

## MINUTES

**MEETING OF THE NEW  
MEXICO BOARD OF LICENSURE FOR  
PROFESSIONAL ENGINEERS AND PROFESSIONAL  
SURVEYORS held 9:00 a.m., Friday, January 18, 2019  
Training Room #2, NM DOT General Office, 1120  
Cerrillos Rd., Santa Fe, NM 87505**

**Members Present –** David Cooper, PS, Board Chair  
Ron Bohannon, PE, Board Vice-Chair  
Walter Gerstle, PhD, PE  
Karl Tonander, PE  
Julie Samora, PE  
Paul Brasher, PE  
Glen Thurow, PS  
Cliff Spirock, PS

**Members Absent –** Augusta Meyers, Public Member

**Others Present –** Perry Valdez, Executive Director  
Annette Thompson-Martinez, BLPEPS, Deputy Director  
Angelica Urioste, BLPEPS Executive Assistant  
Clayton Pelletier, Chief Financial Officer  
Marylou Poli, Legal Counsel

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

Mr. Bohannon convened the meeting at 9:18 a.m., roll call was taken and a quorum noted. Vice Chairman Bohannon introduced Mr. Pelletier and requested he provide background information.

Mr. Pelletier stated he is the Chief Financial Officer of the Regulation and Licensing Department and the NM Board of Licensure for Professional Engineers and Professional Surveyors. He stated he is in attendance to answer questions and informed the Board he is available to provide information regarding the FY18 Financial Audit. Mr. Pelletier Thanked the Board for inviting him and stated it has been a pleasure working with the Board members and staff.

Mr. Bohannon expressed gratitude toward the Board staff and advised Mr. Pelletier to communicate with Board members or with staff as often as needed and thanked him for his services.

### **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, **SECOND** by Dr. Gerstle, **PASSED** unanimously.

4. **Approval of Minutes**

a. **Minutes of November 9, 2018**

MOTION by Mr. Tonander to approve the Minutes of November 9, 2018, **SECOND** by Mr. Spirock, **PASSED** unanimously.

5. **Public Comment/Correspondence**

a. **Engineer/Surveyor of Record Affidavit Question – Clarification if a Contracted Professional may be the Professional of Record for the Business.**

Mr. Valdez informed the Board a call was received inquiring about the possibility of allowing a contracted surveyor to act as the Surveyor of record. The question was raised since the form indicates the term employee and the owners of the company are not licensed surveyors.

Mr. Spirock indicated this issue has been discussed with him previously by individuals who are in similar situations with a family owned business.

The Board reviewed the language on the affidavit and requested Legal Counsel provide guidance on how staff should respond to the question.

Ms. Poli suggested Mr. Valdez contact the individual to provide his question in writing and stated she would research the issue to provide a response.

The Board further discussed the language in the affidavit.

Ms. Poli stated the statute is unambiguous for both Engineering and Surveying. She clarified that the language includes an authorized company officer and Professional Surveyor who is employed by the Business Entity and who is in responsible charge shall place on file with the Board a signed affidavit. She stated a contractor is not an employee so the answer to the question would be "No". The current statutory language does not allow for a contractor.

The Board discussed this issue at length.

Mr. Valdez reported the frequently asked questions are still in a draft format but will continue to be worked on for Board review.

6. **Director's Report**

a. **Staff Vacancy Update**

Mr. Valdez reported currently there are two vacancies which the Compliance Officer position is in the process of reclassification and the Executive Assistant position is currently vacant since Mrs. Urioste was promoted into the Licensing Administrative position.

Mr. Valdez stated the Executive Assistant position paperwork has been submitted. He also stated once the interviews are scheduled a Board Member usually participates and asked who would be interested in sitting on the panel.

Mr. Brasher stated once the interviews are scheduled he can check his availability to participate in the selection process.

**b. Financial Report**

Mr. Valdez informed the Board the Budget Hearing will take place at the Capitol on January 21<sup>st</sup> in room 305 at 1:00 p.m.

