

**SPECIAL MEETING OF THE PROFESSIONAL ENGINEERING
COMMITTEE of the Board Licensure of Professional
Engineers and Professional Surveyors held
9:00 a.m., Friday, March 6, 2020,
Conference Room, Tierra West, Inc.
5571 Midway Park Pl. NE, Albuquerque, NM 87109**

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

Members Absent-

Others Present- Perry Valdez, BLPEPS, Executive Director
Miranda Gonzales, BLPEPS, Administrative Manager
Angelica Urioste, BLPEPS, Licensing Administrator
Miguel Lozano, Legal Counsel
Santiago Romero, PEPS
John Jacquez

1. Convene, Roll Call and Introduction of Audience

Mr. Bohannon convened the meeting at 9:00 a.m., roll call was taken and a quorum noted. Audience introductions were made at this time, Mr. Jacquez and Mr. Romero introduced themselves.

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. Tonander to approve the agenda as presented, **SECOND** by Dr. Gerstle, **PASSED** unanimously.

4. Approval of Minutes

a. Minutes of January 21, 2020

MOTION by Mr. Tonander to approve the Minutes of January 21, 2020 as presented, **SECOND** by Mr. Brasher, **PASSED** unanimously.

5. Public Comment/Correspondence

a. Jacquez, J.

Mr. Jacquez addressed the Committee requesting an appeal of the decision not approving him to bypass the Fundamentals of Engineering (FE) exam. Mr.

Jacquez provided his experience and educational background. He has been working within the engineering field for almost 30 years, he now has 17 and half years of experience working under the direction of a licensed professional engineer. Mr. Jacquez has earned a bachelor's degree in Engineering Technology from New Mexico State University, which is ABET accredited. He is requesting the Committee to waive the requirement of the Fundamentals of Engineering exam prior to sitting for the Principles and Practice of Engineering (PE) exam.

Mr. Jacquez informed the Committee during his career he has designed many miles of roadways, subdivisions, schools, commercial sites, and residential lots. He stated he performed design calculations and planned development for associated traffic control and drainage, as necessary. Mr. Jacquez informed the members this work done under the supervision of a licensed professional engineer. He was granted the design lead by his supervisors, who have trusted his knowledge and experience. He added that as a project manager his responsibilities included scheduling, specification preparation, cost estimating, processing pay requests, reviewing and responding to RFIs, and inspecting the contractor's work. He said he attended countless meetings for coordination, presentation reviews and public input, many times as the sole representative for the company he was working for.

Mr. Jacquez advised the Committee he has many references who could collaborate his experience. He stated he believes he has the experience necessary to take and pass the PE exam and requested the Committee allow him to do so by waiving the FE exam requirements. He further stated he believed that his request would have been granted prior to the 2019 changes which modified the requirements. Mr. Jacquez requested the Committee take into consideration his experience and the success he has contributed to the field of civil engineering within New Mexico. He further stated his request has major consequences for his family and himself, he moved from the private sector to the public sector with the intent of becoming a licensed professional engineer with the New Mexico Department of Transportation. He continued saying becoming a licensed engineer has been a dream of his and he is capable of becoming one. Mr. Jacquez said he was aware waivers of the FE exam have been granted before for those with an engineering degree and an engineering technology degree with over twelve years of experience. He stated he has an additional five more years of experience than the required twelve years. Mr. Jacquez thanked the Committee for their consideration and the staff for their professionalism and assistance in this matter.

Mr. Bohannon thanked Mr. Jacquez for his presentation. He asked if any of the members of the Committee had any questions.

Dr. Gerstle verified with Mr. Jacquez that he graduated seventeen years ago from New Mexico State University (NMSU). Mr. Jacquez responded that he graduated from NMSU in 1992 in engineering technology.

b. Romero, S.

Mr. Bohannan recognized Mr. Romero in the audience and invited him to present his request to the Committee. Mr. Romero introduced himself to the Committee, he is a licensed Professional Surveyor and until recently a licensed Professional Engineer.

