos Rey, Santa Fe, NM 87505
& Virtual

Members Present- Karen Nichols, Public Member, Committee Chair
Emilie Dohleman, PE
Karl Tonander, PE
John Wayne, PS

Members Absent- Elizabeth McNally, PE, Vice Chair
Stephen Ney, PE
Dr. Ahmed Elaksher, PE/PS

Others Present- Crystal Bustamante, BLPEPS, Budget/Finance Manager, CPO
Miranda Gonzales, BLPEPS, Administrative Manager
Jessie James, BLPEPS, Compliance Officer
Marlene Segura, BLPEPS, Licensing Administrator
Kristin Hovie, NM DOJ, AAG, Legal Counsel
Joe Barela, PE, Board Investigator
Daniel Flack, PE, Board Investigator
John Wilder
Brendan Monahan
Eric Williams
Micah Perez
Ethan Pearson
Greg Wirth

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

Ms. Gonzales read the meeting script regarding the virtual meeting protocols. Ms. Nichols convened the meeting at 1:23 p.m. Roll call was taken and a quorum was noted. Audience introductions made at this time.

2. **Meeting Notification**

Ms. Gonzales informed the Committee that the meeting was noticed on the Board's website and at the Board Office.

3. **Approval of Agenda**

MOTION by Ms. Dohleman to approve the agenda as presented, **SECONDED** by Mr. Tonander,

Roll Call Vote:

Voting 'Aye': Ms. Nichols, Ms. Dohleman, Mr. Tonander, Mr. Wayne

The motion **PASSED unanimously**.

4. **Approval of Minutes**

a. **Minutes of April 11, 2024**

b. **Minutes of May 10, 2024**

MOTION by Mr. Tonander to approve the minutes of April 11, 2024, and May 10, 2024, as presented, **SECONDED** by Ms. Dohleman,

Roll Call Vote:

Voting 'Aye': Ms. Nichols, Ms. Dohleman, Mr. Tonander, Mr. Wayne

The motion **PASSED unanimously**.

5. **Public Comment/Correspondence**

a. **G. Wirth – PE Licensure**

Mr. Wirth stated that he applied for a mechanical engineer license, however, he wasn't aware of the four-year work experience requirement for licensure. He stated that with his first application update only had 3 years' experience working for a mechanical design firm, and almost 2 years' experience working with a construction company where he applies many of the principles that he learned at the University and as a design engineer.

b. **J. Wilder – PE Endorsement**

Mr. Wilder requested approval of his application for PE endorsement without both NCEES examinations. He would like the Committee to take into consideration of his 25 years of licensure in electrical engineering with no disciplinary action filed against him. He detailed the experience he's acquired throughout his 25-year career and thanked the Committee for their consideration.

c. **B. Monahan – PE Endorsement**

Mr. Monahan stated his application for PE endorsement was submitted in October 2023 and said he wasn't aware of the four-year engineering experience requirement for licensure in New Mexico. He added that he was initially licensed as a mechanical PE in California for over 10-years, and recently obtained his PE license in Arizona, Nebraska, and Vermont.

d. **M. Perez – PE Endorsement**

Mr. Perez stated that his application was sent to the PEC for review because he applied for an additional discipline in plumbing engineering. He took the NCEES Mechanical PE exam and has practiced in Colorado for 5-years, he has a degree plus 4-years' experience.

6. Old Business

a. **Repeat Offenders Schedule**

Ms. Gonzales stated that the Repeat Offenders Schedule was drafted by Mr. Gromatzky. It was presented to the Professional Surveying Committee and is on the agenda for this Committee's review. It will then go to the Full Board for approval.

Ms. Dohleman stated that she would like to have a week to review the document and provide comments.

Mr. Tonander stated that he agreed that the schedule is needed for repeat offenders. However, the schedule is written like a list; first offense, second offense, etc., and doesn't take the severity of the offense into account. He stated that if an offense is particularly egregious, the Committee may want to skip past the second offense. He is concerned that the document as written will limit potential outcomes.

Ms. Hovie asked if the intent is of this document to be added to the policy for fines and sanctions.

Ms. Gonzales stated that the schedule will not be public and is intended to be a set of guidelines for the Committees to follow.

Mr. Wayne suggested that the fees for penalties should be increased. He requested this item be on the next Full Board Agenda.

Ms. Hovie addressed Mr. Tonander's concern of the schedule. She stated that this is a policy, and in her opinion is not rigid. She added that it is a guideline and there are still mitigating and other factors to be considered.

Ms. Nichols stated she agrees with Mr. Tonander. The schedule as written doesn't take the severity of the offense into account and this should be addressed. She added that this will be brought up for discussion and not action at the next Full Board meeting. She stated that comments can be emailed to Perry Valdez, Miranda Gonzales, and Crystal Bustamante.

b. **NM Handbook for Building Officials**

Ms. Gonzales stated that Mr. Valdez emailed the NM Handbook for Building Officials document to the Committee for review. Edits and comments should be emailed to Mr. Valdez before the next JPC meeting on June 20th.

c. **JPC Referred Questions**

1) **Can Engineers or Architects conduct virtual inspections?**

Ms. Dohleman stated that Mr. Romero, a CID representative on the Joint Practice Committee (JPC), received a request from someone in the field regarding virtual inspections. She stated that though virtual inspections are not favored, there should be rules or guidelines of how they should be conducted, and who is responsible for making the rules.

Mr. Tonander stated that virtual inspections are being done currently. That there is a representative of the engineer on site, not the actual engineer. He added that he is not sure how a virtual inspection is entirely different from a trained observer without a virtual connection.

Ms. Nichols informed the public that she works for water and wastewater utility's and that from her viewpoint that she would feel very uncomfortable having an untrained person in the field with just a camera or video recorder. She noted that typically her company uses a construction observer or project representative. The person is someone who is qualified to know what they're looking at and would be able to take the appropriate pictures or videos on site. Karen questioned, who would be making the rules around virtual inspections?

Mr. Tonander stated that currently there is nothing in the rules that state you need to have one over the other and that it would be up to the engineer if they would want to conduct the inspections virtually. He added that if they chose to do virtual inspections and the engineer uses their seals on the drawings, they would still be the responsible in charge and would still be on the hook.

Ms. Dohleman stated that CID or the cities that have a home rule typically are those who require inspections. The Board recommends the requirements for inspections and how they're done should come from those construction approval agencies.

Ms. Nichols asked Ms. Dohleman to provide the answer to the JPC. Ms. Dohleman stated that she will relay the answer to the JPC at their next scheduled meeting on June 20th.

2) Is an architect or engineer stamp a form of copyright?

Ms. Dohleman stated that she believes this question originated from the Architects Board. Her understanding of the question was that other people were using other people's work without credit.

Ms. Hovie asked if this is something that is currently happening or if

someone submitted a compliant about it.

Ms. Dohleman stated that she is not entirely sure but she could ask the Architects at the June 20th JPC meeting to provide some more detail for the NM Department of Justice to be able to help with answering this question.

Mr. Tonander stated that his firm did have designs copied by others without permission a few times. He thought that the underlying question the Architects Board is asking is whether there is some implied copyright by applying your professional seal to a document? If there is, would this create a copyright simply by putting your seal on it? He stated that if that really is the question, then the answer would be no, since there is a separate copyright process.

Ms. Dohleman stated that she will request more specific details regarding this question at the next JPC meeting before it is presented to the DOJ.

7. New Business

a. Mutual Recognition Agreement between NCEES and Engineering Council (UK)

Ms. Gonzales stated that Mr. Valdez placed this on the agenda because New Mexico is not part of the Mutual Recognition Agreement, and he would like to hear the Committee's thoughts on the topic.

Mr. Tonander stated that NCEES and the United Kingdom (UK) Council of Engineers has outlined what they believe is an equivalency between the two bodies. It would be up to the individual jurisdictions, such as New Mexico, to decide whether they would want to be party to it. If so, New Mexico licensed engineers could be on the International Registry of PEs, which requires a little more experience than a typical Model Law engineer. Meaning, a PE can immediately go for comity in the UK without issues, and a UK Engineer would have the same privilege in New Mexico. The UK doesn't have an exam system as we do here, so there will be some regulatory changes needed. The UK representative reached out to us and offered to attend one of our meetings and to provide support for any regulatory changes that may be needed. There will be a reception at the consulate in Chicago in August 2024, for any of the member Boards who plan to participate in the Agreement.

