

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

Others Present- Perry Valdez, BLPEPS, Executive Director
Miranda Gonzales, Administrative Manager
Valerie Joe, AAG, Legal Counsel
Robert Hanks, PE, NMSPE President
Earl Burkholder, PEPS
Andrew Strasser
Refugio Rochin-Bernal

1. Convene, Roll Call and Introduction of Audience

Mr. Bohannon read the meeting script regarding the virtual meeting protocols. Mr. Bohannon convened the meeting at 1:09 p.m. Roll call was taken, and a quorum noted.

Audience introductions made at this time. Mr. Hanks, Mr. Strasser, Mr. Burkholder, and Mr. Rochin-Bernal 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. Brasher to approve the agenda as amended to add Mr. Strasser under item 5. b., **SECONDED** by Dr. Gerstle,

Roll Call Vote:

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

The motion **PASSED unanimously**.

4. Approval of Minutes

a. Minutes of January 14, 2021

MOTION by Mr. Brasher to approve the minutes of January 14, 2021 as presented, **SECONDED** by Dr. Gerstle,

Roll Call Vote:

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

The motion **PASSED unanimously**.

b. Minutes of March 19, 2021

MOTION by Mr. Brasher to approve the minutes of March 19, 2021 as presented, **SECONDED** by Dr. Gerstle, **PASSED** unanimously.

Roll Call Vote:

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

The motion **PASSED unanimously**.

5. Requested Public Comment

a. B. Crysler – Clarification if GPS Machine Control Models are Considered Engineering and/or Surveying

Mr. Bohannon introduced the item by providing a summary of the letter. He said the letter was addressed to the Full Board, which was the appropriate place for the letter's consideration. Mr. Bohannon informed the Committee members the letter was about the use of GPS machine control models in construction and/or surveying services. He thought it was an appropriate subject to be discussed.

Mr. Bohannon stated it was apparent Ranger Engineering was following State statute, however, it brought to his mind the question of what was being done in the construction industry and if it was following State statute. He asked the other members for their thoughts on the matter.

Dr. Gerstle asked what types of machines do the control model design. Mr. Bohannon responded construction equipment has GPS installed and a grading or roadway plan are uploaded into the GPS so the equipment will follow the coordinates of the plan. He explained if someone is programming the GPS and they are not a licensed engineer or surveyor, would that be considered as a violation of the Engineering Surveying Practice Act? Mr. Bohannon noted Ranger Engineering, per their letter, program the GPS and the Surveyor on site would validate the coordinates. He said it was a gray area, where individuals are not really staking anything into the ground but grading to a product.

Mr. Brasher recommended to discuss the item at the Full Board meeting.

b. Andrew Strasser

Mr. Bohannan acknowledged Mr. Strasser, who was in the audience, to provide public comment. Mr. Strasser requested the Board consider his experience as a graduate research assistant as part of the experience requirement for licensure. He provided a summary of his experience. Mr. Strasser thanked the Board for opportunity to speak.

Mr. Bohannan explained that either classes for a master's degree or working while attending classes may be counted towards licensure, however, both may not be counted at the same time, only one or the other must be considered. He informed Mr. Strasser his file would be reviewed during the closed session.

c. Refugio Rochin-Bernal

Mr. Bohannan acknowledged Mr. Rochin-Bernal, who was in the audience, to provide public comment. Mr. Rochin-Bernal stated he prepared a written letter. Mr. Bohannan requested Mr. Rochin-Bernal to email his letter to Mr. Valdez.

Mr. Rochin-Bernal requested permission to read a portion of his letter. Mr. Bohannan allowed him to do so. Mr. Rochin-Bernal began reading his letter, which provided a background of his engineering experience.

Mr. Bohannan informed Mr. Rochin-Bernal his file would be reviewed during the closed session.

6. Old Business

a. Advisory Opinion – The Use of Standard “As Built” Drawings in Design Sets

Mr. Valdez reported the item was placed on the agenda as requested by the Rules Committee. He explained the Rules Committee requested the Professional Engineering Committee decide whether to draft an advisory opinion, or to amend the opinion drafted in 2017.

Mr. Bohannan suggested holding a special meeting to discuss possible rule changes and the advisory opinion. Mr. Brasher and Dr. Gerstle agreed with Mr. Bohannan.

b. Arizona Legislation – Senate Bill 1062 [0:34:10]

Mr. Tonander provided background information for the Arizona Senate Bill (SB) 1062. He said he brought the bill forward because he was uncertain if the New Mexico Board could offer an opinion. Mr. Tonander outlined the purpose of bill 1062, He explained that ASCE issued a statement that the bill would effectively allow unlicensed individuals to practice at the same level as licensed individuals.

Mr. Tonander said ASCE stated by recommending a change to the definition of engineer the bill would allow anyone with an engineer education, training, and experience to apply engineering practices and interpret engineering data.

Mr. Tonander stated the key element was the education training and experience but no licensure.

Mr. Bohannon suggested keeping the item on the agenda. He recommended Mr. Valdez contact the Arizona Board asking how the bill affected their licensure. Mr. Bohannon proposed drafting a letter to the Arizona Board asking how it would affect their enforcement and licensure.

Mr. Tonander reported the bill only affected engineering.

Mr. Bohannon wondered how the Arizona Department of Transportation would proceed with their projects.

Mr. Tonander informed the Committee of Arizona SB 1304. He noted the bill transferring regulatory oversight from the Board of Engineering to another department.

Mr. Bohannon directed Mr. Valdez to place the SB 1062 and SB 1304 (Arizona legislation items) on future agendas.

7. New Business

a. Status update to NMSA 62-14 (utility locates)

Mr. Tonander reported the proposed change update died in committee at the Legislature.

b. New Mexico Legislation

1) Status Update House Bill 232

Mr. Valdez stated the amended language proposed by the Board, provided through the Fiscal Impact Report, was added. He reported the bill died in committee at the Legislature.

2) Status Update House Bill 251

Mr. Valdez reported the bill died in committee at the Legislature.

3) Special Session Senate Bill 2 – Updates to the Uniform Licensing Act

Mr. Valdez informed the Members regarding the changes to the Uniform Licensing Act. He communicated the change in approval time of 90 days to 30 days for an application from an active military member, veteran, and spouse. Mr. Valdez reported another change, which was made a

year ago, affecting the fees charged. He said there was a wavier of fees for the first three years of licensure.

Mr. Valdez indicated Senate Bill 2 required all Boards to remove the terms “moral turpitude” and “good character” from their statutes and rules, then to define which offenses may be in contradiction of those terms and affect licensure approval.

Ms. Joe said once the bill is in effect the terms “moral turpitude” and “good character” which are in the Engineering and Surveying Practice should be ignored. She said those two terms must be removed from the statute and rules. Ms. Joe stated specific criminal offenses or other offenses must be defined in rule which would disqualify someone or for the Board to take into consideration when considering an applicant for licensure. She informed the members the requirement is for all Boards and effective July 1, 2021. Ms. Joe added the rules are required to be promulgated by December 31, 2021.

Mr. Brasher asked if a comprehensive list was required. Ms. Joe answered yes and added that if it was discovered something was missed then a new rule hearing could be convened, following the procedures to do so, to include the offense or offenses to the list.

c. Unlicensed Practice – Notification to Clients

Mr. Bohannon provided the background regarding the item, which was introduced at the January 2021 meeting. He stated this was to address if a licensee found themselves in an expired or lapsed status it would be required for them to notify their clients that they stamped plans while their license was lapsed or expired.

Mr. Brasher concurred with Mr. Bohannon’s information. He reported on the discussion from the Professional Surveying Committee meeting. Mr. Brasher was reminded of a case where a licensee had several surveys and ILRs which would have made contacting these clients too extensive and burdensome.

Dr. Gerstle agreed with Mr. Brasher’s suggestion.

Mr. Bohannon postulated some licensees would be required to purchase a new stamp every 2 years. He explained the stamp might have two dates, the expiration date and the date the plans were signed.

There was further discussion about the options with the seal and stamping plans.

Mr. Tonander was concerned about those individuals who may either forget or not comply with placing an expiration date. Mr. Bohannon agreed with Mr. Tonander. He said if it was implemented then it needed to be enforced and if it was not enforced then there was no reason for it to be implemented.

Mr. Bohannon stated he was not in support of the implementing the requirement.

Dr. Gerstle suggested drafting an advisory opinion. After some discussion, it was decided not to proceed nor support the requirement.

8. Application Review – Recommended Approval

a. **Confirmation of Staff-Reviewed Applications**

MOTION by Dr. Gerstle to approve the Confirmation of Staff-Reviewed Application List dated April 15, 2021, **SECONDED** by Mr. Brasher,

Discussion: Mr. Tonander wondered how rapidly the applications which met the new law were being approved. Mr. Valdez responded he reviewed and approved the applications as soon as he was notified they were ready for his review. Ms. Gonzales replied staff processed the applications within a week then notified Mr. Valdez a file was ready for him to review. She said if a verification was missing then staff contacted the applicant requesting they contact the other jurisdictional Board for the verification.