Mr. Romero explained that beginning in 2002 it was difficult to gain work as a professional engineer and as a professional surveyor. He informed the Committee, in 2008 he requested to place his professional engineering license on retired status. Mr. Romero stated he mistakenly applied for retired status of his professional engineer license which required 40 years, which he said he only had 30 years of experience. He said he sent in the paperwork and never heard back from the Board regarding his request. Mr. Romero stated he looked on the Board's website in June 2010 and saw his license was in a lapsed status not on a retired status. He called the Board office after seeing his status and inquired about it, he said he was informed that he didn't qualify for retired status because he didn't have the required 40 years of experience. He further elaborated that when he asked if he could reinstate his engineering license, he said Mr. Valdez said it was okay to reinstate his license. Mr. Romero reapplied in 2010 to reinstate his license.

Mr. Romero continued explaining, in 2019 he decided to place his professional engineer license on inactive status. He submitted the request and received a letter back stating he did not qualify because his license was not active for 10 years, which would be in August of 2020. Mr. Romero is concerned about the status of his license being on a lapsed status.

Mr. Bohannan asked Mr. Romero if his desire is to have his license on inactive status? Mr. Romero responded that was his desire.

Dr. Gerstle asked Mr. Romero to clarify if his license was reinstated in 2010. Mr. Romero responded that was correct. Dr. Gerstle asked if he could wait until August for him to be granted the status. Mr. Romero answered that he could if the Committee wanted him to.

Mr. Valdez stated that the reason Mr. Romero's license states lapsed is because he applied and the Committee has not reviewed and voted on the requests. He continued to explain if the Committee doesn't approve a request an individual may renew without a penalty.

Mr. Brasher asked Mr. Romero to verify if his request was for retired status, Mr. Romero stated he was seeking inactive status. Mr. Romero explained his first choice would be retired and then inactive status.

6. Old Business

a. Policy Advisory – Surveyor Stamping Construction Plans

Mr. Bohannan directed the members to look at an excerpt placed on their tablets. He indicated the excerpt is from a set of minutes regarding required seals on control sheets for plan sets. He stated this is a policy advisory the Surveying Committee would like to be considered by this Committee. Mr. Bohannan explained the advisory is regarding when issuing construction plans you identify where the survey came from and the basis of the survey.

Mr. Bohannan asked Mr. Valdez if the Professional Engineering Committee (PEC) needs to take action or acknowledge receipt. Mr. Valdez informed Mr. Bohannan and the Committee, that Mr. Spirock, the chair of the Rules Committee, would like for the PEC to resolve and approve an advisory so he could present it to the Full Board at the April meeting.

Mr. Tonander advised the Committee that Mr. Spirock has provided several recommendations. He further elaborated that the issue is about control sheets where engineers typically sign off on them as part of a larger plan set, using data provided by surveyors. Mr. Tonander continued explaining that some surveyors do not feel that it's reasonable for an engineer to seal a control sheet. He informed the Committee this stemmed from an actual event where an engineer was called by a surveyor to question the control sheet because the surveyor thought it was incorrect. The surveyor felt that only surveyors should sign off on the control sheet.

Mr. Brasher stated it reads in the excerpt, that he (Mr. Brasher) asked if the engineer signed the entire plan set for a project, including the control sheet, does the engineer stamp the control sheet? Mr. Brasher continued that Mr. Bohannan responded, in the excerpt of the minutes, that as long as there are no new points and Mr. Thurow agreed. Mr. Brasher asked if Mr. Spirock's advisory reflect that discussion.

Mr. Bohannan replied that the Rules Committee has quite a lot of items for their consideration. He said he understood what Mr. Spirock wanted to do is to bring forth everything possible at the April meeting. Mr. Bohannan asked how the PEC members would like to review those rules, one at a time or all at once?

Dr. Gerstle asked where the policy advisories held. Mr. Valdez responded that they are on the website. Mr. Bohannan reminded the members they could either

have a rule change or issue a policy advisory. He added it can be one of three levels, as a policy advisory, a rule through a rule change, or as a statute in the Practice Act through legislative action.

Mr. Brasher said it should be a policy advisory. Mrs. Samora agreed with Mr. Brasher.

MOTION by Mr. Brasher to have this considered as a policy advisory and prepared by the Rules Committee and circulated for comment, **SECOND** by Mr. Tonander, **PASSED** unanimously.

Discussion on the motion: Mr. Tonander said Mr. Spirock wished to have more than this. Mr. Valdez stated Mr. Spirock is asking for an advisory from the PEC.

