

MINUTES

MEETING OF THE PROFESSIONAL SURVEYING  
COMMITTEE of the Board Licensure of Professional  
Engineers and Professional Surveyors held 9:00 a.m.,  
Thursday, November 8, 2018,  
The Public Library, Conference Room 2,  
501 Copper Ave. NW, Albuquerque, NM 87102

**Members Present-** Augusta Meyers, Public Member, Committee Chair  
Cliff Spirock, PS  
David Cooper, PS  
Glen Thurow, PS

**Members Absent-**

**Others Present-** Perry Valdez, BLPEPS, Executive Director  
Angelica Urioste, BLPEPS, Executive Assistant  
Miranda Baca, BLPEPS, Licensing Administrator  
Stephanie Trujillo, BLPEPS, Licensing Administrator  
Marylou Poli, Legal Counsel  
Chuck Cala, PS, Board Investigator  
Dr. Kurt Wurm, PS, NMSU  
Chris Pappas, PS, NMPS  
Will Plotner, PS, NMPS  
Scott Croshaw, PS  
Chris Medina, PS  
James Combs, PS, NMPS  
Earl Burkholder, PE, PS  
Eric Arnold, NMSU Student  
Conrad Right, NMPS

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

Ms. Meyers convened the meeting at 9:07 a.m., roll call was taken and a quorum noted. Ms. Meyers recognized Dr. Kurt Wurm, Chris Pappas, Will Plotner, Scott Croshaw, Chris Medina, James Combs, Earl Burkholder, Eric Arnold, and Conrad Right in attendance of the meeting.

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. Spirock to amend the Agenda, to remove item #9 (d) #2 (a) Cummock, R. (PS Endorsement), **SECOND** by Mr. Cooper, **PASSED** unanimously.

4. **Approval of Minutes**

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

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

5. **Public Comment/Correspondence**

a. **E. Burkholder – Requesting Clarification Regarding June 7, 2018 PSC Minutes**

Mr. Burkholder stated he submitted a letter sent on August 6, 2018 to the Board. In his letter, he questioned the accuracy of the first paragraph of section 5 (a) of the draft PSC minutes of June 7, 2018. He explained how some technical issues were incorrect but later the minutes were posted with the correct revisions. Mr. Burkholder further noted his letter of August 6, 2018, in reference to Mr. Thurow's comment within the same section of the June 7, 2018 Minutes. Mr. Burkholder stated that Mr. Thurow's comment does not correctly reflect the words of his letter that was drafted on April 30, 2018 and presented to the Board. Mr. Burkholder stated he did not attend the June 7, 2018 PSC Meeting and did not have the opportunity to respond to Mr. Thurow's comment. He mentioned in the letter on August 6, 2018 he failed to see the error and was unable to raise any comment at the June 7, 2018 PSC Meeting on correcting this error before approving the Minutes.

Mr. Thurow stated Mr. Burkholder's comments made can stand as of a correction to the Minutes because they are now a part of the public record along with his correspondence. Mr. Thurow read out loud to the Board Mr. Burkholder's first paragraph of his letter and that it will be transcribed into the public record verbatim. He noted this is a letter dated April 30, 2018 addressed to Mr. Perry Valdez, Executive Director, for the Board of Licensure for Professional Engineers and Professional Surveyors. The first paragraph read as follows "This letter is written in the interest of following necessary and correct procedures for restoring technical integrity to Section 12.8.2.9 J (6) of the July 24, 2016 Version of the Minimum Standards for Surveying in New Mexico. Specifically, requiring elevation to be included in any method for determining the basis of bearing of a line is irrelevant and such inclusion reflects badly on the reputation of the BOL," end of quote. Mr. Thurow stated this statement will be read into the record and asked Mr. Burkholder will that serve your purposes? He responded "yes, I am very happy with the Board's accommodations thank you."

Mr. Plotner spoke before the Committee and stated he was the Chair of the Minimum Standards Committee for NMPS. He mentioned their job duties were to come up with suggestions to present to the Board for the Sunset of the Practice Act. He stated at the time his responsibility was pertaining to elevation with basis of bearing and this was his error. He explained elevation should have not been included in that and hopes the Board will be willing to use their Advisory Opinion

to fix that error. Mr. Thurow stated the Board has produced an Advisory Opinion and noted the elevation was only in reference to modified coordinate systems. An attempt was made to accommodate Mr. Burkholder's request, however to Mr. Thurow's understanding it was not sufficient for his purposes. Mr. Thurow mentioned Mr. Cooper, Chair of the Full Board, suggested, at a previous meeting, if NMPS produced a letter in support of changing the Minimum Standards to something other than the language that was proposed to it by the NMPS Minimum Standards Committee, then Board would entertain that. However, a letter has not been submitted.

**6. Old Business**

No discussion.

**7. New Business**

**a. Clarification of education requirement: Masters in Surveying with a Bachelors in Related Science Degree**

Tabled until next scheduled meeting.

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

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

Mr. Valdez stated based on his conversation with the Legislative Services this section is labeled (61-23-XX) because the Compilation Commission would assign the number within the Statutes and where this would fit. Mr. Valdez mentioned the draft language came from the Nursing Board because they have a similar scholarship program.

Mr. Spirock mentioned that he will be submitting a Rules Committee report and thought it would be helpful to include the PSC Agenda to read some of the provisions that as relates to the genesis of the changes. He stated the Rules Committee met on October 22, 2018 and the intent of the meeting was primarily to address the Governor's Executive Order 2018-48 on Occupational Licensing. The outcome of this meeting was to draft a letter to the Governor's Office regarding the concerns outlined in the Executive Order and address them.

Mr. Spirock stated a budget hearing with the LFC (Legislative Finance Committee) was held on November 8, 2018 testifying in support of the Board's budget. The budget was accepted, which included the \$100,000 scholarship fund. It was suggested to follow the Nursing Board's language being that they have a Scholarship award fund. Mr. Spirock stated he came up with a draft following the Nursing Board's language and sent it to Mr. Valdez for revision. Mr. Valdez tailored the draft to ensure the specific needs were fitted for the Scholarship fund and program for Engineers and

Surveyors. Mr. Spirock explained he submitted the language in a revised draft to the Rules Committee. It was endorsed by the Rules Committee to submit at today's Surveying and Engineering Committee Meetings.

Mr. Thurow stated he was not in support of the proposed changes to sections 61-23-27.3 and 61-23-27.4. He also stated that he wanted it to be clear that these changes have not been vetted and accepted by the Professional Surveying Committee. This is the first time the Committee has seen the proposed changes.

Mr. Cooper pointed out the Committee hasn't voted on item one, 61-23-xx. Ms. Meyers decided not to vote on these items but to have discussion on the recommended proposed changes. There was further discussion on the process and procedure on how the Committee should discuss the individual items, as well as, how they should formulate their vote. Mr. Thurow recommended discussion of 61-23-27.3, 61-23-27.4 and 61-23-27.8 which pertain exclusively to surveying and the other items be addressed at the Full Board meeting tomorrow. Ms. Meyers agreed to the recommendation.

**2) 61-23-14.1**

It was recommended by the Professional Surveying Committee to not discuss this recommended proposed change during the Committee meeting since it is not Surveying related.

**3) 61-23-27.3**

**4) 61-23-27.4**

Ms. Myers opened the discussion to members of the audience. Mr. Plotner introduced himself. He asked about the procedure for the Rule Hearing and compliance with the Open Meetings Act. Ms. Poli responded by clarifying a Rule Hearing is conducted for proposed changes to the rules, the New Mexico Administrative Code.

Mr. Roybal introduced himself as the current President for NMPS. He stated he is in favor of keeping the four-year degree requirement.

Mr. Pappas introduced himself as the former President of NMPS. He stated his position on keeping the four-year degree requirement. He also volunteered his time to assist the Board in drafting language regarding the education requirement. Mr. Pappas also stated it was in the public's interest and safety to keep the educational requirement.

Mr. Cooper stated the language does not remove the educational requirements, of the four-year degree. What this language does is allow the Board to license individuals who are qualified, but don't have a degree.

Mr. Medina introduced himself and stated his support of keeping the four-year degree. He stated the importance of the educational requirement.

Dr. Wurm introduced himself and his support for the degree requirement. Mr. Cooper responded he is in support of the four-year degree program. He reminded the audience he expressed his support for the degree requirement at the last time this item came up. Mr. Cooper also added, this Board needs to explore other routes to allow qualified candidates to be licensed. The Board needs to have other means to consider qualified candidates.

Mr. Croshaw introduced himself and his opposition to the proposed language striking the four-year degree requirement. He informed the Committee he was part of the team to re-vamp and re-structure the surveying program at NMSU. He added the program is now flourishing and doing well.

Mr. Combs introduced himself and his opposition to the recommended proposed language.

Mr. Cooper addressed Mr. Conrad, he asked why NMPS provided a financial contribution to NMSU for the surveying program. Mr. Conrad responded that the program was in danger of being eliminated. Mr. Cooper asked why, Mr. Conrad responded due to low enrollment. Mr. Cooper reiterated that the program was in danger because of low enrollment. The program was going to be eliminated due to low enrollment, this is the reason the Board is proposing this language to get qualified individuals licensed. This Board and all future Boards' responsibility is to license people to protect the health, safety, and welfare of the public.

Mr. Pappas responded that in addition, the complacency of the professionals not promoting the profession. Low enrollment is also due to this. Dr. Wurm responded that funding was also a reason for the program being considered for elimination.