Dr. Gerstle asked what the time period was for the list. Ms. Gonzales responded it was from the week before the last meeting to the week before the meeting. Dr. Gerstle noted only one PE exam application approved. Mr. Valdez replied it could be other applicants may not have a completed an application and in part due to the COVID pandemic.

Roll Call Vote:

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

The motion **PASSED unanimously**.

b. **Retired Application(s)**

MOTION by Mr. Brasher to approve the retired application list, **SECONDED** by Dr. Gerstle,

Roll Call Vote:

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

The motion **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. **SECONDED** by Dr. Gerstle,

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

Ms. Samora joined the meeting at 3:50 pm during the closed session of the meeting.

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) **7-PE-11-07-2018 Hearing Officers Report**

MOTION by Dr. Gerstle to accept the findings of the Hearing Officer's Report and issue a fine of \$750 plus administrative costs, **SECONDED** by Mr. Brasher,

Roll Call Vote:

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

Mr. Tonander recused himself from the vote.

The motion **PASSED**.

2) **1-PE-04-02-2019**

MOTION by Dr. Gerstle to close the case, **SECONDED** by Mr. Tonander,

Roll Call Vote:

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

The motion **PASSED unanimously**.

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

Mr. Bohannan reported that Ms. Gonzales, in closed session, provided a report to the Committee on the Status of pending cases and referrals for Notice of Contemplated Actions.

c. Applications for Review

1) EI Certification

a) Aleali, S.

MOTION by Dr. Gerstle to approve for EI certification,
SECONDED by Mr. Brasher,

Roll Call Vote:

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

The motion **PASSED unanimously**.

2) PE Licensure

a) Banks, E.

MOTION by Dr. Gerstle to approve for Fire Protection,
SECONDED by Mr. Brasher,

Roll Call Vote:

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

The motion **PASSED unanimously**.

b) Strasser, A.

MOTION by Dr. Gerstle to approve for Civil pending a corrected transcript for the Bachelor's degree, **SECONDED** by Mr. Brasher,

Discussion: Mr. Bohannon explained to Mr. Strasser there was a discrepancy on the transcript on record. He requested Mr. Strasser to submit a corrected transcript.

Roll Call Vote:

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

The motion **PASSED unanimously**.

3) PE Exam

a) Tafoya, R.

MOTION by Mr. Tonander to approve for bypass of the FE exam and approval to take the PE exam, **SECONDED** by Dr. Gerstle,

Roll Call Vote:

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

The motion **PASSED unanimously**.

4) PE Endorsement

a) Chowdhury, A.

MOTION by Mr. Tonander to approve for PE endorsement in Electrical engineering, **SECONDED** by Dr. Gerstle,

Roll Call Vote:

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

The motion **PASSED unanimously**.

b) Judson, R.

MOTION by Mr. Tonander to approve for PE endorsement in Civil engineering, **SECONDED** by Dr. Gerstle,

Roll Call Vote:

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

The motion **PASSED unanimously**.

c) Roller, A.

MOTION by Dr. Gerstle to approve for PE endorsement in Mechanical engineering, **SECONDED** by Mr. Brasher,

Roll Call Vote:

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

The motion **PASSED unanimously**.

d) Schmitt, T.

MOTION by Dr. Gerstle to approve for PE endorsement in Mechanical engineering, **SECONDED** by Mr. Brasher,

Roll Call Vote:

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

The motion **PASSED unanimously.**

e) Sproul, E.

MOTION by Mr. Tonander to approve for PE endorsement in Mechanical engineering, **SECONDED** by Mr. Brasher,

Roll Call Vote:

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

The motion **PASSED unanimously.**

5) PE Reinstatement

a) Rochin-Bernal, R. – Reconsideration

MOTION by Mr. Brasher to approve for reinstatement in Civil engineering, **SECONDED** by Mr. Tonander,

Roll Call Vote:

Voting 'Aye': Mr. Bohannon, Mr. Tonander, Ms. Samora, Mr. Brasher

Dr. Gerstle recused himself from the vote.

The motion **PASSED.**

11. Next Scheduled Meeting Date:

a. June 10, 2021 – Santa Fe or Virtual

Mr. Tonander advised the Committee he would not be in attendance due to a conflict of scheduling.

b. Schedule Special PEC Meeting Regarding Proposed Rule Changes

Mr. Bohannon requested the Members check their calendars to schedule the special meeting. After some discussion it was decided to hold the meeting on May 7, 2021 at 9:00 a.m.

12. Adjourn

Meeting adjourned at 4:36 p.m.

Submitted by:

Approved by:

Perry Valdez, Executive Director

Ron Bohannon, Committee Chair

_____Approved Date