

Members Present- Ron Bohannon, PE, Committee Chair
Dr. 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
Miguel Lozano, Legal Counsel
Joe Barela, PE, Board Investigator
Michael Johnson, PE, Board Investigator
Earl Burkholder, PEPS

1. Convene, Roll Call and Introduction of Audience

Prior to convening the meeting Mr. Bohannon read the meeting script regarding the virtual meeting protocols.

Mr. Bohannon convened the meeting at 9:05 a.m., roll call was taken and a quorum noted. Audience introductions were made at this time, in the audience were Mr. Burkholder, Mr. Barela, and Mr. Johnson.

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. Brasher to approve the agenda as presented, **SECOND** by Dr. Gerstle,

Roll call vote taken:

Voting 'Aye': Mr. Bohannon, Dr. Gerstle, Mr. Tonander, Mrs. Samora, Mr. Brasher

PASSED unanimously.

4. **Approval of Minutes**

a. **Minutes of April 24, 2020**

MOTION by Dr. Gerstle to approve the Minutes of April 24, 2020 as presented,
SECOND by Mr. Brasher,

Roll call vote taken:

Voting 'Aye': Mr. Bohannon, Dr. Gerstle, Mr. Tonander, Mrs. Samora, Mr. Brasher

PASSED unanimously.

5. **New Business**

a. **PE Investigator Contract Update**

Mr. Bohannon asked Mr. Valdez the status of the PE investigator's contract. Mr. Valdez responded that a contract for the remainder of the Fiscal Year has been circulating for signatures. He informed the Committee the contract should become effective within a day or so. Mr. Valdez further stated a new contract is being processed for the new Fiscal Year. Mr. Bohannon suggested this be placed on the agenda four months ahead of time to avoid a lapse of the investigator conducting investigations.

b. **Request of Reduction of PDH Requirement for the 2020 and 2021 Renewal Cycles**

Mr. Bohannon introduced the item by providing a brief history of the discussion from the April Full Board meeting. He informed the Committee that the Surveyors wanted to grant a reduction. Mr. Bohannon stated he requested this item to be placed on the Committee's agenda. He asked Mr. Valdez for any updates.

Mr. Valdez responded there is no update as of yet. He further stated the Surveying Committee also has the item on their agenda for discussion. Mr. Valdez directed the Committee to a report he generated based on the responses from other jurisdictions. He informed the members a similar question was posted to the NCEES Member Board Administrator (MBA) forum. Mr. Valdez shared his screen showing the report of 23 other jurisdictions responding. He reported there were 19 jurisdictions which were not offering a reduction of hours, of those four would consider it on a case-by-case request. He explained there were four states providing a waiver or reduction of hours: Idaho, Nebraska, Nevada, and Puerto Rico. Mr. Valdez informed the Committee the rationale of those jurisdictions not offering a waiver or reduction, they each stated the licensees have two years to earn hours, therefore they have had sufficient time to earn their hours, in addition, the licensees have virtual options to earn hours without having to attend live sessions.

Mr. Lozano explained that there were two options presented at the April Full Board meetings. He elaborated the two primary options were to provide a six-month grace period after the public health orders are rescinded, and the other is a 15 PDH waiver. Mr. Lozano informed the Committee the notices for the two options have been prepared and will be presented at the Full Board meeting. He stated that Mr. Valdez and himself had concerns of each Committee voting separately on the item. Mr. Lozano said since the renewals are not separated between engineers and surveyors, he was uncertain but thinks this authority lies with the Full Board.

Mr. Bohannon requested for input and discussion from the members on the matter. Mr. Tonander informed the Committee about the National Professional Surveyors Society's response to the licensees on individual state options to earn PDHs. Mr. Brasher agreed with Mr. Tonander that there are avenues to obtain hours without having to attend a live session. He further stated he was against a reduction or a waiver since the licensees have two years to obtain the required hours. Dr. Gerstle concurred with Mr. Brasher. Mrs. Samora agreed with what was said. Mr. Bohannon stated he agreed with the other members. He further agreed the licensees have two years to earn the required hours and should not be earning them at the last minute, or two months before the end of the renewal cycle.

Mr. Brasher said he also agreed that this issue should be decided by the Full Board. He asked if the Committee needs to make a motion and vote on it.

Mr. Bohannon requested guidance from Mr. Lozano. Mr. Lozano responded unless there is a motion from the Committee, it can be decided by the Full Board. He further added if the Committee choose not to, it does not need to take action. Mr. Lozano stated their thoughts on the matter could be relayed to the Surveying Committee at their meeting.

Mr. Tonander stated a motion may not be necessary but it is important to relay to the Surveying Committee what this Committee's view is on the matter. He said he could see the Surveying Committee deciding at their meeting and having to decide at the Full Board meeting if the Surveying Committee is a valid vote, which would be bad.

Mr. Lozano explained, in his opinion, this is an action that applies to both engineers and surveyors.

Mr. Bohannon summarized the result of the discussion that this Committee is not in favor of a reduction or waiver of the PDHs. He affirmed that Mr. Lozano and Mr. Valdez would relay this information to the Surveying Committee.

c. Allowing Board Staff to Expedite Licensing on Recommended for Approval Applications

Mr. Valdez presented the item to the members. He explained the proposal to the Committee about granting the delegation of authority to the Executive Director to approve those applications on the 'Recommended for Approval' list, which is identified as "Exhibit A" on the agenda. He stated a list would be provided at the next meeting showing who was licensed.

Mr. Bohannon articulated what is being presented, each time an approval list is before the Committee, such as what is presented today. He said the Executive Director would approve the application and the Board would confirm those applications at the next meeting. Mr. Valdez responded that they would be ratified.

Mr. Bohannon asked for Mr. Lozano's legal opinion on the matter. Mr. Lozano responded that there are other licensing boards that do this similar process. He stated it is not illegal or a violation of the Practice Act, however there are downsides to the process, such as when a license is approved it becomes a property interest so if there is an error then it needs to be dealt with in a hearing format.

Mr. Brasher outlined the process which the Board acts on the application by reviewing then voting to approve for licensure. He stated with the proposed process the Board would not review nor approve at a meeting but after someone has been licensed by the staff. Mr. Brasher stated he has confidence in Mr. Valdez to review and approve. Mr. Brasher asked if this was precipitated because of the pandemic. Mr. Valdez responded it was not, that this item had been discussed before. Mr. Valdez provided a brief history that this was done before until a previous legal counsel informed the Board it could no longer do so because the Practice Act stated 'board-approved'. Mr. Valdez indicated the language in the Act has since changed and it no longer states 'board-approved'. Mr. Brasher asked how much time would be saved. Mr. Valdez stated the time saved for an applicant would be approximately two to three months. Mr. Brasher informed the Chair he was not comfortable with the proposed process.

Mr. Tonander recognized Mr. Brasher's discomfort with the proposal. He stated the delegation would be directly to the Executive Director and not to staff. Mr. Tonander added that if the Executive Director changes then he would expect this to be brought back to the Committee for reconsideration.

Mr. Bohannon added it is his understanding if the Board approves an applicant for licensure and if there is an error, it will be brought to our attention. He said an NCA must be done to correct the error. Mr. Bohannon added the proposed process has to be granted only to the Executive Director to approve these applicants.

Mrs. Samora reminded everyone that the Executive Director used to be allowed to do the approvals. She added if it is legally sound then it should be done to expedite licensure.

Dr. Gerstle said he did not have an opinion on the matter.

MOTION by Mrs. Samora to delegate authority to the Executive Director only to approve recommended licensure applications, **SECOND** by Mr. Tonander,

Discussion on the motion:

Mrs. Samora asked Mr. Lozano if this is legally sound.

Mr. Lozano responded that both methods are formalistic. He explained that this Board takes a recommended list and approves it without further review. He added delegated authority to the Executive Director is acting on behalf of the Board. Mr. Lozano said the duties of the Executive Director are outlined in the Rules.

Mr. Brasher said he trusts Mr. Valdez completely. He said the process now is the Board reviews the applications and approves for licensure. He added the authority is being delegated to the position of the Executive Director, which is occupied by Mr. Valdez, but if Mr. Valdez were to leave then he isn't comfortable with delegating authority to the position. Mr. Brasher said maybe more frequent meetings are needed.

Dr. Gerstle asked if the Board would be allowing staff to approve and expedite the licensing on the recommended for approval for licensing as a default action or only for an urgent reason to be licensed immediately.

Mr. Valdez responded the proposed process would be for those on the recommended for approval for licensing. He stated this question had not come up about granting authority for urgent cases. Mr. Valdez added the delegated authority process would be the decision of the Board, whether for urgent reasons or for the recommended approvals.

Dr. Gerstle stated he was opposed to the process. He said the Board is an important part of the approval process, they need to have the Board's stamp of approval.

Mr. Brasher asked if this would apply to the surveying applications. Mr. Valdez responded this process would solely be for the engineering applications.

Mr. Brasher said he finds it unsettling about someone stamping plans prior to the Board reviewing the application and qualifications.

Mr. Bohannan stated he is torn, because he recognizes the authority lies with the Board. He added very rarely has the Board seen someone who doesn't meet the qualifications to be licensed. Mr. Bohannan said he accepted the proposed process reluctantly, however he is in support of the process.

Mr. Bohannan called for the vote.

Roll call vote taken:

Voting 'Aye': Mr. Bohannan, Dr. Gerstle, Mr. Tonander, Mrs. Samora,

Voting 'Nay': Mr. Brasher

PASSED.

d. Election of Officers

Mr. Bohannan suggested deferring the election until the next meeting. Mr. Lozano responded that according to the Board rules the board shall elect its officers at the last meeting of the fiscal year.

