

**SPECIAL MEETING OF THE PROFESSIONAL ENGINEERING
COMMITTEE of the Board of Licensure for
Professional Engineers and Professional Surveyors
held 9:00 a.m., Friday, September 18, 2020,
Virtual/Telephonic Meeting**

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

Members Absent-

Others Present- Perry Valdez, BLPEPS, Executive Director
Miranda Gonzales, BLPEPS, Administrative Manager
Maria Ruiz, BLPEPS, Licensing Administrator
Valerie Joe, Legal Counsel
Martin Romero, RLD/CID General Construction Bureau Chief
Sally Galanter, RLD/CID General Counsel
Michael Bodelson, Architect, LEED-AP, BD+C, NM BEA Chair
Earl Burkholder, PEPS
Geoffrey Walker
Scotty Goodale
Frank Guzman, PE

1. Convene, Roll Call and Introduction of Audience

The Committee did not have a quorum to begin the meeting; Mr. Bohannon requested to invite a surveyor member to substitute for a non-attending member in order to have a quorum. Mr. Spirock, PS joined the meeting to complete a quorum.

Mr. Bohannon convened the meeting at 9:11 a.m.; he read the meeting script regarding the virtual meeting protocols. Roll call was taken and a quorum noted. Audience introductions made at this time. Mr. Burkholder, Mr. Goodale, Mr. Romero, Mr. Bodelson, Mr. Guzman, and Mrs. Galanter, introduced themselves.

Mr. Valdez introduced Ms. Joe as the Board's new legal counsel from the Attorney General's Office. Ms. Joe introduced herself.

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,

Roll call vote taken:

Voting 'Aye': Mr. Bohannon, Dr. Gerstle, Mr. Tonander, Mr. Spirock

PASSED unanimously.

4. **Requested Public Comment**

a. **Romero, M. – Professional Seal Requirements for Fire Suppression Systems**

Mr. Bohannon acknowledged Mr. Romero in the audience. Mr. Romero addressed the Committee regarding the New Mexico State Fire Marshal proposed rule changes in regards to the fire suppression systems and engineering design requirements. Mr. Romero stated Mrs. Galanter would explain CID's opposition to these proposed changes.

Mrs. Galanter stated the State Fire Marshal's Office submitted proposed rules, and one of the recommendations was for the removal of the requirement for all shop drawings to be sealed by a licensed professional engineer. She explained it was suggested it would only be necessary for a NICET III or IV signature for the plans to be submitted. Mrs. Galanter reported she included in her response to this recommendation that it would be against the New Mexico Engineering and Surveying Practice Act.

Mr. Bohannon stated the Board did a thorough investigation, about three years ago, and consistently upholds that anything, which requires an engineering calculation, falls within the purview of the Engineering and Surveying Board. He explained if people are preparing drawings that require engineering calculations, and they are not an engineer licensed in New Mexico, then they are in violation of the Board's Act. He added, during his time on the Board, and Mr. Brasher's, this interpretation has been consistent.

Mrs. Galanter commented that she is not saying that the change will happen, but that is what is proposed. She added we would have to ultimately look at what the rules say when they come out. Mrs. Galanter informed the Committee the rule hearing is scheduled for October 21 and possibly leaving the record open until November 4.

***Mr. Brasher joined the meeting at 9:26 a.m. ***

Mr. Tonander asked if the proposed rule is it omitting any statement that an engineer's seal is required, or is it explicitly stating an engineer's seal is not required. Mrs. Galanter noted the recommendation is to remove the requirement that all shop drawings have to be sealed by a licensed professional engineer, and requiring only the signature of a NICET III or IV on submittal plans.

Mr. Tonander inquired about the specific section of the regulation that is being changed. Mrs. Galanter provided the section, 10.25.5.16. She clarified the language is not in the proposed rules but from a recommendation that was made to the proposed rule change.

Mr. Bohannon asked Mr. Romero and Mrs. Galanter if they were requesting a letter from the Board taking a position on the proposed rules, on how it would affect the practice of engineering.

Mrs. Galanter responded that CID just wanted to alert the Board about this recommendation, because CID has a good relationship with the Board and the Director.

Mr. Bohannon assigned Mr. Brasher and Mr. Valdez to draft a letter from the Board to address this issue. Mrs. Galanter informed Mr. Bohannon the deadline to submit a letter as an exhibit has passed. Mr. Bohannon thanked Mrs. Galanter for the information.

Mr. Spirock suggested a Board member, Mr. Valdez, or legal counsel attend the rule hearing and read the letter for the record.

Mr. Tonander informed the Committee that if the first sentence were removed from the existing rules, where it discusses the Practice Act, the State Fire Marshal's Office would not be in contradiction of the Practice Act. He elaborated it would simply remove the language that refers back to the Engineering and Surveying Practice Act.

Mrs. Galanter informed the Committee of the letter from MicroTek which suggests that the plans not require an engineer's seal, so the Board may want to address that in the letter.

Mr. Bohannon thanked Mr. Romero and Mrs. Galanter for bringing this to the Board's attention.

b. Walker, G. – Reconsideration for Licensure by Endorsement

Mr. Bohannon acknowledged Mr. Walker in the audience. Mr. Walker introduced himself and reminded the Committee they had decided to have

NCEES perform a credentials evaluation on his bachelor's degree. He stated the evaluation showed there were no deficiencies.

Mr. Valdez informed Committee members that the credentials evaluation was included in their meeting packets and on the agenda for their review.

Mr. Bohannon explained the reason for the evaluation and informed Mr. Walker the Committee will review his information in closed session and make a decision.

c. Goodale, S. – Licensure by Endorsement

Mr. Bohannon acknowledged Mr. Goodale in the audience. Mr. Goodale thanked the Committee for allowing him to present himself. He provided a summary of his background as an engineer of 20 years. He informed the Committee that in 2013 he went to work in Canada, where he tested and licensed through the APEG organization, in Saskatchewan. Mr. Goodale stated he continued to develop his skills with his MBA and level 2 New Mexico utility operators certification to supplement technical specifications and understanding with actual operator training around all the drinking water standards, those are the areas that he has expertise in with Mosaic Potash.

Mr. Bohannon requested Mr. Goodale provide a brief statement of the last five years in the design field, as opposed to the management field.

Mr. Goodale responded that with Mosaic he has specifically been a utility engineer and utility engineering manager. He informed the Committee that Mosaic has over 100 miles of fresh water pipelines, in the design aspect; he sized piping to develop the pump sizes. He continued explaining his work included correspondence with competing pumps out of over 16 wells in the Lovington area and Carlsbad, in addition to normalizing testing procedures which come online with booster pumps as needed and also full telemetry and control systems to allow wells to come on when demand was needed.

Mr. Bohannon said the last five years have been in design and management. He also inquired if Mr. Goodale was working under a licensed engineer. Mr. Goodale answered that Ms. Sarah Gonzales is the engineer on site and she would stamp the permitting plans, which were submitted to the New Mexico Environment Department, and reviewed the design conditions.

Mr. Bohannon informed Mr. Walker the Committee will review his information in closed session and make a decision.

***Mr. Spirock left the meeting at 9:45 a.m. ***

5. Old Business

a. 2020 License Renewal PDH Waiver/Reduction Requests

1) American Council of Engineering Companies (ACEC)

Mr. Bohannon presented the agenda item referring to the ACEC's written request from Ms. Dawn Tibbets. He informed the Committee that ACEC is requesting a reduction of the PDHs for the 2020 renewal period. Mr. Bohannon asked if there was any discussion.