Mr. Plotner stated NMPS is also working behind the scenes to educate the high school students in order to increase and maintain an increased enrollment in the program at NMSU.

**MOTION** by Mr. Thurow that the Professional Surveying Committee not support the recommendations of the Rules Committee to the Full Board concerning 61-23-27.3 and 61-23-27.4, **none to second**, motion failed.

Mr. Thurow modified his motion.

**MOTION** by Mr. Thurow that the Professional Surveying Committee not support the recommendations of the Rules Committee as currently presented for 61-23-27.3 and 61-23-27.4, **SECOND** by Ms. Meyers, **Motion failed** with one Aye vote and two Nay votes.

Mr. Spirock expressed his concerns, that this language should be presented to the Full Board for their decision. The Full Board can decide to recommend the proposed changes or send them back to the Rules Committee for further consideration. The Legislature adopts the law, and the NMAC are the rules the Board adopts. There are opportunities for tweaking the language of a bill when speaking at a respective Legislative Committee. If a bill is not drafted, we lose the language and opportunity to have the scholarship fund language and any engineering proposed language approved by Legislature.

**MOTION** by Mr. Thurow that the Professional Surveying Committee takes no position on the recommendations of the Rules Committee, **SECOND** by Mr. Spirock for the purpose of discussion, **PASSED** with a Nay vote from Mr. Cooper.

Ms. Meyers asked for the record to show the motion passed with a vote of 3:1.

**5) 61-23-27.8**

Mr. Thurow stated as long as any adopted language parallels the Engineering side as far as the use of Electronics of signatures and seals there should not be an issue. However, believe the Surveying and Engineering Practice Act should remain in sync with one another.

Mr. Spirock stated his concerns about the application of the signatures and seals because some don't contain a seal and mentioned digital geospatial data work products.

**MOTION** by Mr. Thurow to recommend a change to the Full Board for the purposes of discussion, **SECOND** by Mr. Cooper, **PASSED** unanimously.

8. **Application Review – Recommended Approval**

- a. Recommended for Approval List (Exhibit A)
  - PS Exam Application(s)-
  - PS Endorsement Application(s)-
  - PS Reinstatement Application(s)-

Mr. Valdez introduced Ms. Trujillo as the new Licensing Administrator.

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

- b. PS Inactive Status Request(s)

**MOTION** by Mr. Spirock to approve the PS Inactive Status Request(s), **SECOND** by Mr. Cooper, **PASSED** unanimously.

9. **Executive Session**

**MOTION** by Mr. Thurow 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. Spirock, **PASSED** unanimously.

**Roll call vote taken, voting ‘Yes’:** Ms. Meyers, Mr. Spirock, Mr. Cooper, Mr. Thurow.

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

Ms. Meyers 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) and (3).

a. **Disciplinary Cases**

1) **Case 2-PS-05-20-2016 – Hearing Officer’s Report**

**MOTION** by Mr. Thurow to accept the Hearing Officer finding of facts and dismiss the case, **SECOND** by Mr. Spirock, **PASSED** unanimously.

2) **Case 5-PS-06-15-2018 – Complaint Manager’s Report**

**MOTION** by Mr. Thurow to table until next scheduled meeting, **SECOND** by Mr. Cooper, **PASSED** unanimously.

b. **Licensee Self-Reporting Issues**

1) **JGT-10-23-2018**

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

c. **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.

d. **Applications for Reconsideration**

1) **PS Exam**

a. **Arensberg, S.**

**MOTION** by Mr. Thurow to approve for the PS Exam, **SECOND** by Mr. Cooper, **PASSED** unanimously.

b. **Jurica, C.**

**MOTION** by Mr. Thurow to approve for the PS Exam, **SECOND** by Mr. Cooper, **PASSED** unanimously.

2) **PS Endorsement**

a. **Cummock, R.**

Tabled until next scheduled meeting.

b. **Geissler, P.**

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

c. **Luebke, K.**

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

d. **Nafe, R.**

**MOTION** by Mr. Thurow to approve for the PS Exam, **SECOND** by Mr. Spirock, **PASSED** unanimously.

e. **Nettleman, C.**

**MOTION** by Mr. Thurow to approve, **SECOND** by Mr. Cooper, **PASSED** unanimously.

\*\*\*Mr. Spirock recused himself from any discussion and vote of Nettleman, C.\*\*\*

f. **Simon, K.**

**MOTION** by Mr. Thurow to approve, **SECOND** by Mr. Cooper, **PASSED** unanimously.



7. **Next Scheduled Meeting Date:** January 17, 2019 – Santa Fe, NM

8. **Adjourn**

Meeting adjourned at 12:35 p.m.

Submitted by:

Approved by:

s/Angelica Urioste  
Angelica Urioste, Executive Assistant

s/ Clifford Spirock  
Clifford Spirock, Committee Vice-Chair

January 17, 2019 Approved Date