

MINUTES

MEETING OF THE NEW MEXICO BOARD OF  
LICENSURE FOR PROFESSIONAL ENGINEERS  
AND PROFESSIONAL SURVEYORS held at 9:00 a.m.,  
Thursday, November 7, 2019, Conference Room,  
Substation of the New Mexico State Police  
4615 Hawkins St., NE, Albuquerque, NM

**Members Present –** Paul Brasher, PE Mr.  
Ron Bohannon, PE, Board Vice-Chair  
Augusta Meyers, Public Member  
Walter Gerstle, PhD, PE  
Karl Tonander, PE  
Julie Samora, PE  
Cliff Spirock, PS

**Members Absent –** David Cooper, PS, Board Chair

**Others Present –** Perry Valdez, Executive Director  
Annette Thompson-Martinez, Deputy Director  
Miguel Lozano, Legal Counsel

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

Mr. Brasher convened the meeting at 9:17 a.m., roll call was taken and a quorum noted.

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. Bohannon to approve the agenda as published, **SECOND** by Ms. Meyers, **PASSED** unanimously.

4. **Approval of Minutes**

a. **August 9, 2019**

**MOTION** by Mr. Spirock to approve the minutes as presented, **SECOND** by Mr. Tonander, **PASSED** unanimously.

5. **Public Comment/Correspondence**

Mr. Valdez reported there was no public comment or correspondence.

## 6. Director's Report

### a. **Financial Report**

Mrs. Thompson-Martinez informed the Board the FY19 fiscal year audit has been completed. Upon official approval, the final audit will be shared with the Board. She stated the audit process went extremely well and has been impressed with the Accounting Firm. She also explained the budget projection amounts by category for FY20 and stated the vacancy savings could increase depending on the timeframe to fill all of the vacant positions. The 300 category amounts could decrease depending on the specialized investigative costs needed. The 400 category also is currently reflecting a projected savings from the online renewal costs associated with payment processing since the Board will not incur those costs. The 500 category includes the \$100,000 for the scholarship monies.

Mr. Bohannon inquired how many positions are currently vacant.

Mrs. Thompson-Martinez informed the Board currently there are three vacant positions.

Mr. Spirock questioned if the workload was manageable due to the amount of vacancies.

Mrs. Thompson stated the staff has pulled together and continues to do the very best to accomplish all the tasks to operate as effectively as possible. She also informed the Board that the goal of becoming fully staffed will be focused on accomplishing the next set of initiatives established by the Board.

Mrs. Thompson-Martinez reported the disbursement of the scholarship monies are in the process of being finalized.

### 1. **FY21 Budget Appropriation Request**

Mrs. Thompson-Martinez reported the budget hearing for the FY21 Budget Request took place and stated Mr. Tonander was in attendance.

Mr. Tonander expressed the comments and questions which arose at the Hearing motivated him to follow up with an email of clarification. The comment made was in regards to licensure diminishing. He also stated the increase in budget was based on requesting an increase for Board staff.

Dr. Gerstle requested time to be educated to help him understand the budget request.

Mrs. Thompson-Martinez stated she would be happy to provide more detail and explained the cover letter in the packet is the synopsis of the FY21 budget request. She explained the S-9 Account Code Budget Summary in detail by each account line item. She also provided the Board with the talking points prepared for the Budget Hearing. Mrs. Thompson-Martinez informed the Board the FY21 request was submitted with an overall increase of 14% over last year's operating budget. She stated the increase includes warranted in-pay band adjustments, reclassifications and an increase for specialized investigations. She also explained the scholarship monies will be budgeted in the 400 category verses the 500 category. Some of the positions were increased in the salary module in the BRS system to reflect accurate salaries. The planned increases were budgeted in the base request amounts.

Dr. Gerstle inquired about the expansion requests column.

Mrs. Thompson-Martinez explained the expansion requests are only used when expanding a program with additional Full Time Employees (FTEs). She also clarified the Board is not requesting additional positions.

Dr. Gerstle asked for clarification if the Board is self-funded, does the Board still go through the process to receive the approval to utilize the revenue received.

Mrs. Thompson-Martinez responded the process for approval of the budget is followed by the requirements established by DFA and official approval by the Legislature.

Mr. Brasher stated it was made clear the revenue received is State monies.

Dr. Gerstle stated he completely understands there needs to be a control system in place.

Mr. Brasher stated the merit system through State Personal is a good way to address salaries and properly adjusting as justified.

