

## MINUTES

## MEETING OF THE PROFESSIONAL ENGINEERING COMMITTEE of the Board Licensure of Professional Engineers and Professional Surveyors held 1:00a.m., Thursday, November 8, 2018, Conference Room 2, The Public Library, 501 Copper Ave. NW, Albuquerque, NM 87102

**Members Present-** Paul Brasher, PE, Committee Chair  
Ron Bohannon, PE  
Dr. Walter Gerstle, PE  
Karl Tonander, PE  
Julie Samora, PE

### Members Absent-

**Others Present-** Perry Valdez, BLPEPS, Executive Director  
Angelica Urioste, BLPEPS, Executive Assistant  
Stephanie Trujillo, BLPEPS, Licensing Administrator  
Miranda Baca, BLPEPS, Compliance Officer  
Marylou Poli, Legal Counsel  
Clifford Spirock, PS  
Earl Burkholder, PEPS

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

Mr. Brasher convened the meeting at 1:21 p.m., roll call was taken and a quorum noted. There was no audience to recognize. Mr. Valdez informed the Committee Mr. Barela would not be in attendance due to a personal reason.

#### 2. Meeting Notification

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

#### 3. Approval of Agenda

**MOTION** by Mr. Bohannon to defer item #9 a. 2) Case 5-PE-08-28-2017 until the next scheduled meeting, **SECOND** by Mr. Dr. Gerstle, **PASSED** unanimously.

**MOTION** by Mr. Tonander to approve the agenda as amended, **SECOND** by Mr. Bohannon, **PASSED** unanimously.

#### 4. Approval of Minutes

##### a. Minutes of August 9th and 10th, 2018 – Amended

Mr. Valdez informed the Committee the reason for the amended minutes was because the minutes did not accurately reflect that the Committee came out of closed session on August 10<sup>th</sup>.

**MOTION** by Mr. Tonander to approve the amended minutes of August 9th and 10th, 2018, **SECOND** by Mr. Bohannan, **PASSED** unanimously.

**b. Minutes of September 27, 2018**

**MOTION** by Mr. Tonander to approve the minutes of September 27, 2018, **SECOND** by Mr. Bohannan, **PASSED** unanimously.

**5. Public Comment/Correspondence**

No items for discussion.

**6. Old Business**

No items for discussion.

**7. New Business**

**a. Albuquerque Drainage Ordinance – To Discuss the Preparation of Erosion & Sedimentation Sheets for Drainage Plans by Licensed Engineers or Non-Licensed Engineers**

Mr. Bohannan informed the Committee he requested this item be placed on the agenda. He provided background information on the item; Mr. Bohannan stated he serves on the City of Albuquerque's Executive Committee for the development of the Development Process Manual, this manual defines the technical requirements for preparing plans and specifications for majority of the projects in the City of Albuquerque. Recently, the City of Albuquerque adopted a drainage ordinance; in the ordinance is the preparation of an Erosion and Sediment Control plan sheet, which is a required portion of the EPA Clean Water Act for eliminating sediment and other pollutants to the river. The preparation of the plan sheet normally requires engineering calculations, such as volume, exit velocities, and mitigation measures, etc.

Mr. Bohannan stated the drainage ordinance allowed for certification of some of the items on the plan by a group in Albuquerque. He raised the question that because of the engineering nature of the document should be signed and sealed by a licensed engineer. The Development Process Manual Committee asked that I bring this before the Board. He further stated the Engineering and Surveying Practice Act is clear on the requirement of an engineering seal on any document that requires engineering calculations. Mr. Brasher asked questions regarding the drainage requirements and the calculations. Mr. Tonander added that in reference to the CPESC (Certified Professional in Erosion and Sediment Control) designation, an individual associated with the organization in New Mexico, stated that any calculations are within the domain of the engineer and in their code of conduct states that an engineer must sign off on that. The Certification is not to replace the seal of an engineer.

