

**MEETING OF THE NEW MEXICO BOARD OF
LICENSURE FOR PROFESSIONAL ENGINEERS
AND PROFESSIONAL SURVEYORS held at
9:00 a.m., Friday, June 10, 2022,
Office of Souder Miller & Associates,
5454 Venice Ave. NE, Ste. D, Albuquerque, NM
& Virtual**

Members Present – Karl Tonander, PE, Chair
Maxine McReynolds, Esq., Vice Chair, Public Member
Dr. Ahmed Elaksher, PEPS
Dr. Walter Gerstle, PE
Stephen Ney, PE
Robert Gromatzky, PS
Karen Nichols, Public Member

Members Absent – Ron R. Bohannon, PE
David Cooper, PS

Others Present – Perry Valdez, BLPEPS, Executive Director
Miranda Gonzales, BLPEPS Administrative Manager
Isaac Maes, BLPEPS, Executive Assistant
Valerie Joe, Legal Counsel
Earl Burkholder, PEPS
Paul Swiderski

1. Convene, Roll Call and Introduction of Audience

Prior to convening the meeting Mr. Valdez read the meeting script regarding the virtual meeting protocols. Mr. Tonander convened the meeting at 9:08 a.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 Dr. Gerstle to approve the agenda as presented, **SECONDED** by Ms. McReynolds

Roll Call Vote:

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

The motion **PASSED unanimously.**

4. **Approval of Minutes**

- a. **Minutes of January 14, 2022**

- b. **Minutes of February 4, 2022**

- c. **Minutes of March 18, 2022**

- d. **Minutes of April 8, 2022**

MOTION by Dr. Gerstle to approve the Minutes of January 14, 2022, February 4, 2022, March 18, 2022, and April 8, 2022, as presented, **SECONDED** by Mr. Ney

Roll Call Vote:

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

The motion **PASSED unanimously.**

5. **Requested Public Comment/Correspondence**

Mr. Burkholder thanked the Board for updating the Minimum Standards, which addressed his concern in regards to a defect in the Minimum Standards.

In addition, Mr. Burkholder brought two more items to the Board's attention. The first item Mr. Burkholder addressed was the transition to the modernization of the spatial reference system by NGS. Mr. Burkholder suggested on keeping the discussion on this item open so the Board can fully evaluate its impact.

The second item Mr. Burkholder addressed was Digital Twins. Mr. Burkholder added that due to this being a fairly new practice, the concept itself is neutral, however, the Board needs to be aware of the content as it applies to the practice of Surveying and Engineering.

Mr. Tonander thanked Mr. Burkholder for his comments.

6. **Director's Report**

- a. **Board Member Vacancies**

Mr. Valdez informed the Board that with Mr. Cooper's term ending, there are now two vacancies on the Professional Surveying Committee.

Mr. Valdez added that he sent a list of recommended surveyors to the Governor's Office but has not heard anything back as of yet.

Mr. Tonander noted that the Engineering and Surveying Practice Act allows that if the Governor's office does not appoint someone after three months, the Board

can appoint a temporary Board member until the Governor's office does appoint someone. In addition, Mr. Tonander also said that if the Governor's office is in the process of vetting members or getting the final paperwork done, the Board could temporarily appoint that person and they would be serving in advance of what the Governor's office could accomplish. He added this might be the best method to take as to not raise any political issues with the Governor's office.

Dr. Gerstle then raised a question regarding his own appointment to the Board.

Dr. Gerstle stated he was appointed in 2017 and thought it was a three-year term, however, he has been on the Board for five years and was wondering if something needed to occur from the Governor's Office.

Mr. Tonander informed Dr. Gerstle that something from the Governor's office should have been done in regard to his appointment to the Board.

Mr. Valdez added that Dr. Gerstle, along with Mr. Bohannon and Mr. Tonander, requested to be reappointed and the Governor's office was looking at this but has not reached a decision. Mr. Valdez also said that even though Dr. Gerstle along with Mr. Bohannon and Mr. Tonander, were never officially reappointed to the Board, they are serving at the pleasure of the Governor, the Board appointment term is still ongoing.

Mr. Tonander added that because they are serving at the pleasure of the Governor but not actually appointed, this means the Governor doesn't have to go through the hearing process when replacing these members even in the middle of a term.

Ms. Joe said as far as she is aware, unless a Board member receives notice that you are no longer on the Board you can still serve. She added, if a Board member feels like they no longer want to serve on the Board, they can provide a notice to the Governor's office as well as to the Executive Director, and Mr. Valdez could assist with this type of action.

b. Financial Report

Mr. Valdez presented the financial report for the Board. He said Ms. Crystal Herrera was unable to attend the meeting, however, she prepared the financial reports. Mr. Valdez reported that the revenue collected, as of May 17, 2022, was \$1,038,397. He pointed out the main revenue streams for the Agency are the account codes 416402 Trade and Professions Licenses with \$821,300, 425902 Other Services with \$169,614, and 461402 Other Penalties with \$43,239.

Dr. Gerstle asked what the accounts include. Mr. Valdez responded the Trade and Professions License incorporate the initial licenses and license renewals, the Other Services account code are the applications received, and the Other Penalties includes the penalty renewals and disciplinary fines.

Mr. Tonander commented that the revenue earned in the Other Services account are exceeding what the Board anticipated. Mr. Valdez agreed with Mr. Tonander. He further noted the waiver of fees would be minimal.

Mr. Valdez continued with the uses, or expenditures. He reported a budget availability of \$59,694 in the salary and employee benefits category, which was due to the vacancies experienced at the beginning of the fiscal year and presently one vacant position. Mr. Valdez stated they have a list of candidates for the vacant position and would be conducting interviews soon to fill the vacancy.

Mr. Valdez gave a breakdown of the Contractual Services category. He presented the expenses for the contracted professional investigators, financial audit services, IT services, and the amount owed to Regulation and Licensing Department (RLD) for administrative services per the MOU. Mr. Valdez reported a budget availability amount of \$19,100.

Mr. Valdez proceeded with the Other Expenses category. He went through each line item in the category explaining what each account code was and the budgeted amount. Mr. Valdez reported new computers and monitors were purchased for the Staff, and a large storage unit the Agency is renting would be emptied. He reported a smaller unit would be rented for files being housed in the office.

Mr. Tonander noted the \$51,000 left in the category was essentially for the purchase of a new licensing system. Mr. Valdez agreed with Mr. Tonander.

Dr. Gerstle asked what the difference was between a requisition and a purchase order. Mr. Valdez responded that a purchase order is used to set aside funds for all commitments for goods or services, whereas a requisition is for Agency-to-Agency transactions, since these are exempt from the procurement code.

Dr. Gerstle asked what the amount was due to RLD. Mr. Valdez responded the amount due was \$135,000.

Mr. Valdez concluded that Ms. Herrera showed a projected fund balance of \$1,229,685 at the end of the fiscal year.

Mr. Tonander said the coming fiscal year was budgeted to pull from the fund balance for the purchasing a new licensing system. He asked if there were any more questions regarding the financial report, there were none.

c. Licensing Status

Mr. Valdez gave the following Licensing Report to the Board:

Mr. Valdez reported that as of June 2, 2022, there were 10,025 active licenses. He provided a breakdown of the numbers:

- Professional Engineers
 - Number of active PEs: 9,488
 - In State: 1,998
 - Out of State: 7,490

- Professional Surveyors
 - Number of active PSs: 524
 - In State: 223
 - Out of State: 301

- Professional Engineers/ Professional Surveyors
 - Number of active PEPS: 13
 - In State: 11
 - Out of State: 2

Mr. Valdez reported that, of the number of engineers and surveyors listed above, there are individuals licensed as both engineers and surveyors with two separate license numbers (dual licensees).

- Licensees with two numbers = 46
 - In State: 26
 - Out of State: 20

Mr. Tonander had concerns regarding the number of PE Exams listed in Mr. Valdez’s report and requested he reevaluate his findings. Mr. Valdez said he would re-exam his report and send an updated version to the Board Members.

Dr. Elaksher also requested that Mr. Valdez include the demographic of male and female licensees in his updated report.

7. Old Business

a. NM Tech – Financial Support of New Drone Program

Mr. Valdez informed the Board that he reached out to New Mexico Tech but they said they were not ready to present anything to the Board for this meeting.

Mr. Gromatzky said he too reached out to New Mexico Tech but he didn't receive a response.

b. Opportunity Scholarship Act of 2022

Mr. Valdez informed the Board that there were no changes to this item but was asked to keep this item on the agenda in case changes occurred.

8. New Business

a. 2023 Sunset: Proposed Statute Changes

Mr. Tonander gave a presentation about the proposed changes to the NM Engineering and Surveying Practice Act. The proposed changes affected the following sections:

61-23-3. Definitions F, O, and S

61-23-14. Certification as an engineer intern -- requirements. C. (1)

61-23-14.1. Licensure as a professional engineer -- requirements. B. (1), b (1) (a), (b) (1) (b), b (1) (c), b (1) (d), b (1) (e)

61-23-14.1. Licensure as a professional engineer -- requirements B. (1) (e)

61-23-17. Application and examination fees. C.

61-23-20. Engineering -- licensure and renewal fees -- expirations. C.

61-23-22. Engineering -- exemptions. B.

61-23-27.4. Licensure as a professional surveyor -- general requirements. (1) (c) (ci), (cii), (ciii), c (iv)

61-23-27.5. Surveying -- application and examination fees. C.

61-23-27.7. Surveying -- licensure and renewal fees -- expirations. C.

61-23-27.10. Surveying exemptions.

61-23-35. Engineering and surveying scholarship and university support program. A., B.

61-23-36. Engineering and surveying scholarship and university support fund created.

MOTION by Ms. McReynolds to move forward with the 2022 NM Engineering and Surveying Practice Act language as proposed and discussed, acknowledging that the language remains subject to some adjustment prior to the legislature pre-filing deadline, **SECONDED** by Dr. Elaksher

Roll Call Vote:

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

The motion **PASSED unanimously**.

b. NM BLPEPS Scholarship – Scholarship Criteria Review

An extended discussion was had to expand the use of the NM BLPEPS Scholarship to include financial support for not only tuition expenses, but also other higher education needs as well.

The changes to the Scholarship criteria, which were agreed upon, were:

- Listing the titles 61.23.35 and 61.23.36 NMSA of the Engineering and Surveying Practice Act.
- Updating the scholarship amount awarded criteria to read as follows: “Scholarships will be awarded annually with the requirement of issuing the scholarship in the third semester or later, and with a maximum value of one year’s tuition.”
- Substituting the bracketed ‘Note’ with a new bullet point, “Universities should consider applicants from underrepresented communities.”

MOTION by Ms. Nichols to adopt the amended policy that was presented at this meeting, **SECONDED** by Ms. McReynolds

Roll Call Vote:

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

Abstained: Dr. Elaksher

The motion **PASSED**.

c. FY23 Open Meetings Resolution

Ms. Joe gave a detailed explanation of the Open Meetings Resolution details and noted that this document is required to be presented and voted on every year.

MOTION by Dr. Gerstle to approve the FY23 Open Meetings Resolution,
SECONDED by Ms. McReynolds

Roll Call Vote:

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

The motion **PASSED unanimously**.

d. Election of Officers

1) Board Chair

Dr. Gerstle nominated Mr. Tonander as Chair.

2) Vice Chair

Dr. Elaksher nominated Ms. McReynolds as Vice- Chair.

3) Secretary

Dr. Gerstle nominated Dr. Elaksher as Secretary.

MOTION by Mr. Tonander to elect himself for Board Chair, Ms. McReynolds for Vice Chair and Dr. Elaksher for Secretary, **SECONDED** by Dr. Gerstle

Roll Call Vote:

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

The motion **PASSED unanimously**.

9. Committee Reports

a. PS Committee

Due to Mr. Cooper being absent, Mr. Gromatzky gave the following Committee report.

Mr. Gromatzky informed the Board that the PSC met on June 9, 2022, and the agenda was approved. In addition, the minutes of February 11, 2022, and April 7, 2022, were approved.

Mr. Gromatzky added that there was public comment from an applicant by the name of Mr. Adams.

Mr. Gromatzky noted that there was no old business. He said that during New Business there was discussion regarding an online article about an application by the name of *LnadGlide* in which it attempts to find property lines.

Mr. Gromatzky informed the Board that there was a discussion about what can be done to address the issues that this application raises, and they believed as a Committee there was not a course of action that could be taken. He said that the Committee asked Board Staff to forward this article to NMPS for their consideration.

Mr. Gromatzky gave a review regarding the election of officers in which he was nominated to the PS Committee Chair and Ms. McReynolds was nominated to Vice Chair.

Mr. Gromatzky informed the Board that one case was tabled and one case was entered into a Pre-NCA agreement.

Mr. Gromatzky that there were three applications for Endorsement in which two were approved and one was conditionally approved.

Mr. Gromatzky concluded his report by informing the Board that the next PSC meeting will be held on August 11, 2022.

b. PE Committee

Dr. Gerstle informed the Board that the PE Committee met on June 9, 2022.

