

Meeting Minutes

**MEETING OF THE NEW MEXICO BOARD OF LICENSURE FOR
PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS
held Immediately following the Rule Hearing
Friday, November 4, 2022, New Mexico State
University, Goddard Hall,
1100 S Horseshoe Street, Room 200,
Las Cruces, NM 88003 & Virtual**

Members Present – Karl Tonander, PE, Chair
Dr. Ahmed Elaksher, PEPS
Stephen Ney, PE
Robert Gromatzky, PS
Elizabeth McNally, PE
Benjamin Aragon, PS
Karen Nichols, Public Member
Emilie Dohleman, PE
John Wayne, PS

Members Absent – Maxine McReynolds, Esq., Public Member

Others Present – Perry Valdez, BLPEPS, Executive Director
Crystal Herrera, BLPEPS, Administrative Operations Manager
Miranda Gonzales, BLPEPS, Administrative Manager
Isaac Maes, BLPEPS, Executive Assistant
Valerie Joe, AAG, Legal Counsel
Dr. Lakshmi Reddi, NMSU Dean of Engineering
Dr. Kurt Wurm, PS, NMSU Professor

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 9:46 a.m., roll call was taken and a quorum was noted. Audience introductions were made at this time.

2. Meeting Notification

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

3. Approval of Agenda

MOTION by Mr. Ney to approve the agenda as presented, **SECONDED** by Dr. Elaksher

Roll Call Vote:

Voting 'Aye': Mr. Tonander, Dr. Elaksher, Mr. Ney, Mr. Gromatzky, Ms. McNally, Mr. Aragon, Ms. Nichols, Ms. Dohleman, Mr. Wayne

The motion **PASSED unanimously**.

4. Approval of Minutes

- a. **Minutes of August 12, 2022**
- b. **Minutes of September 2, 2022**
- c. **Minutes of October 14, 2022**

MOTION by Mr. Gromatzky to approve the Minutes of August 12, 2022, September 2, 2022, and October 14, 2022, as presented, **SECONDED** by Mr. Ney

Roll Call Vote:

Voting 'Aye': Mr. Tonander, Dr. Elaksher, Mr. