

Minutes

MEETING OF THE NEW MEXICO BOARD OF
LICENSURE FOR PROFESSIONAL ENGINEERS AND
PROFESSIONAL SURVEYORS held at 9:00 a.m.,
Thursday, November 9, 2018, Conference Room 2,
The Public Library, 501 Copper Ave. NW,
Albuquerque, NM 87102

Members Present – David Cooper, PS, Board Chair
Walter Gerstle, PhD, PE
Karl Tonander, PE
Julie Samora, PE
Paul Brasher, PE
Augusta Meyers, Public Member
Glen Thurow, PS
Cliff Spirock, PS

Members Absent – Ron Bohannon, PE

Others Present – Perry Valdez, BLPEPS, Executive Director
Annette Thompson-Martinez, BLPEPS, Deputy Director
Angelica Urioste, BLPEPS Executive Assistant
Marylou Poli, Legal Counsel
Chris Pappas, PS
Earl Burkholder, PEPS
Ramon Dominguez, PS
Mike Dianzonio, PS
Scott Croshaw, PS
Benjamin Aragon, PS
Loren Risenhoover, PS
Chris Medina, PS
Angel Baeza, PS
James Combs, PS
Dr. Kurt Wurm, PS
Kim Stelzer, PS

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

Mr. Cooper convened the meeting at 9:18 a.m., roll call was taken and a quorum noted. Mr. Cooper recognized the audience: Chris Pappas, Earl Burkholder, Ramon Dominguez, Mike Dianzonio, Scott Croshaw, Benjamin Aragon, Loren Risenhoover, Chris Medina, Angel Baeza, James Combs, Kurt Wurm, Kim Stelzer.

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. Spirock to amend the agenda with the following changes, move agenda item 9. f. to be heard before item 5. Public Comment/Correspondence, then to be followed immediately with item 8. b., **SECOND** by Mr. Tonander, **PASSED** unanimously.

4. **Approval of Minutes**

a. **Minutes of August 10, 2018**

MOTION by Mr. Tonander to approve the Minutes of August 10, 2018, **SECOND** by Ms. Meyers, **PASSED** unanimously.

9. **Committee Reports**

f. **Rules and Regulations Committee**

1) **Meeting Report**

Mr. Spirock explained the Committee worked on drafting proposed changes to the Engineering and Surveying Practice Act. Mr. Spirock mentioned the committee reviewed a two-page committee report from January of 2017. He also explained the Board attempted to make modifications to the Engineering and Surveying Practice Act to accommodate Mr. Forstbauer, and Ms. Ballard's concerns. Mr. Spirock stated the Engineering and Practice Act revisions in 2017 did not include the revisions addressing the concerns of Mr. Forstbauer and Ms. Ballard and expressed a bucket list was created for the Boards Rules Committee to gather any thoughts or ideas for future revisions to the Engineering and Surveying Practice Act. He also stated the most recent Executive Order from Governor Susana Martinez was addressed by the Committee and Mr. Bohannon was directed to draft a letter explaining how her Executive Order had been addressed.

Mr. Spirock informed the Board a Budget Hearing took place on October 24, 2018 with the Legislative Finance Committee (LFC). In the FY 2020 budget there was a line item for 100,000 dollars that was created for the Engineering and Surveying Scholarship fund and it was successfully accepted. He further stated Senator White posed a question if the education for surveyors is necessary to become a Licensed Surveyor in New Mexico. Mr. Spirock reported to the LFC the current requirements and expressed the Board would be visiting the issue on revising the current statutory language. Following the LFC budget hearing, the budget analysts stated they were in support of the scholarship fund and suggested placing language in the statutes. The language used as a template was taken from the Nursing Board. Mr. Spirock further reported that Ms. Poli has drafted up a resolution based on what the Architect's Board developed.

Mr. Spirock briefly explained each item being recommended.