Dr. Gerstle said that the minutes from previous meetings were approved.

Dr. Gerstle stated that during old business the Committee discussed the 811 Support of Design Projects rule. He said that according to this rule, owners of utilities are held responsible for correctly reporting where utilities are located so engineering projects are more streamlined.

In addition to this item Dr. Gerstle said that during old business there was discussion of the adopted rules form the New Mexico Environment Department for oil and gas requirements, which require a professional engineer to certify emission levels of oil and gas wells.

Dr. Gerstle informed the Board that there was the election of officers in which Mr. Ney was nominated for the PE Committee Chair and Dr. Elaksher was nominated for the PE Committee Vice Chair position.

Dr. Gerstle went on to say that there was discussion of staff reviewed applications, retired status requests and the PE exam final licensure list.

Dr. Gerstle said that there was no action taken on one case, and in regard to another case, a Pre-NCA settlement agreement was not accepted and will be going to the Attorney General's office.

Dr. Gerstle added that the Committee reviewed the status of complaints and referrals.

Dr. Gerstle concluded his report by informing the Board that there were 4 applications for the PE exam, 168 applications for endorsements, and 11 PE Reinstatements all of which were approved.

c. Executive Committee

Mr. Tonander stated that the Executive Committee has not met but extended an invitation to fellow Board Members to join a committee of their choice and if they do not want to be on a committee, they can serve as an alternate.

d. Joint Practice Committee

Mr. Valdez informed the Board that the Joint Practice Committee has not met.

Mr. Tonander added with Mr. Cooper's term ending, they would need another member to fill that vacancy. Mr. Gromatzky volunteered to fill the mentioned vacancy.

e. Public Information, Exam and Licensure Promotion Committee

1) Newsletter

2) Presentations

Dr. Gerstle informed the Board that the newsletter would be published soon.

Mr. Tonander reminded the Board about the annual Ethics courses. He also mentioned an ethics presentation to be done at UNM for an engineering class.

f. Rules and Regulations Policies, Advisories, and Legal Enforcement Committee

Mr. Tonander informed the Board that the Committee was able to add the revision to the Act. However, he believed that they need to go back and take a look at the edit that was examined during this meeting, as well as apply the feedback from the comments received.

Mr. Tonander added that they should start to formally look for legislative sponsors.

Mr. Valdez added that there also needs to be some rule changes prior to the end of 2022 since there was a change to the Uniform Licensing Act.

Ms. Gonzales asked the Board when they would like to have the rule hearing.

Ms. Joe clarified that the rule changes need to occur before the end of the year, preferably in October or November.

Mr. Tonander asked if these changes are already prescriptive or if the Board will need to craft language.

Ms. Joe responded that one issue is the expatiated licensure, but the Board doesn't have to address that, but some members might want to. She stated the main issue would be the military licensure section. Ms. Joe added that there needs to be a change in reference what the ULA said because there was change to some of the numbering in the section in which was initial statutes referred to. She said, due to this change, now the Board can change the language to allow for the ULA and refer to the statute as they need to.

Mr. Valdez said with this suggestion, the Board wouldn't need to mimic what the ULA has, and each time there is a change the Administrative Code could reference back to the ULA.

Mr. Tonander said he will meet with Mr. Valdez to address this matter, to talk through this language to see what needs to change and bring it back and get it distributed.

Mr. Tonander asked Ms. Joe if the Board needs to identify jurisdictions in which they wouldn't have to accept immediate licensure and explain why they don't.

Ms. Joe said that this Board is not included in that requirement, but this process could be done on a volunteer basis.

Mr. Valdez informed the Board that during his Directors meeting, they were made aware that there may be further changes made to the ULA but the Boards that will be affected will be invited to participate in discussions about these changes.

Mr. Gromatzky said he would like be included on the Rules Committee as well.

g. Penalties and Fees Committee

Due to Mr. Bohannon being absent from this meeting, Mr. Ney informed the Board that the Penalties and Fees Committee has not met.

Mr. Tonander requested that Mr. Valdez send the Penalties and Fees Committee the FY24 budget.

h. NCEES Committee Members

Mr. Tonander informed the Board that there has not been any NCEES Committee Meetings since the last Board Meeting, but the Committee assignment letters were distributed on June 9, 2022.

10. **Next Scheduled Meeting Date:** August 12, 2022 – Albuquerque/Virtual

11. **Adjourn**

Meeting adjourned at 12:30 p.m.

Submitted by:

Isaac Maes, Executive Assistant