**1)FY 2018 Financial Audit Report**

Mrs. Thompson-Martinez reported the FY18 Financial Audit process was a very pleasant experience. The Accounting Firm “Integrity” communicated effectively and with Clayton Pelletier actively involved, the process was done in a professional and expedient manner. Mrs. Thompson-Martinez stated to her knowledge, the BLPEPS audit was the first audit submitted to the State Auditor. Mrs. Thompson-Martinez thanked Mr. Pelletier for all of his support.

Mr. Pelletier informed the Board, three quotes were received by accounting firms and Integrity was the selected firm. He expressed the individual from the firm was very hands-on and was reasonable in his requests. Mr. Pelletier stated the audit was received with a clean opinion and no findings. He briefly explained the report and stated he is happy to answer any questions the Board might have.

Mr. Bohannon explained to Mr. Pelletier that the Board is currently in the process of establishing a scholarship initiative which will utilize a percentage of the fund balance. He also expressed the Board did reduce fees when the legislature swept the fund, and will continue to monitor the fees and the fund balance.

Dr. Gerstle inquired as to the amount in the fund balance and questioned how much is reverted annually.

Mr. Bohannon stated when the 3.9 million was swept from the fund balance the total was not available until the Board generated enough revenue to complete the sweep.

Mrs. Thompson-Martinez clarified the sweep was done once the Board generated approximately 22,000 dollars in revenue. She explained the amount the legislature swept exceeded the amount available in the fund balance.

Mr. Pelletier explained the sweep could not take place until the board had enough activity to allow enough monies in the cash account to complete the process.

Mr. Spirock stated the scholarship fund will assist in reducing the amount in fund balance.

Mrs. Thompson-Martinez explained how the FY20 Budget Appropriation request was submitted to accommodate the scholarship initiative.

Mr. Valdez expressed the legislative initiative to include the language for the scholarships solidifies the authority.

Mr. Bohannon requested a discussion take place regarding the Budget projections and can continue with questions regarding the audit.

Mrs. Thompson-Martinez reported a projection was prepared and explained the category totals were prepared off of the general ledger and the budget status report ending December 31, 2018. She stated these numbers are projected based on the current vacancies and can change significantly once the positions are filled, depending on the insurance carried. The projected amount remaining in the budget will revert to the fund balance at the end of the fiscal year.

Mr. Brasher inquired if salary increases are projected for in the projections?

Mrs. Thompson-Martinez explained the salary increases allotted by House Bill 2 were included in the projections.

Mr. Brasher asked if any other salary increases can be included in the budget.

Mrs. Thompson-Martinez thanked Mr. Brasher for his comments and stated she is not aware if the budget request allows for in pay-band adjustments or reclassifications and deferred the question to Mr. Valdez or Mr. Pelletier for additional guidance.

Mr. Valdez expressed he was not clear on the process.

Mr. Pelletier expressed there was salary adjustments requested for RLD employees over six months ago and have not heard where they stand currently since currently there is a new administration. He reported there is currently a Legislative Bill which includes a step increase for State Employees allowing a 6% for lower end salaries, 4% for mid-range salaries and 2% for higher end salaries.

Mr. Spirock asked if monies are projected for a rule hearing if the legislative language is successful.

Mrs. Thompson-Martinez explained that the new language would become effective in July which is the beginning of a new fiscal year. The FY20 budget request does include amounts for advertising of rule hearings and proper filling of the new rules.

Mr. Bohannan inquired if the Board was able to use current fund balance to make a contribution for scholarships out of this fiscal year?

Mrs. Thompson-Martinez explained this conversation took place in the meetings held with DFA and LFC and it was stated if an emergency clause was added to bill it would go into effect once the bill is signed by the Governor. Mrs. Thompson-Martinez reported the projected amount for the Fund Balance at the end of FY19 is estimated at \$624,820.00. She also explained the amount includes projected revenue for January to June which was based off of what the Board generated in revenue last fiscal year in those months.

Mr. Bohannan recommended the Board review their fees once again to ensure the fund balance does not continue to increase.

Mr. Tonander agreed but also stated he is more of a conservative when it comes to budgeting to secure enough revenue when times are tough and Engineers do not renew their license or apply for a license.

Mr. Thurow commended the staff for all their hard work.

Mr. Bohannan also thanked staff and stated since the administration of the Board is handled effectively it allows the Board Members to focus on their priorities and responsibilities.

