

**MEETING OF THE NEW MEXICO BOARD OF  
LICENSURE FOR PROFESSIONAL ENGINEERS  
AND PROFESSIONAL SURVEYORS held at  
9:00 a.m., Friday, April 16, 2021,  
Virtual/Telephonic Meeting**

**Members Present –** Paul Brasher, PE, Board Chair  
Cliff Spirock, PS, Vice Chair  
Augusta Meyers, Public Member  
Dr. Walter Gerstle, PE  
Karl Tonander, PE  
David Cooper, PS  
Ron R. Bohannon, PE  
Julie Samora, PE

**Others Present –** Perry Valdez, BLPEPS, Executive Director  
Annette Thompson-Martinez, BLPEPS, Deputy Director  
Valerie Joe, AAG, Legal Counsel  
Glen Thurow, PS  
Earl Burkholder, PEPS  
Rob Davis

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

Prior to convening the meeting Mr. Brasher read the meeting script regarding the virtual meeting protocols. He convened the meeting at 9:18 a.m., roll call was taken and a quorum noted.

Audience introductions made at this time. Mr. Burkholder and Mr. Thurow introduced themselves.

**2. Meeting Notification**

Mr. Valdez informed the Board 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, **SECONDED** by Ms. Meyers,

**Roll Call Vote:**

**Voting 'Aye':** Mr. Brasher, Mr. Spirock, Ms. Meyers, Mr. Bohannon, Dr. Gerstle, Mr. Tonander, Mr. Cooper, Ms. Samora

The motion **PASSED unanimously.**

4. **Approval of Minutes**

a. **Minutes of January 15, 2021**

**MOTION** by Mr. Spirock to approve the Minutes of January 15, 2021 as presented, **SECONDED** by Ms. Meyers,

**Roll Call Vote:**

**Voting 'Aye':** Mr. Brasher, Mr. Spirock, Ms. Meyers, Mr. Bohannon, Dr. Gerstle, Mr. Tonander, Mr. Cooper, Ms. Samora

The motion **PASSED unanimously.**

5. **Requested Public Comment**

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

Mr. Valdez reported he contacted Mr. Crysler, per the Professional Engineering Committee's request, offering him an invitation to attend the meeting. He said Mr. Crysler accepted the offer, however, he just received an email from Mr. Crysler that he (Mr. Crysler) would not be attending due to another engagement.

Mr. Spirock noted he researched the New Mexico Administrative Code and the New Mexico Minimum Standards for Surveying. He said there are references to geospatial data, but not addressing Mr. Crysler's letter. Mr. Spirock requested the Rules Committee discuss this at their next meeting. It was agreed to move this item to the Rules Committee for discussion.

6. **Director's Report**

a. **Staff Vacancy Update**

Mr. Valdez reported that the Compliance Officer was successfully reclassified and would be advertised. He said the other vacant position was the Executive Assistant position which would soon be filled.

Mr. Valdez informed the Board he contacted the Governor's Office regarding the Board vacancies. He was in the process of scheduling a meeting to discuss the vacancies.

b. **Financial Report**

Mr. Valdez informed the Board they were successful in obtaining raises for the staff which they voted for at their November 2019 meeting.

Ms. Thompson-Martinez reported the State of New Mexico purchased a new budget system for submittal of the appropriation budgets. She anticipated Mr. Valdez, Ms. Stephanie Trujillo, and herself would participate in the offered trainings.

Ms. Thompson-Martinez provided a financial report to the Board. She reported a projected ending balance in the personnel category of \$119,171.81. Mr. Bohannan asked if there were an ability to move money from the personnel category to the professional services category. Ms. Thompson-Martinez responded the deadline to amend a contract had passed. Mr. Bohannan asked if there was the ability to amend the investigator's contract to add additional responsibilities. She replied there was the ability to do so for a new contract.

Mr. Brasher asked if there would be a lapse between the investigative services to when the contracts are approved. Mr. Valdez responded that there would probably be a lapse in service. He said the contract process was begun earlier than usual to minimize the lapse in service.

Dr. Gerstle asked what the amount of \$135,000, in line item 535310, was appropriated for. Ms. Thompson-Martinez answered it was the amount due to RLD (Regulation and Licensing Department) for the administrative services they provide to the Agency.

