

**MEETING OF THE PROFESSIONAL ENGINEERING
COMMITTEE of the Board Licensure of Professional
Engineers and Professional Surveyors held at
1:00 p.m., Thursday, June 9, 2022,
Office of Souder Miller & Associates,
5454 Venice Ave. NE, Ste. D, Albuquerque, NM
& Virtual**

Members Present- Dr. Walter Gerstle, PE, Committee Chair
Karl Tonander, PE, Vice Chair
Dr. Ahmed Elaksher, PEPS
Stephen Ney, PE
Karen Nichols, Public Member

Members Absent- Ron R. Bohannon, PE

Others Present- Perry Valdez, BLPEPS, Executive Director
Miranda Gonzales, BLPEPS, Administrative Manager
Isaac Maes, BLPEPS, Executive Assistant
Angelica Urioste, BLPEPS, Compliance Officer
Valerie Joe, Legal Counsel
Joe Barela, PE, Board Investigator
Earl Burkholder, PEPS
Su Zhang
Paul Swiderski
Travis Buckneberg
Gabriel Sanchez

1. Convene, Roll Call and Introduction of Audience

Dr. Gerstle read the meeting script regarding the virtual meeting protocols. He convened the meeting at 1:10 p.m. Roll call was taken and a quorum was noted. Audience introductions made at this time.

2. Meeting Notification

Mr. Valdez informed the Committee the meeting was noticed on the Board's website and at the Board Office.

3. Approval of Agenda

MOTION by Ms. Nichols to amend the agenda for items 9. a. 1) to read as Case 3-PE-08-10-2020 (A) – Complaint Manager’s Report and 9. a. 2) to read as Case 3-PE-08-10-2020(B) – Complaint Manager’s Report and approve the agenda as amended,
SECONDED by Dr. Elaksher

Roll Call Vote

Voting ‘Aye’: Dr. Gerstle, Mr. Tonander, Dr. Elaksher, Mr. Ney, Ms. Nichols

The motion **PASSED unanimously**.

4. **Approval of Minutes**

- a. **Minutes of January 13, 2022**
- b. **Minutes of February 18, 2022**
- c. **Minutes of April 7, 2022**
- d. **Minutes of April 29, 2022**

MOTION by Mr. Ney to approve the Minutes of January 13, 2022, February 18, 2022, April 7, 2022, and April 29, 2022, as presented, **SECONDED** by Mr. Tonander

Roll Call Vote

Voting 'Aye': Dr. Gerstle, Mr. Tonander, Dr. Elaksher, Mr. Ney, Ms. Nichols

The motion **PASSED unanimously**.

5. **Public Comment/Correspondence**

Mr. Valdez informed the Committee that there was no request for public comment or correspondence.

6. **Old Business**

a. **811 Support of Design Projects - Status Update**

Mr. Tonander gave a brief summary of what 811 Support of Design Projects entails.

According to Mr. Tonander, the prior 811 regulations stated that a contractor could seek legal action against a subsurface utility owner if the utilities were not located with sufficient accuracy. However, a project owner as well as the Engineer Designer could not pursue legal action in this type of situation. He said during design locates, utilities were not found until the project work had begun which could be dangerous and costly.

Mr. Tonander added that he had discussions with Mr. Jason Montoya, PE, the Pipeline Safety Bureau Chief, and Mr. Montoya said legislation during the past session was unsuccessful. Mr. Tonander then said Mr. Montoya suggested a PRC rule change to approach this issue.

He said he worked with Mr. Montoya to incorporate a change in which project owner as well as the Engineer Designer can seek legal action against a subsurface utility owner for damages. Mr. Tonander stated that this rule is now published, and he believed with this new rule added, the quality of the locates will improve.

Mr. Valdez informed the Committee that this rule goes into effect June 14, 2022.

7. New Business

a. Article: NMED Adopted Pollution Rules for Oil and Gas

Mr. Valdez informed the Committee that he placed an article in their meeting packet regarding the New Mexico Environment Department rule changes. He reported that he and Mr. Tonander reached out to the Environment Department for additional information because they were unaware of the possible impact of the changes.

Mr. Valdez added that according to these changes an Engineer needs to certify that the emissions for a project are within the set guidelines.

Mr. Valdez said from his research with the Environment Department, they did have a rule changes in which they had a discussion on whether to keep the term Professional Engineer in the rules or remove it. He said based on the transcription of their rule hearing, there was more support to keep the term Professional Engineer in the language, however, there was also support to keep the term “in-house” Engineer because some offices do not have a Professional Engineer on staff.

Mr. Tonander added that he and Mr. Valdez were directed to Ms. Katz who was the assistant general counsel for the Environment Department.

Mr. Tonander said the language states that an in-house engineer essentially is able to certify this work but there is no clarification where this work occurs (on or off-site). He commented, in theory their regulations are allowing for a non-licensed PE to conduct work “outside the fence”. Mr. Tonander said that after talking with Ms. Katz, she informed him that this was not their intention and expects people to remain in compliance with the Professional Licensing Act.

Dr. Gerstle asked Mr. Tonander when an Engineer certifies emissions, if there is a standard regulation process that is done? Mr. Tonander responded ‘yes’ to Dr. Gerstle’s question.

Mr. Ney asked the Committee if it would make sense to add verbiage that says only specific types of Engineers can conduct this type of work instead of just having the broad term of engineer.