The Board discussed retention issues based on employees moving to other Agencies, Federal Labs or private sectors that are offering higher salaries.

The Board discussed the budget availability for office space modifications to alleviate the shared office space.

Mrs. Thompson-Martinez provided a comparison of salaries to the Board based on position titles. She also provided the Board with the performance measures submitted with the budget appropriation request.

Mr. Spirock inquired if the need arose for an increase in cost pertaining to hearings and court reporting is there an option to increase the line items.

Mrs. Thompson-Martinez advised the Board of the approval to increase the budget 5% above the total Operating Budget amount. She stated if the budget does not support the needs of the Board, she would proceed with the request to proceed with this option.

Mr. Valdez reported on the status of the storage unit, General Services Department, Property Control Division took a few shelves from the storage unit and recommended the remaining items be donated. He stated the files were moved to a smaller unit thus decreasing the size needed for storage space and has decreased the budgeted amount in this line item.

Mrs. Thompson-Martinez explained the line item amount for the scholarship initiative was advised by our DFA Analyst to be budgeted in category 400 for the FY21 appropriation request.

Mr. Valdez clarified the budget could be used from other line items and needs to remain in the same category.

Mr. Bohannon asked if the budget is sufficient for the cost of investigators.

Mrs. Thompson-Martinez stated there was a slight increase built into the request since the cost for specialized investigations could occur. In addition, the RFP process will have been done when this budget is in effect and she stated once the proposals are in and the final selections are made, the amounts needed for the investigative costs will be discussed with the Full Board.

The fund balance projection was provided to each of the members. Mrs. Thompson-Martinez reported the final close out from the FY19 budget could

increase the fund balance amount. She also reported the increase in applications received and the vacancy savings are the main factors in the fund balance increase.

Mrs. Samora recommended the percentage of growth should be utilized as a tool to show the need for the increases requested.

Mrs. Thompson-Martinez stated she was conservative in the amount of revenue projected since the mobility enhancements may provide additional applications to be received which will increase the amount of revenue received by the agency.

Mr. Bohannon recommended the fees be reviewed once again to ensure the fund balance does not continue to grow.

Mr. Brasher stated he agrees a committee should be assigned to evaluate the fees and fund balance annually or biannually.

Mr. Tonander stated if the budget proposed and the revenue remains as is the Board would be dipping into the reserves of the fund balance. He also stated he agrees this should be reviewed on a regular basis. Mr. Tonander stated once the agency can retain staff and utilize the budget as needed the increase in fund balance may not be an issue.

Mrs. Samora stated the reason for the increase in fund balances has always attributed to vacancy savings of staff.

Dr. Gerstle inquired what happens to a Board when they do not have adequate staff?

Mr. Lozano stated not having adequate staff on a board can pose a variety of issues.

Mrs. Thompson-Martinez agreed and stated it is essential to have staff but more importantly staff who has the knowledge to be effective in their jobs. She also stated is imperative to do what is possible to retain valuable staff.

Mr. Brasher complimented Mr. Valdez and Mrs. Thompson-Martinez for the knowledge and dedication they contribute to the Board. He informed the Board he received several compliments during the Audit Conference from the RLD management as well as the Auditors who work with them. He also

contributes the operations of the agency and how well it functions since staff is dedicated to get their work done. He stated that he calls Mr. Valdez and finds that he is often working late in support of the Board. He thanked the staff for their commitment and dedication.

Mr. Spirock and the members agreed the Board staff functions extremely well based on the team work and management.

Mrs. Thompson-Martinez and Mr. Valdez thanked the Board for all of the continued support and stated the Board Members contribute to everything the agency is responsible for and both stated they are grateful to work with this group of professionals.

\*\*\*Mr. Thurow entered at 10:45 a.m.\*\*\*

**b. Licensing Status**

Mr. Valdez reported the numbers have increased and reported the following: As of November 1, 2019 there are 9,432 active licenses. The breakdown is 8,890 licensed PEs, 524 licensed PSs, and 16 dual licensed PEPS. In comparison from August 2, 2019 there were 9,307 active licenses, 8,778 licensed PEs, 513 licensed PSs, and 16 dual licensed PEPS.

**7. New Business**

**a. Committee Assignments**

The Board discussed the Engineers and Surveyors Act and the requirements for Committees.

Legal counsel and the Board discussed several options regarding the makeup of the Enforcement Advisory Committee as outlined in the Act.

Mr. Bohannon suggested the Board reach out to NCEES to find out how other States utilize Legal Enforcement Committees.