Ms. Thompson-Martinez reported on the other services category. She informed the Board that due to the shut-down as a result of the pandemic and teleworking there were going to be substantial savings. Mr. Bohannan suggested purchasing IT equipment to broadcast the meetings once the Board meets in person. He said it would be beneficial to offer the public the ability to continue attending the meetings through the virtual platform. Mr. Brasher directed Mr. Valdez to research equipment. Ms. Meyers offered to help with the research.

Ms. Thompson-Martinez continued her report, stating there would be a projected ending balance in the 400, or Other Services, category of \$92,599.38. She said it may be higher at the end of the fiscal year.

Ms. Thompson-Martinez reported on the fund balance amount. She provided the expense and revenue totals for Fiscal Year 21. Ms. Thompson-Martinez projected a total of \$307,961.95 to be reverted into the fund balance. She said the projected fund balance total at the end of Fiscal Year 21 would be \$1,218,925.62.

Mr. Bohannan noted if the Agency was fully staffed the Board would have used the \$119,171.81 from the personnel category. Ms. Thompson-Martinez stated the revenue being generated continued to grow. She added the pandemic did not slow down the number of applicants applying for licensure.

Mr. Bohannan recommended the Board review the fees again since the fund balance is increasing.

Ms. Thompson-Martinez announced she was contemplating retiring. She said her decision was based on the retiree healthcare rules being changed. Ms. Thompson-Martinez expressed her gratitude and appreciation working with the Board members and the staff.

Mr. Brasher asked Ms. Thompson-Martinez if she retired when the date of her retirement would be. Ms. Thompson-Martinez replied June 1, 2021 would be the effective date.

**c. Licensing Report**

Mr. Valdez reported there were 4,962 license renewals generated on October 20, 2020. He said as of April 9, 2021, there were a total of 453 lapsed licenses, there were 432 professional engineers, 19 professional surveyors, and 2 dual licenses. He gave a breakdown of in-state and out-of-state numbers.

Mr. Valdez stated there were 9,349 active licenses as of April 9, 2021. He provided the following break-down:

- Professional Engineers
  - Number of active PEs: **8,818**
    - In State: 1,991
    - Out of State: 6,827
- Professional Surveyors
  - Number of active PSs: **518**
    - In State: 222
    - Out of State: 296
- Professional Engineers/Professional Surveyors
  - Number of active PEPS: **13**
    - In State: 11
    - Out of State: 2

**7. Old Business**

**a. Scholarship Disbursements – For Fiscal Year 2021**

Ms. Thompson-Martinez reported CNM (Central New Mexico Community College) did not disburse the scholarship funding provided to them. She reported since CNM's surveying program was eliminated they were uncertain how to utilize the funding. Ms. Thompson-Martinez stated she explained the alternative educational pathway for a surveying license to CNM. She informed them about having something as a letter of intent on the student's intention of pursuing a professional surveying license. Ms. Thompson-Martinez reported CNM would advise her of how they plan on disbursing the FY21 funding. She read the email received from CNM.

Ms. Thompson-Martinez informed the Board regarding her discussion with NMSU. She said NMSU had a problem with disbursing the funds because when the funding was received on their end it was appropriated to the wrong account and they corrected the error. Ms. Thompson-Martinez reported the geomatics program was growing in the number of students. Mr. Spirock mentioned that NMSU allocated 500 dollars to the alternative education pathway for surveying.

Mr. Brasher asked if there were any scholarship funding not utilized by the institutions, those who received the funding. Ms. Thompson-Martinez responded that CNM and NMSU had not disbursed their funding as of the meeting. She said UNM and NM Institute of Mining and Technology have disbursed their scholarship funding. There was further discussion regarding CNM and the scholarship funding provided to them.

Mr. Tonander mentioned NM Institute of Mining and Technology was trying to develop a drone program for various purposes, including geomatics. He said they were looking for funding for the equipment. Mr. Tonander wondered if the Board were able to assist in the funding. Mr. Spirock expressed his support but noted the criteria of the scholarship funding prevented the institution from awarding a scholarship to a student because the student must be enrolled in a surveying program.

Mr. Valdez said Ms. Thompson-Martinez and he would research if it were possible for the Board to provide financial assistance to the NM Institute of Mining and Technology for their drone program.

**b. Unlicensed Practice – Notification to Clients**

Mr. Brasher reminded the Board members of his suggestion of a licensee notifying their clients if they stamped plans or survey plats while their license was either expired or lapsed. He also reported on a discussion he had with the Professional Surveying Committee; he said they reminded him of a case in which an individual had performed hundreds of ILRs and it would have been impractical for the individual to notify each of those clients.