Mr. Bohannon reminded the members this topic was previously discussed two meetings ago, regarding the surveyors. He summarized, in his words, the conclusion of the previous discussion was that a licensee has two years to get the required 30 PDHs and there are various ways to obtain those hours. Mr. Tonander agreed with the summary.

Mr. Bohannon indicated he is not inclined to provide a waiver nor reduction. He asked for the other members comments.

Dr. Gerstle agreed with the assessment and did not see a need to waive the requirement. Mr. Brasher also agreed with not waiving the requirement.

2) Mendoza, M.

Mr. Bohannon presented Mr. Mendoza's request for an exemption of the ethics hours. He said Mr. Mendoza reports that he does not have a computer nor an internet connection to earn the ethics hours online.

Mr. Bohannon asked Mr. Valdez and Ms. Joe if the Committee is able to waive the credits for this individual based on his situation. Mr. Valdez responded that the Board should be able to, especially during the pandemic restrictions. Ms. Joe agreed that for individuals who have difficulties based upon their personal circumstances, on a case-by-case basis, and because of the pandemic, it does seem as a barrier to earn the hours.

Mr. Bohannon requested moving this item to the November agenda.

Dr. Gerstle recommended informing Mr. Mendoza that McKissock Learning provides correspondence courses.

Mr. Bohannon thanked Dr. Gerstle for his suggestion. Mr. Brasher suggested making a motion and not waiting for the November meeting.

MOTION by Mr. Brasher to allow Mr. Mendoza a waiver of up to two hours of ethic PDHs, **SECOND** by Dr. Gerstle,

Roll call vote taken:

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

PASSED unanimously.

6. New Business

a. **PE Exam Eligibility Extension Due to COVID-19**

Mr. Valdez explained that due to the COVID-19 pandemic the spring national exams were canceled because of the pandemic restrictions and many closures throughout the country. He noted the staff received a few requests from some applicants who were unable to take their spring exams and whose applications would expire prior to the fall exam dates. Mr. Valdez reminded the Committee members that the New Mexico Administrative Code states an application approved by the Board is valid for two years. He said that through administrative action he extended the application deadlines through the fall.

Mr. Valdez said he placed this item on the agenda because there were two individuals, who are on the agenda, are requesting a lengthier amount of time for the validation of their application. He explained that he was not comfortable with extending the validation longer than the fall exams and brought this to the Committee for their opinion and decision. Mr. Valdez is asking the Committee if the application validation should be extended for a year or so. He informed the members that based on his conversation with Ms. Joe; this decision could be done on a case-by-case decision or a general blanket decision.

Mr. Bohannon thanked Ms. Joe for her counsel on the matter. He also expressed his thought that this should be handled administratively. Mr. Bohannon solicited the thoughts of the other members. The other members agreed with Mr. Bohannon.

Mr. Bohannon stated there two options, the Committee could grant Mr. Valdez the ability to administer extensions due to the pandemic and while under the Governor's orders on the pandemic; he would have the ability to provide extensions. He presented the other option, to handle the requests in closed session. Mr. Bohannon's inclination was to grant Mr. Valdez the ability to administer the extensions.

Mr. Brasher asked Mr. Valdez how many applicants would this affect. Mr. Valdez responded he did not have that number.

Mr. Tonander stated the pandemic order could last years, and is wondering if granting the ability for the duration or through a deadline, which ever occurred first. Mr. Bohannan agreed with Mr. Tonander. Mr. Brasher recommended placing a sunset to the ability, so it is not permanent. Ms. Joe recommended the Committee could state for those applicants whose validation is coming up, Mr. Valdez could extend it for six months, a year, or whatever time frame. She said at that time the Committee could re-evaluate the authority next March or April, or within certain parameters.

***Mrs. Samora joined the meeting at 10:00 a.m. ***

MOTION by Mr. Brasher to grant the authority to Executive Director Valdez to grant extensions for exam applications, arising from the consequences of the COVID-19 pandemic. His ability expires on March 18, 2021 and is subject to renewal, **SECOND** by Mr. Tonander,

Roll call vote taken:

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

PASSED unanimously.