Mr. Bohannan volunteered to draft a letter to the City of Albuquerque regarding the Board's opinion. Mr. Brasher requested further information on the ordinance and its impact. Mr. Bohannan responded to the questions. Mr. Brasher quantified the Board's opinion, that an individual who does the calculations and prepare these plans, needs be a licensed engineer. He further added, this is an ordinance that allows a non-engineer to prepare these plans, then the non-engineer is acting contrary to the Engineering and Surveying Practice Act. Mr. Bohannan responded that any engineer who is aware of this type of violation is required to bring this to the attention of the Board. Mr. Brasher stated he is familiar of the plan being discussed and the required calculations.

Mr. Brasher requested a motion on the item.

**MOTION** by Mr. Bohannan for the Board to allow himself to draft a letter to the City of Albuquerque outlining, and clarifying, the Engineering and Surveying Practice Act when drawings and calculations need to be signed and sealed by a licensed engineer, **SECOND** by Mr. Tonander, **PASSED** unanimously.

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

**1) 61-23-XX - Scholarship Fund Creation**

Mr. Valdez informed the Committee of the numbering sequence. The numbering would be assigned by the New Mexico Compilation Commission. He further stated the proposed language was taken from the Nursing Board's Act, and modified to fit our Act.

Mr. Bohannan also informed the Committee that this language basically allows the Board to create the scholarship fund, allowing the contribution of \$100,000 each year to that fund. This allows the Board to self-regulate the Fund Balance so it doesn't accumulate as much as it has in the past. If the Fund Balance does grow substantially we can adjust to bring it down through this scholarship fund.

Mr. Tonander asked what the reason for the amount in statute and not in the rules. Mr. Valdez responded that the Budget analysts requested this be in statute so that there is referenced amount that will be dedicated to the fund and not an arbitrary, unspecified, amount. Mr. Bohannan stated if the Fund Balance keeps increasing then as a Board its necessary to look at our fees again to make adjustments. The money in this fund would be exempt from being swept since it is for a specific use.

Mr. Brasher stated this Committee should vote to endorse or not endorse the proposed changes.

**MOTION** by Mr. Bohannon to support item 7. b) 1) 61-23-XX – Scholarship Fund Creation, **SECOND** by Mr. Tonander, **PASSED** unanimously.

**2) 61-23-14.1**

Mr. Tonander reported he was the creator of the proposed language. This language was developed because there are two issues. The first issue, this Committee struggles on a fairly regular basis that our rules are very specific and many times applicants come before the Committee who are very qualified but are unable to be licensed because of our requirements. He further stated, the rules were created for a reason and sees no need to modify them in mass, but at the same time there should be a path for those who have proven themselves in the profession. The second issue, is the Executive Order which was issued; the language before you today was drafted prior to the Executive Order. We should address the issues outlined in the Executive Order before we are forced to do so.

Mr. Tonander informed the Committee the requirements presented in the proposed language would simply be a third manner of receiving licensure through comity, separate from the other two paths already listed in statute. The three requirements for licensure would be having been actively licensed for 10 contiguous years immediately preceding application to New Mexico, not received any form of disciplinary action within the last five (5) years, and never had a license suspended or revoked. These would be simple for staff to review.

Mr. Brasher asked what stops someone from following this path? Mr. Tonander responded if someone has disciplinary action then they would be reviewed under one of the other two existing paths.

Dr. Gerstle asked if the individual has to get references, or go through the other requirements. Mr. Tonander responded the applicant simply has to meet the three outlined requirements. We are trusting our neighboring states to have vetted the applicants when granting licensure.

Mr. Valdez asked if the education matters. Mr. Tonander responded just the outlined requirements.

Mr. Tonander stated he took into consideration concerns from other Board members and members from other state boards, including Mr. Valdez. There was support for this language.

**MOTION** by Dr. Gerstle to support item 7. b) 2) 61-23-14.1, **SECOND** by Mr. Bohannon, **PASSED** with one Nay vote from Mr. Brasher.

**\*\*Mrs. Samora entered the meeting at 2:09 pm\*\***

**3) 61-23-27.3**

Mr. Bohannon requested a summary of items 3, 4, and 5. Ms. Poli clarified that items 3 and 4 would not impact engineers. She added a summary of the discussion held at the Professional Surveying Committee meeting, and the public's response, to these items. There was a split vote on these items.

There was discussion regarding the required education requirements. Mr. Tonander asked how many States required a four-year degree. Mr. Valdez responded, there are 30 plus states that require a four-year degree.

Mr. Bohannon suggested this discussion take place at the Full Board meeting tomorrow. This discussion would allow the engineering members to get the surveying members responses on these items.

Mr. Brasher recognized Mr. Burkholder in the audience. Mr. Burkholder introduced himself and provided his credentials. He informed the Committee he is an advocate for education and praised the Board for taking this issue so seriously. Mr. Burkholder offered his services to the Board.

Mr. Brasher asked when the four-year surveying education was required. Mr. Valdez responded surveying education was required in 1995.

Mr. Tonander provided surveying licensing statistics to the Committee. The predication being if education is the reason for the surveyor numbers being low. The information is based on GDP and population by neighboring states. Mr. Tonander stated it is still unclear if education is the reason behind the low number of licensed surveyors; there doesn't seem to be a correlation.

**\*\*Dr. Gerstle left the meeting at 2:35 pm \*\***

**MOTION** by Mr. Tonander to make no recommendation, **SECOND** by Mr. Bohannon, **PASSED** unanimously.

**4) 61-23-27.4**

Mr. Brasher read the recommended proposed change to the Committee. Ms. Poli asked what the Committee's opinion on the 'ten-year experience in New Mexico' requirement.

Mr. Brasher responded that per his knowledge there are certain surveying requirements in New Mexico that are specific to this State. Mr. Bohannon responded that some surveyors may not have had any boundary surveying experience at all.

Mrs. Samora reminded the Committee the statute should be general and the rules should provide detail on the requirement.

**MOTION** by Mr. Bohannon to move to the Full Board and make no recommendation, **SECOND** by Mr. Tonander, **PASSED** unanimously.

**5) 61-23-27.8**

Mr. Bohannon informed the Committee that the language is a step forward in dealing with electronic signatures and seals.

**MOTION** by Mr. Bohannon to support the recommended change to the Practice Act, **SECOND** by Mr. Tonander, **PASSED** unanimously.

**8. Application Review – Recommended Approval**

**a. Recommended for Approval List (Exhibit A)**

- PE Exam Application(s)
- PE Endorsement Application(s)
- PE Reinstatement Application(s)

**MOTION** by Mr. Bohannon to approve Exhibit A, the recommended for approval applications, **SECOND** by Mr. Tonander, **PASSED** unanimously.

**b. PE Retired Status Request(s)**

**MOTION** by Mr. Bohannon to approve the requests for PE retired status, **SECOND** by Mr. Tonander, **PASSED** unanimously.

**c. PE Inactive Status Request(s)**

**MOTION** by Mr. Bohannon to approve the requests for PE inactive status, **SECOND** by Mr. Tonander, **PASSED** unanimously.

**9. Executive Session**

**MOTION** by Mr. Bohannon that the Committee enter into closed Executive Session 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. **SECOND** by Mr. Dr. Gerstle, **PASSED** unanimously.

**Roll call vote taken, voting 'Yes':** Mrs. Samora, Mr. Tonander, Mr. Bohannon, and Mr. Brasher

**10. Action on Items Discussed During Executive Session**

Mr. Brasher brought the Committee back into open session 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 executive session, in accordance with NMSA 1978 Section 10-15-1 (H) (1).