Mr. Brasher stated Mr. Spirock probably wanted from this Committee is what the advisory opinion should be.

Mr. Tonander stated he would want for the members to be in consensus of the advisory opinion. He asked Mr. Brasher if he was in favor having surveyors stamping the control sheet. Mr. Brasher responded that it is a survey control sheet, a surveying document, and engineers should not be stamping it.

Mr. Bohannon informed the Committee of how his company addresses the issue, they put the survey in and not stamping it depending on what the plan set is. It is referenced on the front sheet. If it is part of a grading plan set, then it is referenced on the front sheet and stamped by the engineer. Mr. Tonander inquired what the sheet has on it. Mr. Bohannon responded the sheet either has a surveyor stamp on it or the surveyor is referenced on the front sheet and the sheet has an engineer stamp on it.

Mr. Tonander wondered how someone without a surveyor on staff would handle this advisory. Mr. Brasher replied the company had to get the survey control sheet from a surveyor with the surveyor's stamp on it.

Mr. Tonander stated his business includes other locational elements that help facilitate where the monuments are relative to the project, the surveyor does not have that information when they set control.

b. New Endorsement Application to comply with 61-23-14.1 D (3)

Mr. Valdez informed the Committee the misspellings and grammar were corrected, which were pointed out at the last meeting.

MOTION by Mr. Brasher to approve the application, **SECOND** by Mr. Tonander, **PASSED** unanimously.

7. **New Business**

a. **Proposed Rule Changes to 16.39.3.7 NMAC**

Mr. Bohannon informed the Committee the proposed rule change is regarding the experience centered around professors. He elaborated that many times when reviewing applications from professors with work experience in testing, development and research without design experience. Mr. Bohannon requested Dr. Gerstle to provide a summary of the proposed change. He stated Dr. Gerstle and Mr. Tonander worked on the language.

Mr. Tonander said most of the language came from the NCEES Model Rules.

Mrs. Samora opined that professors should be encouraged to be licensed and this was a path for them to be licensed. Dr. Gerstle stated the mission of the Board is the public safety.

Mrs. Samora stated she would prefer to further review the proposed language.

Mr. Bohannon pointed out in the proposed language under "K. (3)". Dr. Gerstle read this section aloud, "A graduate degree that is used to satisfy education requirements cannot be applied for experience credit toward licensure." Mr. Bohannon also indicated numbers eight and nine of the same section, "8. Teaching experience must be in engineering or engineering-related courses at a junior, senior, or graduate-level in a college or university offering an engineering program of four years or more that is approved by the board. 9. Experience may be gained in engineering research and design projects by members of an engineering faculty member where the program is approved by the board."

Mr. Bohannon advised the Committee that number nine is key for professors. He added the professors demonstrate in their experience they provided design calculations in an area that was used or applied to a project.

Dr. Gerstle stated many of us professors are doing things very removed from design.

Mr. Bohannon stated this language would also pertain to graduate students. Mr. Tonander said the language helps with that type of experience.

Mr. Bohannon requested Mr. Valdez to clean up the draft language per the rule change format requirements for the Committee to review it in a clean version. He added for Mr. Valdez to work with Mr. Tonander on the draft.

b. Addressing Bernalillo County’s Requirement for Notarized Signatures on Legal Descriptions

Mr. Bohannan presented this item regarding counties and electronic signatures. He said the signatures are being required to be notarized. Mr. Bohannan informed the members the Surveying Committee were requesting support from this Committee.

MOTION by Mr. Brasher to support the Professional Surveying Committee to prepare a letter for the county clerks regarding notarized electronic signatures and have the Board Chair to review the letter prior to be sent out, **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. Tonander to approve Exhibit A, dated March 6, 2020, the recommended for approval applications, **SECOND** by Mrs. Samora, **PASSED** unanimously.

b. PE Retired Status Request(s)

MOTION by Mr. Brasher to approve the requests for retired status **SECOND** by Dr. Gerstle, **PASSED** unanimously.

9. Executive Session

MOTION by Mr. Brasher 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, Mrs. Samora, Mr. Tonander, Mr. Bohannan.