Mr. Pelletier thanked the Board for allowing his involvement in the meeting and informed the Board his contact information is on the last page of the audit and he would be happy to answer any questions that may arise.

The Board thanked Mr. Pelletier for his services.

Mr. Pelletier excused himself.

**c. Licensing Status Report**

Mr. Valdez reported the following licensing status:

**Renewals Generated on November 27, 2018 – Total Number: 4,628**

Breakdown: PE = 4,359 PS = 256 PEPS = 13

**Renewal Reminder sent on December 18, 2018 – Total Number Pending**

**Renewal: 2,515**

Breakdown: PE = 2,381 PS = 129 PEPS = 5

**Licenses placed on Expired Status – Total Number: 642**

Breakdown: PE = 609 PS = 31 PEPS = 2

**Licenses on Expired Status, as of January 17, 2019 – Total Number: 604**

Breakdown: PE = 573 PS = 29 PEPS = 2

<b>In-State</b>	<b>276</b>	<b>14</b>	<b>2</b>
<b>Out-of-State</b>	<b>297</b>	<b>15</b>	

Number of Active Licenses: **8,711 as of January 17, 2019**  
(8,711 = 8,218 PE + 478 PS + 15 PEPS)

Number of Active Licenses: **9,179 as of November 1, 2018**  
(9,179 = 8,662 PE + 500 PS + 17 PEPS)

Number of active PEs:	8,218	8,662
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In State:	2,020	2,101
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Out of State:	6,198	6,561
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Number of active PSs:	478	500
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In State:	235	250
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Out of State:	243	250
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**19 new licenses issued in 2018.** (15 Out-of-State/ 4 In-State)

Number of active PEPS: 15 (Dual License with one single license number)

In State:	14
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Out of State:	1
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Number of Interns certified as of November 2, 2018: **26**

Engineer Interns:	<b>22</b>
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Surveyor Interns:	<b>4</b>
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Number of Interns certified as of June 20, 2018 to November 1, 2018: **41**

Engineer Interns:	<b>40</b>
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Surveyor Interns:	<b>1</b>
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Mr. Bohannon stated these numbers will be used for the Budget Hearing on Monday.

The Board discussed the renewal rate and reviewed the numbers of licensees for each profession.

*\*\*Ms. Samora left the meeting at 10:46 a.m.\*\**

**7. Old Business**

**a. Proposed Recommended Change to 61-23-19. B.**

Mr. Valdez reported the Executive Committee met and suggested the proposed changes be included for both professions regarding seals which will be incorporated by the Bill drafter upon the Boards approval.

**MOTION** by Mr. Tonander to accept the recommended changes to section 61-23-19 B of the Act, **SECOND** by Mr. Spirock, **PASSED** unanimously.

Mr. Valdez reported he has been in communication with the Bill drafter and stated the final step will be to confirm the Bill Sponsors.

**b. Board Resolution Recommending Changes to the Act.**

Ms. Poli stated the resolution in the packet is the recent Board Resolution and reported this should be voted on for clarification.

Mr. Thurow expressed the format under review does not include his revisions.

Ms. Poli apologized and stated she would review the document before proceeding.

The Board recessed at 11:05 a.m.

The Board reconvened at 11:15 a.m.

Ms. Poli explained the Resolution provides additional substance to the proposed legislation.

**MOTION** by Mr. Spirock to approve the Resolution, **SECOND** by Mr. Spirock, **PASSED** unanimously.

Mr. Tonander suggested the executed document be sent to Representative Small.

Mr. Thurow stated he would provide the Lobbyist for NMPS with a copy to inform him of the Board approved proposed changes.

**c. Scholarship Program Disbursement Details**

Mr. Spirock stated the Nursing Board Fund has similar language which was simulated in the proposed changes for the creation of the BLPEPS scholarship initiative. He suggested the mechanism for funding will need to be developed. Mr. Valdez reported the meetings previously held, a plan will need to be developed to finalize the disbursement process.

The Board discussed options of third party organizations to disperse the scholarship funds.

Mr. Bohannon requested Board staff advise the Board as to how the money can properly be disbursed for the scholarship initiative and deferred the final details be worked out by the Executive Committee.