**a. Disciplinary Cases**

**1) Case 2-PE-03-24-2017 – Complaint Manager’s Report**

**MOTION** by Mrs. Samora to close the case, **SECOND** by Mr. Bohannon, **PASSED** unanimously.

**2) Case 5-PE-08-28-2017 – Complaint Manager’s Report**

Tabled until the next scheduled meeting.

**3) Case 7-PE-06-11-2015 – Hearing Officer’s Report**

**MOTION** by Mr. Tonander to accept the Hearing Officer’s finding of facts and to amend those findings stating that there was no evidence of forgery, as such, the respondent is fined 750 dollars, plus investigation and hearing costs to be paid within 60 days, **SECOND** by Mr. Bohannon, **PASSED** unanimously.

**4) Case 7-PE-09-12-2017**

**MOTION** by Mr. Bohannon to close the case, **SECOND** by Mr. Tonander, **PASSED** unanimously.

**5) Case 2-PE-06-04-2018**

**MOTION** by Mr. Bohannon to close the case, **SECOND** by Mr. Tonander, **PASSED** unanimously.

**b. Licensee Self-Reporting Issues**

**1) BT-10-04-2018**

**MOTION** by Mr. Bohannon to acknowledge receipt and take no action,  
**SECOND** by Mr. Tonander, **PASSED** unanimously.

**c. Status Review of Complaints and NCA Referrals**

Ms. Baca provided a report to the Committee on the status of pending cases and referrals for Notice of Contemplated Actions.

**d. Applications for Review**

**1) EI Certification**

**a) Alalossi, M.**

**MOTION** by Mr. Bohannon to not approve based on incomplete education background, **SECOND** by Mr. Tonander, **PASSED**.

\*\*Mr. Brasher abstained from voting and discussion. \*\*

**2) PE Exams**

**a) Alaossi, M.**

**MOTION** by Mr. Bohannon to not approve based on incomplete education background, **SECOND** by Mr. Tonander, **PASSED**.

\*\*Mr. Brasher abstained from voting and discussion. \*\*

**3) PE Endorsement**

**a) Bredfeldt, P.**

**MOTION** by Mr. Bohannon to not approve based on a non-engineering degree in accordance with the statute, **SECOND** by Mr. Tonander, **PASSED** unanimously.

**b) Holloman, J.**

**MOTION** by Mr. Bohannon to approve for endorsement for Mechanical discipline, **SECOND** by Mrs. Samora, **PASSED** unanimously.

**c) Parker, P.**

**MOTION** by Mr. Bohannon to approve for endorsement for Civil discipline, **SECOND** by Mrs. Samora, **PASSED** unanimously.

**d) Sanders, M.**

**MOTION** by Mr. Bohannon to approve for endorsement for Mechanical discipline, **SECOND** by Mr. Tonander, **PASSED** unanimously.



- e) **White, A.**  
**MOTION** by Mr. Tonander to approve for endorsement for Environmental discipline, **SECOND** by Mr. Bohannan, **PASSED** unanimously.
- f) **Wright, R.**  
**MOTION** by Mr. Bohannan to approve for endorsement for Structural discipline, **SECOND** by Mr. Tonander, **PASSED** unanimously.

**4) PE Reinstatement**

- a) **Khatri, K.**
- b) **Kile, W.**  
**MOTION** by Mr. Tonander to approve Khatri, K. and Kile, W. for reinstatement, **SECOND** by Mr. Bohannan, **PASSED** unanimously.

**11. Next Scheduled Meeting Date(s):**

- a. December 13, 2018 (*if required*)– Albuquerque, NM
- b. January 17, 2019 – Santa Fe, NM

**12. Adjourn**

The meeting adjourned at 4:38 p.m.

Submitted by:

s/Angelica Urioste

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 Angelica Urioste, Executive Assistant

Approved by:

s/Paul Brasher

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 Paul Brasher, PE, Committee Chair

January 17, 2019 Approved Date