Mr. Thurow expressed his opposition for the proposed changes of items 61-23-27.3 and 61-23-27.4

2) Status Report on Assignments

No discussion.

5. Public Comment/Correspondence

Chairman Cooper invited those individuals in the audience to provide their public comments on items 61-23-27.3 and 61-23-27.4

Mr. Dominguez informed the Board his credentials. He stated he was in opposition to the language and supported a four-year degree program requirement. He stated he believes a four degree is essential for Surveying since the two year programs do not meet the requirements for statistics and some of the computer programs used.

Dr. Kurt Wurm explained how the NMSU online education program is progressing and expressed the program has increased providing two classes in 2017 to offering four classes currently.

Mr. Spirock informed Dr. Worm of the language drafted in 2017 which involved Mr. Forstbauer. He stated the draft copies were available for review. Mr. Spirock demonstrated a licensing and intern certification chart he created.

Mr. Combs conveyed he strongly supports a four-year degree and stated the quality of Surveying should not affect the public. He also mentioned new technologies are essential in the practice of surveying.

Mr. Stelzer stated he is in support of a 2-year degree and more experience in the field and expressed he feels surveying is an art not a science. The 4-year degree helps in learning the new technology.

Mr. Medina expressed his support of the 4-year degree and stated New Mexico requires a professional degree and allows for a related science degree. He also reported the scope of surveying is no longer just about boundaries. The profession has grown to include GPS, topography, technology, and critical thinking. He suggested maintaining the current requirements in New Mexico which provides protection of the public.

Mr. Pappas stated being educated is part of the definition of being a professional and expressed his confusion regarding proposing a bill to create a scholarship initiative which includes language proposing to change the educational standard. Mr. Spirock asked Mr. Pappas if he was still interested in volunteering to help the Board with drafting language. Mr. Pappas responded he is still interested in volunteering to assist the Board.

Mr. Cooper asked the audience how many thought the Board was removing the four-year degree requirement. He stated the Board is not eliminating the education requirement. He further stated they are looking for the ability for the Board, and future Boards, to have the liberty to license qualified individuals.

Mr. Aragon expressed his concerns regarding lowering the standards for surveying licensure.

Mr. Thurow stated the recommended proposed language would be detrimental to the NMSU surveying program.

Mr. Burkholder introduced himself, and expressed his concerns regarding the proposed language. He is not in support of the recommended changes.

Mr. Brasher added he received an email from a licensed surveyor, Mr. Mark Marrujo, who is opposed to lowering the education requirement.

Mr. Cooper informed the Board and the audience it is necessary to move forward with the meeting agenda.

6. Director's Report

a. Staff Vacancy Update

Mr. Valdez stated the Financial Assistant has been filled by Miranda Baca. He also mentioned the paper work has been filed for the Compliance Officer position to raise for a higher pay band. Mr. Valdez stated Stephanie Trujillo has been hired for one of the new Licensing Administrator positions.

b. Financial Report

Mrs. Thompson-Martinez reported a packet was handed out to each member and stated the FY audit has been completed. She thanked Mr. Brasher for his participation in the audit conferences and informed the Board, upon final approval from the State Auditor, a report will be provided. She stated the report will be tentatively planned for the January meeting.

Mrs. Thompson-Martinez explained to the Board the projection worksheet and discussed each category. She reported the Board will have vacancy savings in Personal Services and stated the projected amounts will change based on when positions are filled in addition to insurances obtained. Mrs. Thompson-Martinez projected an estimated amount of \$50,075.00 to revert to the fund balance. The final FY20 Budget Appropriation Request was submitted which included the amounts requested at the August 10th meeting for the scholarship initiative and Out of State Travel. Mrs. Thompson-Martinez expressed her gratitude for the

opportunity to attend the NCEES meeting in Arizona. She also stated she was impressed with the organization and gained a great deal of knowledge.

She also informed the Board Perry, Ron, Cliff and myself attended the FY20 LFC Budget Hearing last week which went very well. Perry, Ron and Cliff provided the Committee Members with information and answered the questions all the questions posed. The Committee voted to approve the request as submitted. Both Analysts requested to meet with us outside of the chambers to discuss the scholarship initiative. The recommendation to propose language to be created in the statute to create a fund for the scholarship initiative. A discussion also took place to determine if additional statute changes were proposed, should these proposed changes be included in the same bill as the scholarship initiative.

c. Licensing Status

Mr. Valdez stated as of November 1, 2018 there are approximately 9,179 licensees. The breakdown of the total number is the following:

The number of active PEs is 8,662; 2,101 in-state and 6,561 out-of-state.

The number of active PSs is 500; in-state 250 and 250 out-of-state.

The number of active PEPS is 17 (Dual License with one single license number); 15 in-state and 2 out-of-state.

The number of Interns certified as of June 20, 2018 is 41, Engineer Inters is 40, and Surveyor Interns is 1.

Mr. Valdez informed the Board of technical issues the Board office was experiencing. He reported the issues should be resolved soon, he could not provide a specific date. Mr. Tonander expressed his concern if the online renewal site was not up and running within 30 days of licenses expiring. Ms. Poli advised the Board on what their options were.

MOTION by Mr. Tonander to allow 30 days beyond whenever the technical difficulties are resolved for licensure renewal, **SECOND** by Mr. Spirock, **PASSED** unanimously.

Mrs. Samora left the meeting at 10:34 a.m.

7. Old Business

No discussion.

8. New Business

a. Acceptable PDH Clarification-FAA Drone Part 107

Mr. Valdez reported to the Board of an inquiry from a licensee if studying for the FAA Drone Part 107 certification will be acceptable for PDH courses. Mr. Spirock asked about the CFED allowance. Mr. Valdez responded the Board allowed the CFED studying once the exam is passed. Mr. Thurow provided information regarding the CFED study program. The CFED is much more exacting than the Drone Part 107 program. Mr. Brasher stated the drone is a surveying tool. Mr. Thurow stated he would be fine with granting 10 PDHs for the successful completion of the exam.

MOTION by Mr. Thurow that 10 hours of PDH credits be awarded to the successful completion of the Part 107 of the FAA Exam, **SECOND** by Mr. Spirock.

Discussion of the motion – Mr. Brasher asked what it means to considered completion of the exam. Mr. Thurow stated this means, successful completion of the exam, having passed the exam.

PASSED unanimously.

Mr. Cooper directed the Mr. Valdez to place this on the website so the licensees are aware of this, along with the CFED allowance.

b. Rules Committee Report and Recommendation of changes to the Practice Act

1) 61-23-XX – Scholarship Fund Creation

2) 61-23-14.1

3) 61-23-27.3

4) 61-23-27.4

5) 61-23-27.8

Mr. Spirock informed the Board he elaborated on the recommended changes to the Act in a previous item. He also requested clarification if the Board was going to follow Ms. Poli's recommendation of issuing a resolution or what action the Board was going to take. Ms. Poli recommended a single motion and a vote for the recommended changes to the Act, which would be including the issues on surveying. The motion could be a general vote to accept the changes. Mr. Cooper expressed his concerns regarding a vote as a whole but there are items that others

don't agree with. Mr. Tonander conveyed a concern that it would be precipitous to hold an item hostage if all recommended changes are not agreed upon. Ms. Poli provided further clarification and recommendations regarding a motion and vote. Mr. Thurow stated he wanted to be clear that in the past he maintained that those issues pertaining exclusively to surveying are to be considered by the Surveying Committee. Yesterday the Committee voted to take no position on the surveying items therefore the appropriate forum comes before the Full Board. Mr. Cooper asked the Board members if they are in agreement with this, there was an affirmative from each of the members. Mr. Brasher provided a brief report how the Engineering Committee voted on the recommended changes.