**8. New Business**

**a. NCEES Joint Western/Southern Zone Meeting Attendees (May 16-18, 2019)**

Mr. Valdez reported the Western Zone Meeting will be held in May and requested the individuals who are interested in attending.

The Board discussed the members who sit on standing committees.

Mr. Thurow expressed his interest in attending and stated he will not make his accommodations until he receives his authorization of approval.

**b. Oregon Board Case Outcome - Federal Court Ruling Regarding Engineering**

Mr. Valdez explained the outcome of the Court Ruling in Oregon.

Mr. Bohannon expressed he did not read the ruling to have an impact on New Mexico since an expert witness in a court needs to explain why they are considered an expert. He stated the ruling could have turned out different if the individual did not have any training to validate.

Mr. Tonander expressed a different opinion and stated this impacts the term "Engineer" which the ruling does not protect the use.

**9. Committee Reports**

**a. PS Committee**

Mr. Spirock reported the Committee reviewed applications and reported the numbers approved. Two applications will require a special meeting to be reviewed to accommodate meeting OMA and the examination deadlines. He stated a NMPS conference will be held the same date as the next scheduled Committee Meeting and requested the April meeting dates be adjusted to accommodate the Surveyor members to attend the conference.



**b. PE Committee**

Mr. Brasher reported applications were reviewed for reconsideration and approved two of those applications. He reported the numbers by application category. He also stated the Committee will review the self-reported issues and will plan to meet again on February 1<sup>st</sup> and possibly in March.

Mr. Bohannon stated the special meetings previously scheduled were to help alleviate the back log.

**c. Executive Committee**

The Executive Committee met and discussed the additional changes regarding the seals for Surveyors for consistency amongst the professions.

**d. Joint Practice Committee**

**1. Meeting Report**

Mr. Thurow reported the Committee met January 10, 2019 in attendance of the meeting were Interior Designers who are proposing current legislation. He informed the Board Senate Bill 181 is the legislation being proposed and stated the Architect members are concerned there is an infringement on the practice which entail structural issues. Mr. Thurow suggested the members review Senate Bill 181.

Mr. Valdez stated an email was received from Ms. Felix, from AIA, stating Senate Bill 456 has now changed to Senate Bill 181 since there was no opposition in 2017. This bill has been placed on the rocket docket and is scheduled to be heard on January 22 at 1:30 p.m. in the Senate Public Affairs Committee.

Mr. Thurow explained the Architects did oppose the legislation which was proposed last legislative session.

**e. Public Information Committee, Exam and Licensure Promotion Committee**

**1) Meeting Report**

Mr. Tonander reported the Committee has been working on developing the next issue of the newsletter and thanked staff for the assistance in putting it all together.

Mr. Bohannon stated he has received lots of positive feedback regarding the newsletter and communication from the Board.

Mr. Tonander informed the Board the graduation cords are still a work in progress. Mr. Valdez reported he has not heard back from the Universities regarding their graduations and cords.

- 2) Newsletter – Status Report
- 3) Licensure Brochure – Status Report
- 4) Presentations – Status Report

**f. Legal Enforcement Committee**

**1) Meeting Report**

Dr. Gerstle indicated he was assigned as the chair of this committee and currently does not have a report.

**2) Stamping Control Sheets**

No item to report.

**g. NCEES Committee Members**

Mr. Tonander stated he will be attending a Law Enforcement Committee meeting in Austin this weekend, which he will be Chairing.

Mr. Thurow reported he will be attending a meeting at the end of the month.

Mr. Bohannon stated Mr. Valdez and himself would be attending the President’s Assembly in Atlanta Georgia.

**10. Next Scheduled Meeting Date: April 12, 2019 – Las Cruces, NM**

The Board discussed changing the meeting dates for the April meeting to be held in Las Cruces.

**MOTION** by Mr. Tonander to change the meeting dates to April 4th and 5th in Las Cruces, **SECOND** by Mr. Spirock, **PASSED** unanimously.

**11. Adjourn**

Meeting adjourned at 12:16 p.m.

Submitted by:

s/Annette Thompson-Martinez  
Annette Thompson-Martinez, Deputy Director

Approved by:

s/Ronald Bohannon  
Ronald Bohannon, PE, Board Vice-Chair

April 5, 2019 Approved Date