

MINUTES

MEETING OF THE PROFESSIONAL ENGINEERING
COMMITTEE of the Board Licensure of Professional
Engineers and Professional Surveyors held 1:00p.m.,
Thursday, August 9, 2018,
Toney Anaya Building, CID/MHD,
2550 Cerrillos Rd., Santa Fe, NM 87505

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

Members Absent- Julie Samora, PE

Others Present- Annette Thompson-Martinez, BLPEPS, Deputy Director
Benay Ward, BLPEPS, Team Leader
Angelica Urioste, BLPEPS, Executive Assistant
Miranda Baca, BLPEPS, Licensing Administrator
Marylou Poli, Legal Counsel
Joe Barela, PE, Board Investigator
Mark Swanson, Office of the Attorney General
Adam Harrington
John Murtagh
John L. Murtagh
Earl Burkholder, PE, PS

1. Convene, Roll Call and Introduction of Audience

Mr. Brasher convened the meeting at 1:05 p.m., roll call was taken and a quorum noted. Mr. Brasher recognized Mark Swanson, Adam Harrington, John Murtagh, John L. Murtagh, and Earl F. Burkholder in the audience.

2. Meeting Notification

Mrs. Thompson-Martinez 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. Tonander to approve the agenda as presented, **SECOND** by Mr. Bohannon, **PASSED** unanimously.

4. Approval of Minutes

a. Minutes of June 22, 2018

MOTION by Mr. Tonander to approve the Minutes of June 22, 2018, **SECOND** by Mr. Bohannon, **PASSED** unanimously.

5. **Public Comment/Correspondence**

a. **J. Fluckey – Structural Education**

MOTION by Mr. Bohannan to move item 5a into Executive Session under Endorsement consideration, to allow contact with Mr. Fluckey to ask questions about his additional education experience to evaluate his application, **SECOND** by Dr. Gerstle, **PASSED** unanimously.

b. **J. Murtagh**

Mr. Murtagh inquired about a letter he mailed on July 6, 2018 and asked the Committee if they reviewed the letter. Ms. Poli mentioned Mr. Murtagh's comments are about a complaint that is still in progress. Mr. Murtagh his letter to the Board, which stated he filed a written complaint in 2015 concerning corruption involving multiple parties, including Professional Engineers employed by public agencies. Mr. Brasher asked Mr. Murtagh to explain in brief what it was that he is requesting of the Board. Mr. Murtagh responded he was asking for the Board to take action and retain a special prosecutor. Ms. Poli explained that, due to other state statutes, the Board could not simply appoint a special prosecutor and that the Board and its prosecutor have not abandoned his complaint. After further discussion, Mr. Brasher indicated they would continue the discussion in during Executive Session.

6. **Old Business**

No discussion.

7. **New Business**

a. **Discussion on Construction Industry Use of the Title Project Engineer**

Mr. Brasher stated this has been a concern for the Board and mentioned the title "Engineer" is reserved for those who have met the requirements of the Act. It was brought to the Board's attention individuals who work within the construction industry and other places are using the title "Project Engineer" to perform engineering duties when not licensed under the Act.

Mr. Harrington stated the use of "Project Engineer" is a title used nationally in the construction industry. He explained the difference in job responsibilities for project engineers and project managers, and that the title engineer is important in construction proposals as it infers as elevated understanding and value to the project. The Board discussed this issue at length. Mr. Harrington expressed the decisions made by the Board will be shared with the Associated Builders Contractors and Associated General Contractors.

Mr. Brasher requested to include the definition of 'engineer' on the NMBLPEPS website to notify the public and use of engineer in relation to project engineer and the use of the title. In addition, the Board office will send letters advising companies of the use of the title Engineer. Several Board members also volunteered to attend trade group functions to assist in explaining the use of the title.

8. **Application Review – Recommended Approval**

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

PE Exam Application(s)- 24

PE Endorsement Application(s)- 110

PE Reinstatement Application(s)- 18

PE Additional Discipline(s)- 1

MOTION by Mr. Bohannon to approve Exhibit A, the Recommended Approval applications, **SECOND** by Mr. Tonander, **PASSED** unanimously.

MOTION by Mr. Bohannon to review item 9.b.1 first and item 9.e.3.d. second in Executive Session, **SECOND** by Mr. Tonander, **PASSED** unanimously.

9. **Executive Session**

MOTION by Dr. Gerstle 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. Tonander, **PASSED** unanimously.

Roll call vote taken, voting ‘Yes’: Mr. Brasher, Dr. Gerstle, Mr. Bohannon, Mr. Tonander.

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

Mr. Brasher brought the Committee back into open session and affirmed that while in closed session the Committee 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. **Medical Exemption**

1) **C. Bacchus – Renewal of License Request**

MOTION by Mr. Tonander to extend time for C. Bacchus to provide documentation supporting license renewal to October 10, 2018, **SECOND** by Mr. Bohannon, **PASSED** unanimously.

b. **Disciplinary Cases**

1) **Case 2-PE-03-13—2015 (A) & (B)**

MOTION by Mr. Bohannon, to acknowledge the case is proceeding, **SECOND** by Dr. Gerstle, **PASSED** unanimously.

2) **Case 7-PE-06-11-2015**

MOTION by Mr. Bohannon to reopen the hearing and reinstate license number 10592, **SECOND** by Mr. Tonander, **PASSED** unanimously.

3) Case 3-PE-04-21-2017

MOTION by Mr. Bohannon to uphold the Pre-Settlement Agreement and agree to pursue any other violations of the Act, **SECOND** by Dr. Gerstle, **PASSED** unanimously.