Mr. Bohannan requested an amendment to the agenda to delete items 8. b. 1) a) and b) from the agenda.

MOTION by Mr. Tonander to remove items 8. b. 1) a) and b) from the agenda, **SECOND** by Mr. Brasher,

Discussion: Mr. Bohannan stated the agenda was amended because approval was delegated to Mr. Valdez to grant extensions.

Roll call vote taken:

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

PASSED unanimously.

7. **Application Review – Recommended Approval**

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

MOTION by Mr. Brasher to approve Exhibit A, dated September 18, 2020, the recommended for approval applications, **SECOND** by Mr. Tonander,

Discussion: Mr. Tonander noted for the record that Executive Director Valdez was given the authority to issue license numbers at a prior meeting. He continued explaining this is the first meeting where the list was presented in this fashion and the title, held over from prior lists, may have generated some confusion.

Roll call vote taken:

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

PASSED unanimously.

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

MOTION by Mr. Brasher to approve the requests for retired status, **SECOND** by Mr. Tonander,

Roll call vote taken:

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

PASSED unanimously.

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

MOTION by Mr. Brasher to approve the requests for inactive status, **SECOND** by Mr. Tonander,

Roll call vote taken:

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

PASSED unanimously.

8. **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 Dr. Gerstle,

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

9. **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) **Case 1-PE-04-02-2019 – Supplemental CMR**

Mr. Bohannon reported the Committee accepted the supplemental report from the Board Investigator.

b. **Applications for Review**

1) **PE Exam Eligibility Extension Request(s)**

a) **Schaffer, M.**

b) **Silva, H.**

***Removed from the agenda. ***

2) **PE Exam**

a) **Fluke, J.**

MOTION by Mr. Tonander to defer the application until additional information is provided regarding employment experience and number of hours worked, between the periods of 7/1/2016, 6/31/2017, 8/1/2018, and 7/31/2019, **SECOND** by Mr. Brasher,

Roll call vote taken:

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

PASSED unanimously.

b) **Macias, R.**

MOTION by Mr. Tonander to approve to take the PE exam, **SECOND** by Mr. Brasher,

Roll call vote taken:

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

PASSED unanimously.

3) PE Endorsement

a) Carver, B.

MOTION by Mr. Tonander 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.

b) Dell, H.

MOTION by Mr. Tonander to approve for endorsement in Civil engineering, **SECOND** by Mr. Brasher,

Roll call vote taken:

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

PASSED unanimously.

c) Goodale, S.

MOTION by Mr. Tonander pursuant to 61-23-14.1 D. (2) of the Practice Act, to approve for endorsement in Chemical engineering, **SECOND** by Mr. Brasher,

Roll call vote taken:

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

PASSED unanimously.

d) Jensen, J.

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

Roll call vote taken:

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

PASSED unanimously.

e) **Liu, D.**

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.

f) **Patterson, K.**

MOTION by Mr. Tonander to approve for endorsement in Civil engineering, **SECOND** by Mr. Brasher,

Roll call vote taken:

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

PASSED unanimously.

g) **Walker, G. - Reconsideration**

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

Roll call vote taken:

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

PASSED unanimously.

4) PE Retired Status Request

a) **Campbell, C.**

MOTION by Mr. Brasher to approve for retired status because Mr. Campbell was initially approved for inactive status and meets the requirements for retired status, **SECOND** by Dr. Gerstle,

Roll call vote taken:

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

PASSED unanimously.

10. Next Scheduled Meeting Date: November 5, 2020 – Las Cruces or Virtual

11. Adjourn

MOTION by Dr. Gerstle to adjourn the meeting, **SECOND** by Mr. Brasher,

Roll call vote taken:

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

PASSED unanimously.

Meeting adjourned at 11:53 a.m.