MOTION by Dr. Gerstle to vote on items #1(61-23-XX-Scholarship Fund Creation), #2(61-23-14.1), and #5(61-23-27.8) being non conversational and separately consider items #3(61-23-27.3) and #4(61-23-27.4) in a separate vote, **SECOND** by Mr. Tonander.

Discussion of the motion: Mr. Tonander discussed the proposed language for section 61-23-27.8. The language "shall regulate the use of seals" has been struck, which would imply the Board is giving up the regulation of seals. Ms. Poli agreed with Mr. Tonander regarding this statement. Mr. Thurow recommended the following amendment to the language, "The board shall regulate the use of seals and may consider alternative authentications to physical or electronic seals". Mr. Thurow proposed to un-strike and leave the original language and place an "and" between the original language and the proposed language.

Mr. Cooper called for the vote on the motion.

PASSED unanimously.

MOTION by Mr. Thurow to amend the proposed language of 61-23-27.8 to un-strike and leave the original language and place an "and" between the original language and the proposed language. Therefore, it would read, "The board shall regulate the use of seals and may consider alternative authentications to physical or electronic seals", **Second** by Dr. Gerstle, **PASSED** unanimously.

There was discussion regarding the other recommended items and the previous motion by Dr. Gerstle.

MOTION by Dr. Gerstle for the Board to approve the recommended proposed items #1(61.23.XX-Scholarship Fund Creation) and #2(61-23-14.1). In addition to #5(61-23-27.8) as modified, **SECOND** by Mr. Tonander, **PASSED** unanimously.

Mr. Cooper requested a motion for items #3 and #4.

MOTION by Mr. Thurow for the Board not approve recommendations from the Rules Committee for items #3 (61-23-27.3) and #4 (61-23-27.4), **SECOND** by Mr. Tonander.

Discussion of the motion: Mr. Spirock informed the Board regarding item 61-23-27.3, the Rules Committee came up with the language for this section. However, section E, is not part of the discussion, but addresses Mr. Forstbauer's concerns regarding surveyor internship experience requirements to two years. There are the Administrative Code rules, where you still have to have the required four years of experience for licensure as a surveyor, after internship. Mr. Thurow recommended making a separate motion, because the Board would have to vote it as a whole. Dr. Gerstle commented that his understanding is that the public is concerned the four-year degree requirement should not be removed. Mr. Tonander is concerned the standing Executive Order from Governor Martinez would compel us to act now and not at our leisure. Mr. Spirock stated he would like to modify the language because the consensus seems to be that four-years is too excessive, the senior status language is what concerns him. The problem is the Professional Surveying Committee deals with blended education requirements and if the Committee can approve the candidate as an intern. Mr. Brasher informed the Board he is in opposition to the proposed changes to these two sections.

Mr. Cooper called for the vote on the motion.

Mr. Cooper requested that there be a roll call vote to ensure the accuracy of the vote.

Roll Call Vote:

Voting Aye: Mr. Brasher, Mr. Thurow, Mr. Tonander, Dr. Gerstle, Ms. Meyers

Voting Nay: Mr. Spirock, Mr. Cooper

Members Absent from Vote: Mr. Bohannon and Mrs. Samora

Motion: Passed.

There was further discussion regarding 61-23-27.3 and the experience requirements for surveyor intern certification. Mr. Thurow provided the proposed language drafted in January 2017. Mr. Spirock requested amending the proposed language to the January 2017 language.

MOTION by Mr. Spirock to amend the Engineering and Surveying Practice Act, section 61-23-27.3 Certification of Surveyor Intern, paragraph E. so the language

be changed from four years to two years, to read as follows: “if otherwise qualified, a graduate of a board-approved but related curriculum of at least four years, to be considered for certification as a surveyor intern, shall have a specific record of two years of combined office and field board-approved surveying experience obtained under the direction of a licensed professional surveyor. Class time will not be counted in the two years of required experience, but work prior to or while attending school may be counted towards the two years of required experience at the discretion of the board”, **SECOND** by Mr. Thurow.