Mr. Spirock suggested creating a discussion item in this Committee to discuss items that are not already being addressed.

Mrs. Samora expressed she believes this was created to involve outside members.

Mr. Lozano agreed with Ms. Samora and advised the membership could involve licensees. He also stated the Architects Board has a discipline committee which has a similar committee which is comprised of Board members and the

investigator but did state the Architect Board does utilize the committee for assistance with disciplinary matters.

The Board decided to use this committee as a tool in the future if necessary.

The Sub-Committee assignments are as follows:

**Executive Committee:** Mr. Brasher, Mr. Bohannon, Mr. Thurow, Mr. Spirock  
Mr. Brasher explained the Executive Committee has included the Chairs of the Committees and other Board members can be included. Mr. Brasher asked for comments on the memberships presented.

**Joint Practice Committee:** Mr. Thurow, Mrs. Samora, Alternate – Mr. Bohannon  
Mrs. Samora stated she would be happy to continue on the committee and stated the JPC committee has not held a meeting.

**Public Information, Examination, and Licensure Promotion Committee:**

Mr. Tonander, Ms. Meyers, Mr. Cooper

**Rules and Regulations Committee:** Mr. Spirock, Dr. Gerstle, Mr. Bohannon, Mr. Tonander, Alternate – Mr. Cooper

**Policies, Advisories, and Legal Enforcement Committee:** Dr. Gerstle, Mr. Spirock, Mr. Brasher, Mr. Tonander

Dr. Gerstle agreed to be chair of the committee with the understanding of having clear charges.

**Penalties and Fees Committee:** Mr. Brasher, Mr. Cooper, Mr. Thurow

**b. NCEES Resolution of Cooperation**

Mr. Valdez stated this resolution was developed by a few of the member Boards. He also reported the discussions have had some support and some member Boards who are not in support due to legal advice received.

The Board discussed the proposed resolution from NCEES.

Mr. Tonander stated the Boards autonomy will not be affected by this document.

The Board agreed to accept in concept and would like to see the final document.

Mr. Valdez stated he will reach out to MBA Committee for the finalized resolution and expressed if there are additional changes, it will be brought back to the Full Board for review.

Mr. Spirock requested this item be charged to the Executive Committee to review the final document for approval by the full Board.

Mr. Brasher agreed the Executive Committee will review the final resolution and report back to the full Board.

The Board recessed at 12:30 pm.

The Board reconvened at 1:39 p.m.

Mr. Valdez took roll call and informed Mr. Brasher that, with only 5 members in attendance, a quorum was not present.

Mr. Brasher stated since the Board does not have a quorum present for voting, the Committee reports could be heard.

**8. Old Business**

Mr. Valdez informed the Board there were not items for discussion.

**9. Committee Reports**

**a. PS Committee**

Mr. Spirock reported two items of correspondence and one in attendance. Five disciplinary cases discussed, one which resulted in a request for referral of an NCA. Two of which resulted in an educational advisory letter. Case tracking report was shared and explained one case involved a conflict and agreed on settlement agreements. Four comity applications were approved and one was denied.

**b. PE Committee**

Dr. Gerstle reported in attendance was a complainant who was asking the board to do some legal enforcement. He also stated the complainant informed the Board this was sent to the Attorney General's Office, which has not supported further action on behalf of the complainant.



Mr. Brasher explained that the complainant was requesting the Board pursue a special prosecutor be requested and obtained to pursue his case.

Dr. Gerstle also stated five disciplinary cases were discussed along with ten self-reporting cases. He also reported penalties were discussed at length and suggested the policy advisory committee take a look at this issue.

Mr. Spirock suggested the fines spreadsheet also be reviewed.

Mr. Tonander agreed the penalties should be reviewed to ensure the infractions are treated fairly.

A discussion took place for the route for foreign degree applicants and the reference forms regarding applications.

Mr. Brasher stated 187 applications were voted on which indicates the licensee membership is continuously increasing

Mr. Tonander commented 9 of the applications were approved with the new comity licensure law.

\*\*\*Mr. Bohannon re-entered the meeting at 2:29 p.m.\*\*\*

\*\*\*Mrs. Samora re-entered the meeting at 2:33 p.m.\*\*\*

**c. Executive Committee**

**1) Meeting Report**

Mr. Spirock Stated an Executive Committee took place to approve the Budget Appropriation Request prior to the submittal.

**d. Joint Practice Committee**

**1) Meeting Report**

There was no report given.

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

**1) Meeting Report**

Mr. Tonander stated the Committee has not held a meeting.