1) Committee Chair

MOTION by Dr. Gerstle to nominate Mr. Bohannan for Committee Chair, **SECOND** by Mrs. Samora,

Roll call vote taken:

Voting 'Aye': Mr. Bohannan, Dr. Gerstle, Mrs. Samora, Mr. Brasher

Mr. Tonander was absent from the vote.

PASSED unanimously.

2) Vice Chair

MOTION by Mr. Bohannan to nominate Dr. Gerstle for Committee Vice Chair, **SECOND** by Mr. Brasher,

Roll call vote taken:

Voting 'Aye': Mr. Bohannan, Dr. Gerstle, Mrs. Samora, Mr. Brasher

Mr. Tonander was absent from the vote.

PASSED unanimously.

6. **Application Review – Recommended Approval**

a. Recommended for Approval List (Exhibit A)

MOTION by Mrs. Samora to approve Exhibit A, dated June 3, 2020, the recommended for approval applications, **SECOND** by Mr. Brasher,

Roll call vote taken:

Voting ‘Aye’: Mr. Bohannon, Dr. Gerstle, Mrs. Samora, Mr. Brasher

Mr. Tonander was absent from the vote.

PASSED unanimously.

7. **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. Brasher, **PASSED** unanimously.

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

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

Mr. Bohannon 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) **3-PE-07-17-2018**

Mr. Bohannon acknowledged the complaint and closed the complaint.

2) **5-PE-08-03-2018**

MOTION by Mr. Brasher to dismiss the case for not rising to the level of a violation of the Practice Act as it pertains to the code of conduct. Staff is directed to inform both parties to review the Practice Act, **SECOND** by Dr. Gerstle,

Roll call vote taken:

Voting ‘Aye’: Mr. Bohannon, Dr. Gerstle, Mr. Tonander, Mrs. Samora, Mr. Brasher

PASSED unanimously.

b. Applications for Review

1) PE Endorsement

a) Eldorado, W.

MOTION by Mr. Brasher to table the application for more detailed evidence in structural design experience, **SECOND** by Dr. Gerstle,

Roll call vote taken:

Voting 'Aye': Mr. Bohannon, Dr. Gerstle, Mr. Tonander, Mrs. Samora, Mr. Brasher

PASSED unanimously.

b) Newell, J.

MOTION by Dr. Gerstle to approve for endorsement in civil engineering, **SECOND** by Mr. Tonander,

Roll call vote taken:

Voting 'Aye': Mr. Bohannon, Dr. Gerstle, Mr. Tonander, Mrs. Samora, Mr. Brasher

PASSED unanimously.

c) Romines, W.

MOTION by Dr. Gerstle to approve for endorsement in civil engineering and direct staff to address and remind applicant of the answer he provided in his application, **SECOND** by Mr. Brasher,

Roll call vote taken:

Voting 'Aye': Mr. Bohannon, Dr. Gerstle, Mr. Tonander, Mrs. Samora, Mr. Brasher

PASSED unanimously.

d) Seferovic, S.

MOTION by Dr. Gerstle to approve for the bypass of the FE exam, **SECOND** by Mr. Brasher,

Roll call vote taken:

Voting 'Aye': Mr. Bohannon, Dr. Gerstle, Mr. Tonander, Mrs. Samora, Mr. Brasher

PASSED unanimously.

MOTION by Dr. Gerstle to approve for endorsement in structural engineering, **SECOND** by Mr. Brasher,

Roll call vote taken:

Voting 'Aye': Mr. Bohannon, Dr. Gerstle, Mr. Tonander, Mrs. Samora, Mr. Brasher

PASSED unanimously.

e) **Tohid, U.**

MOTION by Mr. Brasher to approve for endorsement in mechanical engineering, **SECOND** by Dr. Gerstle,

Roll call vote taken:

Voting 'Aye': Mr. Bohannon, Dr. Gerstle, Mr. Tonander, Mrs. Samora, Mr. Brasher

PASSED unanimously.

2) **PE Reinstatement**

a) **Rochin-Bernal, R.**

MOTION by Mr. Brasher to table until the next meeting, to allow the Board and staff to review the Practice Act in regards to lapsed status, **SECOND** by Dr. Gerstle,

Roll call vote taken:

Voting 'Aye': Mr. Bohannon, Dr. Gerstle, Mr. Tonander, Mrs. Samora, Mr. Brasher

PASSED unanimously.

9. **Next Scheduled Meeting Date:** August 6, 2020 – Albuquerque or Virtual

10. Adjourn

MOTION by Mr. Brasher to adjourn, **SECOND** by Mr. Tonander,

Roll call vote taken:

Voting 'Aye': Mr. Bohannon, Dr. Gerstle, Mr. Tonander, Mrs. Samora, Mr. Brasher

PASSED unanimously.

Meeting adjourned at 11:55 a.m.