4) Case 7-PE-10-14-2016 CMR

MOTION by Mr. Bohannon to refer to the Attorney General's Office for issuance of a Notice of Contemplated Action, **SECOND** by Dr. Gerstle, **PASSED** unanimously.

5) Case 9-PE-10-13-2017 CMR

Tabled to next scheduled meeting.

6) Case 2-PE-06-04-2018 CMR

MOTION by Mr. Bohannon to enter into a Pre-Settlement Agreement within 90 days or automatically be referred for a Notice of Contemplated Action, **SECOND** by Mr. Tonander, **PASSED** unanimously.

7) Case 8-PE-06-26-2015

Legal Counsel gave an update, no action taken.

c. Licensee Self-Reporting Issues

1) KWF-07-13-2018

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

d. Status Review of Complaints and NCAs

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

e. Applications for Review

1) EI Certification

a) Britvec, E.

MOTION by Dr. Gerstle to approve for EI certification, **SECOND** by Mr. Bohannon, **PASSED** unanimously.

b) Gomes, S.

MOTION by Dr. Gerstle to approve for EI certification, **SECOND** by Mr. Bohannon, **PASSED** unanimously.

c) Fluckey, J.

MOTION by Mr. Bohannon to approve for Civil discipline and not approve for Structural discipline, **SECOND** by Mr. Tonander, **PASSED** unanimously.

MOTION by Mr. Bohannon to recess the Professional Engineering Committee Meeting at 4:49 p.m. and reconvene on August 10, 2018 immediately following the conclusion of the Full Board Meeting, **SECOND** by Mr. Tonander, **PASSED** unanimously.

Meeting reconvened August 10, 2018 at 12:36 p.m.

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. Tonander, **PASSED** unanimously.

Roll call vote taken, voting 'Yes': Mr. Brasher, Dr. Gerstle, Mr. Bohannon, Mr. Tonander.

***Mr. Brasher excused himself at 12:40 p.m. and did not participate in the discussion for Montoya, W. ***

Action on Items Discussed During Executive Session

Mr. Brasher brought the Committee back into open session and affirmed that while in closed session the Committee 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)

2) PE Exams

a) Amadi, S.

MOTION by Mr. Tonander to approve for the PE exam, **SECOND** by Dr. Gerstle, **PASSED** unanimously.

b) Montoya, W.

MOTION by Mr. Bohannon to deny the application based on section 16.39.3.10. C and that the applicant must wait one year before he is reconsidered to take the exam, **SECOND** by Mr. Tonander, **PASSED**.

Mr. Brasher stepped out of the meeting

Mr. Brasher noted that he recused himself from the discussion of applicant Montoya, W. and exited the room during discussions on this applicant.

Mr. Brasher reentered the meeting at 12:55 p.m.

c) Payton, T.

MOTION by Mr. Bohannon to deny due to lack of experience and request additional documentation on his work experience, **SECOND** by Mr. Tonander, **PASSED** unanimously.

d) Schaffer, M.

MOTION by Mr. Tonander to approve for the PE Exam, **SECOND** by Mr. Bohannan, **PASSED** unanimously.

e) Seranno de Rivera, A.

MOTION by Mr. Tonander to approve for the PE Exam, **SECOND** by Mr. Bohannan, **PASSED** unanimously.

f) Stoll, Z.

MOTION by Mr. Tonander to approve for the PE Exam, **SECOND** by Mr. Bohannan, **PASSED** unanimously.

3) PE Endorsement

a) Betzold, B.

MOTION by Mr. Bohannan to defer, request an update application with updated work experience, **SECOND** by Mr. Tonander, **PASSED** unanimously.

b) Boley, D.

MOTION by Dr. Gerstle to approve for Structural discipline, **SECOND** by Mr. Bohannan, **PASSED** unanimously.

c) Casey, J.

MOTION by Mr. Tonander to approve for Structural discipline, **SECOND** by Mr. Bohannan, **PASSED** unanimously.

d) Massie A.

MOTION by Mr. Bohannan to approve for Civil discipline, **SECOND** by Mr. Tonander, **PASSED** unanimously.

e) Polamarasetty, R.

MOTION by Mr. Bohannan to approve for Structural discipline, **SECOND** by Mr. Tonander, **PASSED** unanimously.

f) Ross, J.

MOTION by Mr. Bohannan to approve for Electrical discipline, **SECOND** by Mr. Tonander, **PASSED** unanimously.

g) Schnabel, D.

MOTION by Dr. Gerstle to approve for Civil discipline, **SECOND** by Mr. Bohannan, **PASSED** unanimously.

h) Wei, M.

MOTION by Mr. Tonander to approve for Civil discipline, **SECOND** by Mr. Bohannan, **PASSED** unanimously.

- i) **Zone. R.**
MOTION by Mr. Bohannan to approve for Mechanical discipline,
SECOND by Mr. Tonander, **PASSED** unanimously.

4) PE Reinstatement

- a) **York, D.**
MOTION by Mr. Bohannan to approve for reinstatement of license,
SECOND by Mr. Tonander, **PASSED** unanimously.

- b) **Zusi, M.**
MOTION by Mr. Tonander to approve for reinstatement of license,
SECOND by Mr. Bohannan, **PASSED** unanimously.

11. Next Scheduled Meeting Date:

- a. **September 27, 2018 (if required)- Albuquerque, NM**
- b. **November 8, 2018 – Albuquerque, NM**

12. Adjourn

The meeting adjourned at 2:14 p.m.

Submitted by:

s/Angelica Urioste
Angelica Urioste, Executive Assistant

Approved by:

s/Paul Brasher
Paul Brasher, PE, Committee Chair

November 8, 2018 Approved Date