Discussion of the motion: Mr. Thurow stated if a candidate has a related science degree they only need two years of experience to become a surveyor intern, however the candidate still needs an additional four years of experience to become a licensed surveyor, in addition to the two years of experience.

Mr. Tonander clarified this language is analogous to the requirements for the engineering technology intern certification requirements.

PASSED unanimously.

There was discussion as to the procedure, and protocol, to ensure the Board record demonstrated the Board vote of the proposed changes. Ms. Poli explained the use of a resolution. The resolution allows the Legislature to know the Board has accepted the proposed changes.

MOTION by Mr. Tonander to approve the general intent of the recommended changes to the act to: 1 - add Scholarship Fund creation, 2 - amend 61-23-14.1 to expand reciprocity for Engineers, 3 - amend 61-23-27.3 E. retaining four-year status board-approved related curriculum of four-years, however changing the experience portion of E. to two years, and 4 - 61-23-27.8 to the modified language regarding surveying seals. In addition, direct Board Counsel to draft a resolution for the Legislature, **SECOND** by Mr. Thurow.

Discussion of the motion: Mr. Spirock asked if he could review the resolution once prepared. Ms. Poli stated she will draft the resolution and send out to the Board members for review and approval.

PASSED unanimously.

c. Response to Governor’s Executive Order 2018-48

Mr. Tonander stated Mr. Bohannan was responsible for providing a written response to the Executive Order. Mr. Tonander further stated he would work with Mr. Bohannan on this response.

****Ms. Meyers left the Meeting at 11:00 a.m.****

9. Committee Reports

a. PS Committee

Mr. Cooper gave the report for Ms. Meyers, he stated there were 2 cases, one of them there was acceptance of the findings of facts of the Hearing Officer's report. The other was tabled until the next meeting. There was one self-reporting which was acknowledged and no action taken. The Committee approved 12 applications and one tabled.

b. PE Committee

Mr. Brasher stated the Committee reviewed the proposed recommended changes. The Committee considered 2 PE Exam applications, 83 PE Endorsements, and 9 reinstatement applications. The Committee approved for 3 retired and 3 inactive statuses. Mr. Brasher mentioned there were 5 disciplinary cases total to review and also explained there might be a meeting scheduled in December to review applicants.

c. Executive Committee

No report given.

d. Joint Practice Committee

1) Meeting Report

Mr. Thurow mentioned the Joint Practice Committee has not met.

e. Public Information Committee, Exam and Licensure Promotion Committee

1) Meeting Report

No report given.

1) Scholarship Initiative Report

Discussed in earlier in the meeting.

2) Fall Newsletter – Status Report

Mrs. Thompson-Martinez stated the Fall Newsletter is in progress.

3) Licensure Brochure – Status Report

No report given.

5) Presentations – Status Report

Mr. Tonander went into depth on the Ethic Courses dates and times.

f. Rules and Regulations Committee

1) Meeting Report

Discussed in earlier in the meeting.

2) Status Report on Assignments

Discussed in earlier in the meeting.

g. Legal Enforcement Committee

1) Meeting Report

No report given.

h. NCEES Committee Members

Mr. Valdez stated he and Mrs. Samora will be attending the MBA Committee Meeting on December 11, 2018.

Mr. Valdez also informed the Board that he and Mrs. Samora have been selected to serve on the MBA Committee. In addition, Mr. Tonander will serve on the Law Enforcement and Mr. Thurow will serve on the EPS Committee.

10. Next Scheduled Meeting Date: January 18, 2019 – Albuquerque, NM

11. Adjourn

Meeting adjourned at 12:04 p.m.

Submitted by:

s/ Angelica Urioste
Angelica Urioste, Executive Assistant

Approved by:

s/ Ronald Bohannan
Ronald Bohannan, Board Vice-Chair

January 18, 2019 Approved