**2) Newsletter – Status Report**

Mr. Tonander stated the newsletter was emailed to all licensees and the ethics course presentations have also taken place.

**3) Licensure Brochure – Status Report**

There was no report given.

**4) Presentations – Status Report**

There was no report given.

**f. Rules and Regulations Committee**

**1) Meeting Report**

Mr. Bohannan recommended the charges be reported to you within 30 days and the list of priorities. He stated electronic signatures will be high on the priority list.

Mr. Brasher stated the charges will include a list and will be prioritized. He also stated the Policy Advisory Committee could include a charge to address issues outside of the laws and policies by PEC and PSC.

**g. Legal Enforcement Committee**

**1) Meeting Report**

There was no report given.

**2) Stamping Control Sheets – Status Report**

There was no report given.

**h. NCEES Committee Members**

**1) NCEES WZ Meeting Report**

Director Valdez stated the Board was well represented at the NCEES Annual Meeting.

Mr. Thurow reported the voting included restructuring the surveying exam in a format with five modules. This is a continuous work in progress which could take four years until instituted. The numbers will indicate if the exam would be offered frequently.

Dr. Gerstle stated the Annual meeting was informative and also stated Mr. Tonander provided a presentation on ethics and mentioned the cases discussed were interesting. He announced Mr. Thurow was representing NCEES at the tomb of the unknown soldier and was graceful in his capacity.

Mr. Tonander recommended a discussion take place with the NM Association of Counties to clarify what is acceptable for rights of entry on plats.

Mr. Spirock stated he believes a letter from the Board to the Counties might be more effective.

Mr. Valdez stated the Annual Meeting was informative and he also stated the MBA Forum he recently attended involved a discussion on upcoming licensing disciplines that may be on the radar. Exam development may be an issue for these types of disciplines. He mentioned a discussion took place regarding schools that are not promoting licensure by examination. Mr. Valdez reported data on the increased numbers of examinations taken for the FE, PE and the FS. The PS did have a decrease.

Mr. Thurow explained this could be based on the experience requirement.

Mr. Valdez reported \$250,000 will be used by NCEES as a marketing campaign to promote Surveying licensure. He stated the combined zone meeting for 2020 is currently in the process of finalization

Mr. Thurow asked what the allocated monies would be utilized to help with.

Mr. Valdez clarified this will begin with marketing strategies including promotional materials, videos to assist with promoting surveying licensure

#### 10. **Executive Session**

**MOTION** by Mr. Thurow to enter into Executive Session to discuss those items listed on the agenda pursuant to NMSA 1978, enter into closed Executive Session to discuss the items listed on the agenda pursuant to NMSA 1978, Section 10-15-1 (H) (2) to discuss limited personnel matters. **SECOND** by Mr. Tonander, **PASSED** unanimously.

**Roll call vote taken, voting 'Yes':** Mr. Brasher, Mr. Bohannon, Ms. Meyers, Dr. Gerstle, Mr. Tonander, Mrs. Samora, Mr. Spirock, Mr. Thurow

#### **Action on Items Discussed During Executive Session**

Mr. Brasher brought the Board 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) (2).

##### **a. Staff Vacancy Updates**

- 1) Executive Assistant
- 2) Compliance Officer

- 3) Financial Assistant
- b. Staff Compensations**
  - 4) Executive Assistant
  - 5) Compliance Officer
  - 6) Licensing Administrators
  - 7) Financial Assistant
  - 8) Team Leader
  - 9) Deputy Director
  - 10) Executive Director

**MOTION** by Mr. Thurow regarding item 10 b. Staff Compensation 1 thru 6 nonexempt personnel working for the Board of Licensure for Professional Engineers and Professional Surveyors be granted a ten percent salary increase effective this fiscal year, **SECOND** by Mr. Tonander, **PASSED** unanimously.

**MOTION** by Mr. Thurow regarding item 10 b. Staff Compensation 7 exempt personnel working for the Board of Licensure for Professional Engineers and Professional Surveyors be granted a ten percent salary increase above his current salary effective this fiscal year, **SECOND** by Mr. Tonander, **PASSED** unanimously.

Mr. Brasher stated the Board meeting recessed at 3:53 p.m. until Friday, November 8, 2019 at 9:00 a.m.

**Submitted by:**

s/Annette Thompson-Martinez  
Annette Thompson-Martinez, Deputy Director

**Approved by:**

s/ Paul Brasher  
Paul Brasher, Board Chair

February 14, 2020 **Approved Date**