Mr. Tonander agreed but said they didn't have a hand in writing the regulations but believed the Environment Department wasn't familiar with what they were saying when they removed the term engineer. They did allude to those certifying being intended to have expertise in this subject manner though.

Mr. Ney asked if the assistant general counsel provided a timeline as to when the Environment Department would revise additional clarification to the verbiage.

Mr. Tonander said Ms. Katz did not, but it would seem prudent to get something in the BLPEPS newsletter. In addition, Mr. Tonander suggested collaborating with the Environment Department's counsel and the Air Quality Bureau to clarify the interpretation.

Dr. Gerstle agreed that this item should be in the next newsletter.

b. Election of officers

1) Committee Chair

MOTION by Mr. Tonander to nominate Mr. Ney for Chair, **SECONDED** by Dr. Elaksher

Roll Call Vote

Voting 'Aye': Dr. Gerstle, Mr. Tonander, Dr. Elaksher, Mr. Ney, Ms. Nichols

Abstained: Mr. Ney

The motion **PASSED**.

2) Vice Chair

MOTION by Dr. Gerstle to nominate Dr. Elaksher for Vice Chair, **SECONDED** by Mr. Tonander

Roll Call Vote

Voting 'Aye': Dr. Gerstle, Mr. Tonander, Mr. Ney, Ms. Nichols

Abstained: Dr. Elaksher

The motion **PASSED**.

8. Application Review – Recommended Approval

a. Confirmation of Staff-Reviewed Applications

Ms. Gonzalez gave a report to the Committee in regards to the confirmation of staff-reviewed applications.

b. Retired Status Requests

MOTION by Mr. Tonander to approve Mr. Bruce Smith's request for retired status, **SECONDED** by Dr. Elaksher

Roll Call Vote

Voting 'Aye': Dr. Gerstle, Mr. Tonander, Dr. Elaksher, Mr. Ney, Ms. Nichols

The motion **PASSED unanimously.**

c. PE Exam Final Licensure List

Ms. Gonzalez gave a report to the Committee in regard to the PE exam final licensure list.

9. Executive Session

MOTION by Mr. Ney 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 Mr. Tonander

Roll call vote taken, voting 'Yes': Dr. Gerstle, Mr. Tonander, Dr. Ahmed Elaksher, Mr. Ney, Ms. Nichols

10. Action on Items Discussed During Executive Session

Dr. Gerstle 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)

a. Disciplinary Cases

1) Case 3-PE-08-10-2020(A) – Complaint Manager's Report

2) Case 3-PE-08-10-2022(B) – Complaint Manager's Report

MOTION by Ms. Nichols to close Cases 3-PE-08-10-2020(A) and (B) and take no further action, **SECONDED** by Mr. Ney

Roll Call Vote

Voting 'Aye': Dr. Gerstle, Mr. Tonander, Dr. Elaksher, Mr. Ney, Ms. Nichols

The motion **PASSED unanimously.**

3) **Case 2-PE-09-08-2020**

Dr. Gerstle stated this was a status update only.

b. Status Review of Complaints and NCA Referrals

A report was reviewed on the status of pending cases and referrals for Notice of Contemplated Actions.

c. Applications for Review

1) PE Exam

a) Buckneberg, T.

MOTION by Dr. Elaksher to approve applicant to take the PE Exam in Mining, **SECONDED** by Mr. Tonander,

Roll Call Vote

Voting 'Aye': Dr. Gerstle, Mr. Tonander, Dr. Elaksher, Mr. Ney, Ms. Nichols

The motion **PASSED unanimously**.

b) Dolce, M.

c) Mondragon, Z. – Reconsideration

d) Sanchez Ramos, G.

MOTION by Mr. Ney to approve applicants Dolce, M., Mondragon, Z., and Sanchez Ramos, G. to take the PE Exam in Civil, **SECONDED** by Mr. Tonander

Roll Call Vote

Voting 'Aye': Dr. Gerstle, Mr. Tonander, Dr. Elaksher, Mr. Ney, Ms. Nichols,

The motion **PASSED unanimously**.

e) Zhang, S.

MOTION by Mr. Tonander to approve applicant to take the PE Exam in Construction, **SECONDED** by Dr. Elaksher

Roll Call Vote

Voting 'Aye': Dr. Gerstle, Mr. Tonander, Dr. Elaksher, Mr. Ney, Ms. Nichols

The motion **PASSED unanimously**.

2) PE Endorsement

a) Chang, A.

MOTION by Dr. Elaksher to approve for endorsement in Environmental engineering, **SECONDED** by Ms. Nichols

Roll Call Vote

Voting 'Aye': Dr. Gerstle, Mr. Tonander, Dr. Elaksher, Mr. Ney, Ms. Nichols

The motion **PASSED unanimously**.

b) Mehta, S.

MOTION by Ms. Nichols to approve for endorsement in Chemical engineering, **SECONDED** by Mr. Ney

Roll Call Vote

Voting 'Aye': Dr. Gerstle, Mr. Tonander, Dr. Elaksher, Mr. Ney, Ms. Nichols

The motion **PASSED unanimously**.

11. Next Scheduled Meeting Date:

August 11, 2022 – Albuquerque/Virtual

12. Adjourn

Meeting adjourned at 3:17 p.m.

Submitted by:

Isaac Maes, Executive Assistant