MOTION by Mr. Tonander to acknowledge the Board's support of the concept, but need to review further for any necessary changes to the Practice Act or Administrative Code to implement, **SECONDED** by Ms. Dohleman,

Roll Call Vote:

Voting 'Aye': Ms. Nichols, Ms. Dohleman, Mr. Tonander, Mr. Wayne

The motion **PASSED unanimously**.

b. Election of Officers

1) Committee Chair, and Vice-Chair,

Ms. Dohleman requested the election of officers be postponed due to the absence of PEC members Dr. Elaksher and Ms. McNally.

MOTION by Mr. Tonander to keep current appointments as Committee Chair, and Vice-Chair, and review the Election of Officers at the next scheduled meeting, **SECONDED** by Ms. Dohleman,

Roll Call Vote:

Voting 'Aye': Ms. Nichols, Ms. Dohleman, Mr. Tonander, Mr. Wayne

The motion **PASSED unanimously**.

8. Application Review – Recommended Approval

a. Confirmation of Staff Reviewed Applications

The Committee acknowledged the confirmation of staff reviewed applications.

b. PE Retired Status Requests

MOTION by Mr. Tonander to approve the PE retired status requests, **SECONDED** by Ms. Dohleman,

Roll Call Vote:

Voting 'Aye': Ms. Nichols, Ms. Dohleman, Mr. Tonander, Mr. Wayne

The motion **PASSED unanimously**.

c. PE Inactive Status Requests

MOTION by Ms. Dohleman to approve the PE inactive status requests, **SECONDED** by Mr. Tonander,

Roll Call Vote:

Voting 'Aye': Ms. Nichols, Ms. Dohleman, Mr. Tonander, Mr. Wayne

The motion **PASSED unanimously**.

9. Closed Session

MOTION by Ms. Dohleman that the Committee enter into closed session at 2:33 p.m. to discuss the items listed on the agenda pursuant to NMSA 1978, Section 10-15-1 (H) (1) and (3) to discuss matters pertaining to the issuance, suspension, renewal or revocation of a license and to deliberate on pending cases, **SECONDED** by Mr. Tonander.

Roll call vote taken, voting 'Yes': Ms. Nichols, Ms. Dohleman, Mr. Tonander, Mr. Wayne.

10. Action on Items Discussed During Closed Session

Ms. Nichols brought the Committee back into open session at 4:32 p.m. and affirmed that while in closed session it discussed only those matters specified in the motion to close the meeting and listed on the agenda under closed session, in accordance with NMSA 1978 Section 10-15-1 (H) (1) and (3).

a. Disciplinary Cases

1) Case 7-PE-2023 Investigator's Report

Ms. Nichols tabled the case with direction to staff, and no further action.

2) Case 9-PE-2023 Investigator's Report

MOTION by Ms. Dohleman to attempt to enter a pre-NCA settlement agreement with a \$500 fine and that if no agreement is executed within 30 days, the matter will be automatically referred to the Administrative Prosecutor for the issuance of an NCA, **SECONDED** by Mr. Tonander,

Roll Call Vote:

Voting 'Aye': Ms. Nichols, Ms. Dohleman, Mr. Tonander, Mr. Wayne

The motion **PASSED unanimously.**

3) Case 10-PE-2023 Investigator's Report

MOTION by Mr. Tonander to close the case with no further action, **SECONDED** by Ms. Dohleman,

Roll Call Vote:

Voting 'Aye': Ms. Nichols, Ms. Dohleman, Mr. Tonander, Mr. Wayne

The motion **PASSED unanimously.**

4) Case 3-PE-02-15-2022 Hearing Officer's Report

MOTION by Ms. Dohleman to accept the Hearings Officer's report, and to issue a Decision and Order to include a fine of \$3,500 due in 60 days,
SECONDED by Mr. Tonander,

Roll Call Vote:

Voting 'Aye': Ms. Nichols, Ms. Dohleman, Mr. Tonander, Mr. Wayne

The motion **PASSED unanimously**.

b. Self-Reporting

1) AEM-05-20-2024

MOTION by Ms. Dohleman to acknowledge receipt and take no further action, **SECONDED** by Mr. Tonander,

Roll Call Vote:

Voting 'Aye': Ms. Nichols, Ms. Dohleman, Mr. Tonander, Mr. Wayne

The motion **PASSED unanimously**.

c. Status Review of Complaints and NCAs

A report was reviewed on the status of pending cases and referrals for Notice of Contemplated Actions.

d. Applications for Review

1) PE Exam

a) Archuleta, J.

c) Williams, E. – Reconsideration

MOTION by Ms. Dohleman to approve Archuleta, J. and Williams, E. to take the PE exam, **SECONDED** by Mr. Tonander,

Roll Call Vote:

Voting 'Aye': Ms. Nichols, Ms. Dohleman, Mr. Tonander, Mr. Wayne

The motion **PASSED unanimously**.

b) Bennett, Z. – Reconsideration

MOTION by Ms. Dohleman to approve applicant to take the PE exam with direction to staff, **SECONDED** by Mr. Tonander,

Roll Call Vote:

Voting 'Aye': Ms. Nichols, Ms. Dohleman, Mr. Tonander, Mr. Wayne

The motion **PASSED unanimously.**

2) PE Licensure

a) Wirth, G. – Reconsideration

MOTION by Mr. Tonander to approve for PE licensure in mechanical engineering, **SECONDED** by Ms. Dohleman,

Roll Call Vote:

Voting 'Aye': Ms. Nichols, Ms. Dohleman, Mr. Tonander, Mr. Wayne

The motion **PASSED unanimously.**

3) PE Endorsement

a) Acharya, K. – Reconsideration

MOTION by Mr. Tonander to approve for PE endorsement in civil engineering, **SECONDED** by Ms. Dohleman,

Roll Call Vote:

Voting 'Aye': Ms. Nichols, Ms. Dohleman, Mr. Tonander, Mr. Wayne

The motion **PASSED unanimously.**

b) Hahnenkamp, G. – Reconsideration

MOTION by Mr. Tonander to approve for PE endorsement in petroleum engineering, **SECONDED** by Ms. Dohleman,

Roll Call Vote:

Voting 'Aye': Ms. Nichols, Ms. Dohleman, Mr. Tonander, Mr. Wayne

The motion **PASSED unanimously.**

c) Monahan, B.

d) Perez, M.

MOTION by Mr. Tonander to approve Monahan, B. and Perez, M. for PE endorsement in mechanical engineering, **SECONDED** by Ms. Dohleman,

Roll Call Vote:

Voting 'Aye': Ms. Nichols, Ms. Dohleman, Mr. Tonander, Mr. Wayne

The motion **PASSED unanimously.**

e) Reynen, M.

Ms. Nichols tabled this item for additional information regarding his experience.

f) Wilder Jr., J.

MOTION by Mr. Tonander to not approve the application for PE endorsement, **SECONDED** by Ms. Dohleman,

Roll Call Vote:

Voting 'Aye': Ms. Nichols, Ms. Dohleman, Mr. Tonander, Mr. Wayne

The motion **PASSED unanimously.**

4) PE Reinstatement

a) Agbayani, N.

b) Willis, W.

MOTION by Ms. Dohleman to approve Agbayani, N. and Willis, W. for PE reinstatement, **SECONDED** by Mr. Tonander,

Roll Call Vote:

Voting 'Aye': Ms. Nichols, Ms. Dohleman, Mr. Tonander, Mr. Wayne

The motion **PASSED unanimously.**

11. Next Scheduled Meeting Date: August 8, 2024 – Albuquerque/Virtual

12. Adjourn

The meeting adjourned at 4:40 p.m.

Submitted by:

s/Crystal Bustamante
Crystal Bustamante,
Budget/Finance Manager, CPO

Approved by:

Karen Nichols
Karen Nichols,
Committee Chair

November 7, 2024 **Approved Date**