Mr. Brasher said the suggestion did not seem pragmatic and difficult for a licensee to notify their clients, based on the discussions he participated in. He said the Board should evaluate each case individually where this could be practical.

Mr. Spirock said the Administrative Code required the professionals to report those who violate the statute, the rules, and the Minimum Standards of Surveying. He noted the Board could be more proactive filing a complaint on those they know are in violation. Mr. Spirock knew of individuals who refuse to

report other professionals because those individuals felt the complaint process is cumbersome and did not want to file a complaint against someone they know.

Mr. Bohannon commented the procedure of the Professional Engineering Committee has been to direct staff to file a complaint when they found a potential violation of the rules. He stated the complaint has been filed by the Board and investigated, the process would be handled by the Compliance Officer.

**c. Update to Fines Table**

Mr. Spirock introduced the agenda item providing the reason for updating the fines table. He explained the updated table incorporated both the engineering and surveying violations as well as incorporating the updated rules, eliminating the need for two separate fines tables. Mr. Spirock attempted to address the admonition of the courts regarding a surveying case which was successfully appealed. He stated the Courts said the Professional Surveying Committee was not specific enough in the application of violations and fines.

Mr. Spirock explained the updated fines table was also reviewed to comport with the removal of the terms “moral turpitude” and “good character”. He informed the Board that he added three violations at the end of the table regarding digital geospatial data.

Mr. Bohannon stated it was his understanding the fines table was to be used as a guidance. He asked Ms. Joe, if the updated table were adopted would the Board have discretion on levied fines or would the Board be locked into the fines listed in the table. Ms. Joe responded the document was a policy previously adopted as two separate documents, one for engineering and the other for surveying.

Mr. Tonander questioned the last violation on the fines table Mr. Spirock added pertaining to providing testimony in legal proceedings concerning authoritative locations. Mr. Spirock replied the language was copied from NCEES and was part of the Administrative Code defining what was the practice of surveying and what was not surveying when dealing with geospatial data. He explained if there was provision if the data is used in a legal proceeding, it classifies it as an authoritative location and must be done by a licensed surveyor.

Mr. Tonander requested Ms. Joe’s opinion on the last violation. Ms. Joe had not realized the ramifications of the violation in question, listed on the table. Mr. Tonander agreed with Mr. Spirock on the violation but was wondering how it would be used by the Board, addressing it with the Courts and the alleged violator.

**MOTION** by Mr. Bohannon to adopt the revised fines table with the correction to the citation of 61-23-3, Part 6 for the last three added violations, **SECONDED** by Dr. Gerstle,

**Roll Call Vote:**

**Voting 'Aye':** Mr. Brasher, Mr. Spirock, Ms. Meyers, Mr. Bohannon, Dr. Gerstle, Mr. Tonander, Mr. Cooper, Ms. Samora

The motion **PASSED unanimously**.

**8. New Business**

**a. Senate Bill 2 – NM Legislature Special Session – Updates to the Uniform Licensing Act**

Ms. Joe provided a synopsis of Senate Bill 2 from the 2021 Legislative Special Session. She said the bill removed any references of the terms “moral turpitude” and “good character”, therefore if those terms are in the statutes or rules the Board is to ignore them until changes are made to the statutes and rules. Ms. Joe informed the Board the Legislature mandated a list of offenses be provided which would be considered when reviewing an application for licensure. She explained the list must be promulgated in the rules prior to December 31, 2021.

There was a lengthy discussion regarding the various offenses, the length of list and how comprehensive the list would need to be. A question about the applications and the affidavit question at the end of the application was brought up. Ms. Joe stated this would need to be reviewed and a decision made once the list is created.

**b. Scheduled Special Full Board Meeting for Proposed Changes**

Mr. Bohannon reminded the Board the Professional Engineering Committee (PEC) scheduled a special meeting on May 7, 2021, to review the proposed changes.

Mr. Valdez proposed scheduling the special Full Board meeting for May 14, 2021, following the PEC special meeting. Mr. Spirock stated the Professional Surveying Committee (PSC) would be holding a special meeting as well.

After some discussion, it was decided to hold the special meetings on May 14, 2021 for PSC, May 21, 2021 for PEC, and May 28, 2021 for Full Board.