10. Action on Items Discussed During Executive Session

Mr. Bohannan 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) and (3).

a. Disciplinary Cases

1) **ZBU-12-31-2018**

MOTION by Mr. Tonander to acknowledge payment and close the case, **SECOND** by Dr. Gerstle, **PASSED** unanimously.

b. **Licensee Self-Reporting Issues**

1) **DJT-12-02-2019**

MOTION by Mr. Tonander to attempt to enter into a pre-NCA settlement agreement and that if no agreement is executed within 30 days, the matter will be automatically referred to the Attorney General's Office for the issuance of an NCA, **SECOND** by Mr. Brasher, **PASSED** unanimously.

2) **DMP-12-20-2019**

Mr. Bohannan acknowledged receipt and no action taken.

3) **KAD-11-23-2019**

MOTION by Mr. Tonander to attempt to enter into a pre-NCA settlement agreement and that if no agreement is executed within 30 days, the matter will be automatically referred to the Attorney General's Office for the issuance of an NCA, **SECOND** by Mr. Brasher, **PASSED** unanimously.

4) **LV-11-20-2019**

MOTION by Mr. Tonander to attempt to enter into a pre-NCA settlement agreement and that if no agreement is executed within 30 days, the matter will be automatically referred to the Attorney General's Office for the issuance of an NCA, **SECOND** by Mr. Brasher, **PASSED** unanimously.

5) **MAM-12-11-2019**

MOTION by Mr. Tonander to attempt to enter into a pre-NCA settlement agreement and that if no agreement is executed within 30 days, the matter will be automatically referred to the Attorney General's Office for the issuance of an NCA, **SECOND** by Mr. Brasher, **PASSED** unanimously.

6) **RKM-12-23-2019**

MOTION by Mr. Tonander to attempt to enter into a pre-NCA settlement agreement and that if no agreement is executed within 30 days, the matter will be automatically referred to the Attorney General's Office for the issuance of an NCA, **SECOND** by Mr. Brasher, **PASSED** unanimously.

7) **RWT-12-20-2019**

MOTION by Mr. Tonander to attempt to enter into a pre-NCA settlement agreement and that if no agreement is executed within 30 days, the matter will be automatically referred to the Attorney General's Office for the issuance of an NCA, **SECOND** by Mr. Brasher, **PASSED** unanimously.

8) **SDA-12-18-2019**

Mr. Bohannan acknowledged receipt and no action taken.

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

Mr. Bohannan stated Mrs. Gonzales, in closed session, provided a report to the Committee on the Status of pending cases and referrals for Notice of Contemplated Actions. He furthered stated case 3-PE-07-17-2018 would be issued to himself, Mr. Bohannan, to investigate and he would therefore recuse himself on any further action as a Board member.

d. **Applications for Review**

1) **PE Exams**

a) **Jacquez, J. – Reconsideration**

MOTION by Dr. Gerstle to not approve for a bypass of the FE exam, **SECOND** by Mr. Tonander, **PASSED** unanimously.

***Mr. Brasher recused himself from the discussion and vote. ***

2) **PE Endorsement**

a) **Caldwell, J. – Reconsideration**

MOTION by Dr. Gerstle to approve for licensure by endorsement as a Petroleum engineer, **SECOND** by Mr. Tonander, **PASSED** unanimously.

3) **PE Reinstatement**

a) **Doss, D.**

MOTION by Mr. Tonander to approve for reinstatement as a mechanical engineer, **SECOND** by Mr. Brasher, **PASSED** unanimously.

b) **Klein, C. – Reconsideration**

MOTION by Mr. Tonander to approve for reinstatement as a electrical engineer, **SECOND** by Mr. Brasher, **PASSED** unanimously.

4) **PE Retired Status Request**

- a) Blasingame, J.
- b) Nanis, W.
- c) Zellmer, J.

MOTION by Dr. Gerstle to approve for retired status, because they have a continuous 20 years total professional licensure, 10 years of which in New Mexico meeting the intent of the Rules, **SECOND** by Mr. Brasher, **PASSED** unanimously.

5) PE Inactive Status Request

- a) Romero, S.

MOTION by Mr. Brasher to approve renewal of his license without penalty, provided Mr. Romero does so within three months, **SECOND** by Dr. Gerstle, **PASSED** unanimously.

11. Next Scheduled Meeting Date: April 16, 2020 – Ruidoso, NM

12. Adjourn

Meeting adjourned at 11:40 p.m.