**c. Fiscal Year 2022 Meeting Calendar**

Mr. Valdez presented the draft Fiscal Year 2022 Meeting Calendar. He displayed the draft meeting calendar on the screen, noting he placed meeting locations in anticipation of in person meetings.

After some discussion regarding meeting locations and travel, it was decided to approve the draft meeting calendar with the change to the January meeting location to Albuquerque.

**MOTION** by Mr. Tonander to approve the Fiscal Year 2022 meeting calendar as presented, **SECONDED** by Mr. Spirock,

**Roll Call Vote:**

**Voting 'Aye':** Mr. Brasher, Mr. Spirock, Ms. Meyers, Mr. Bohannon, Dr. Gerstle, Mr. Tonander, Mr. Cooper

The motion **PASSED unanimously**.

**d. Qualifying PDHs Clarification Request**

- 1) YouTube Videos**
- 2) New Equipment Staff Training**
- 3) Trainings for New Employees**
- 4) HR Trainings**

Mr. Valdez reported to the Board that he received some questions for clarification if YouTube videos would qualify for PDHs.

Mr. Bohannon responded it goes back to the licensee to make the determination if the video furthers their profession to qualify as a PDH. He explained that during an audit the licensee would need to justify how the video expanded their education. Mr. Bohannon said the Board has never pre-approved a provider and left it up to the licensee.

Mr. Spirock asked what type of proof of completion would a licensee provide. Mr. Valdez replied that the rules mandate proof of completion when audited. He said in the case of YouTube videos the licensee could possibly provide the link to the video as proof of completion.

Mr. Valdez continued stating he was unsure how to document the training of new employees or new equipment staff training. He proposed a training log or documentation of the training.

Mr. Valdez noted another clarification which was HR trainings, for example sexual harassment trainings, or other types of trainings. Mr. Brasher said HR trainings are not to be considered because they do not pertain to engineering or surveying, there is no math and are not technical in nature.

Dr. Gerstle commented some type of proof of attendance is needed.



Mr. Bohannon stated UNM and NMSU provide online learning and there is no difference from watching a YouTube video to being in a classroom. He said someone could listen to a series of lectures for PDHs on a number of topics. Mr. Bohannon agreed with Dr. Gerstle, however, it would be difficult for the Board to defend its position. He said it would be on the licensee, during an audit, to show how the video relates to their continuing education and how it furthers their education. Mr. Bohannon said a list of what the topic was, when it occurred, and who presented would be necessary.

Mr. Cooper reminded the Board it had discussed this topic before. He said it was his opinion that it was incumbent upon the professional to decide what qualifies as a PDH. Mr. Cooper agreed with Mr. Brasher that HR courses are not professional development. He said some YouTube videos could be helpful to further education and there are others that may not.

Mr. Spirock agreed with Mr. Cooper and Dr. Gerstle.

Mr. Brasher asked if it was the individual presenting on the video or an individual watching the video. Mr. Valdez responded the person watching the video to gain hours.

There was further discussion on how some videos could be educational or not and the proof of completion.

Mr. Bohannon offered to assist staff to evaluate the courses to determine if the course was valid or not.

Mr. Tonander provided his viewpoint on the matter. He said everything a professional does that is a PDH is at risk until an audit, so a professional better ensure what they are doing is going to pass an audit. He stated if the professional is unsure then they better do something else.

Mr. Brasher reiterated HR trainings are not allowed as a qualified PDHs.

**e. NCEES Meetings**

**1) Western Zone Meeting – Virtual**

Mr. Valdez informed the Board that NCEES was requesting the names of those members who would be attending the virtual Western Zone Meeting and the names of who would be the voting delegate and an alternate for the electronic web-based voting app.

Mr. Valdez reported there would be an election for Western Zone Secretary/Treasurer, that amongst the candidates was Mr. Tonander.

Ms. Thompson-Martinez reported that Dr. Gerstle, Mr. Valdez, and she submitted three nominations on behalf of the Board for the NCEES Western Zone Distinguished Service Award. She was happy to announce two of the three nominations were chosen as recipients for the Western Zone Distinguished Service Award. Ms. Thompson-Martinez revealed Mr. Glen Thurow and Mr. Karl Tonander were the recipients.

There was discussion on which Board members would be attending the Western Zone meeting. It was decided to nominate Mr. Bohannan as the voting delegate and Mr. Tonander as the alternate voting delegate.

## **2) Annual Meeting – New Orleans**

Mr. Valdez informed the Board that there were only two funded delegates allowed to attend the NCEES Annual meeting due to the COVID restrictions and safety protocols. Mr. Spirock mentioned there were no extra activities at the meeting, strictly business meetings.

Mr. Valdez reported there would be a webcast of the meeting so those who are not able to attend can still view the meeting. He noted there would be webinars for other meetings and trainings.

After further discussion it was decided to send Mr. Valdez and Mr. Tonander. Mr. Valdez noted if he was unable to attend the meeting, he recommended an alternate. It was decided to send Mr. Bohannan as the alternate.

## **9. Committee Reports**

### **a. PS Committee**

Ms. Meyers delegated Mr. Spirock to provide the report. Mr. Spirock read the report he prepared. He reported that Mr. Brasher participated in the meeting to fulfill the quorum requirement since he had to recuse himself on an agenda item.

Mr. Spirock reported there were three cases and that one was tabled until a special meeting. He noted one case was going to be reconsidered based on new information.

Mr. Spirock said there were no applications for Intern certification nor PS exam. He mentioned there were five applications for endorsement, four applications for endorsements were approved and one was not approved for lack of education. Mr. Spirock stated there was one application for reinstatement which was approved and that there were a couple of licensees who were approved for retired status.

Mr. Spirock mentioned the presentation and discussion on legislation Senate Bill 2 and its impact on the Board.

**b. PE Committee**

Mr. Bohannon reported there was discussion on a letter addressed to the Board regarding GPS machine control models.

Mr. Bohannon said the Committee was tracking some Arizona legislation bills affecting licensure and would report to the Full Board when there was more information. He reported on the information provided by Ms. Joe and Mr. Valdez regarding Senate Bill 2.

Mr. Bohannon stated there was discussion on the proposed requirement on adding the expiration date of licensure on the professional seal.

Mr. Bohannon reported the Committee confirmed 76 applications staff reviewed. He said there was one retired status approved. Mr. Bohannon reported on a case which was decided on. He said Ms. Joe and himself are working on including standard language about how a New Mexico licensee is required to report this disciplinary action to other jurisdictions was utilized in this case and should be included as standard language for future decisions and orders.

Mr. Bohannon concluded by stating a special meeting was scheduled to discuss the proposed changes to the rules.

**c. Executive Committee**

Mr. Valdez stated there was no report because the Executive Committee had not met.

**d. Joint Practice Committee**

Mr. Valdez reported the Joint Practice Committee met on April 8, 2021. Mr. Brasher asked when the Committee would meet again. Mr. Valdez replied to Mr. Brasher that the next meeting would be in July, and at that time the Board of Architects would be in charge of the meetings.

Mr. Valdez stated the Landscape Architects brought up an issue with professional services. He said it was concerning the NM DOT TLPA (Tribal/ Local Public Agency) handbook not mentioning landscape architects as a professional service.

**e. Public Information, Exam and Licensure Promotion Committee**

**1) Newsletter**

**2) Presentations**

Mr. Tonander reported the Committee had not met. Ms. Thompson-Martinez mentioned she was working on the newsletter and required a bio from Mr. Brasher.

Mr. Tonander reminded the members about the LinkedIn Board page. He said he would be posting some articles on the site regarding some items discussed at the meetings.

Mr. Valdez reported he participated in a seven-state virtual conference provided by PLS Education, which NMPS was a conference participant. He provided a brief synopsis of the presentation items he spoke about in his presentation.

**f. Rules and Regulations Committee**

Mr. Spirock stated the Committee continued meeting and was going well. He noted the most current bucket list of items was version 4.3.2. Mr. Spirock said there were just a few items still pending completion.

**g. Policies, Advisories, and Legal Enforcement Committee**

Dr. Gerstle said the proposed rule changes will be brought forth at a future Rules Hearing.

**h. NCEES Committee Members**

Mr. Valdez provided a report on the NCEES Board of Directors meeting he attended virtually as a member of the NCEES Member Board Administrators Committee.

**10. Next Scheduled Meeting Date:** June 11, 2021 – Santa Fe or Virtual

**11. Adjourn**

Meeting adjourned at 1:29 p.m.

**Submitted by:**

**Approved by:**

\_\_\_\_\_  
Perry Valdez, Executive Director

\_\_\_\_\_  
Paul Brasher, Board Chair

\_\_\_\_\_ Approved Date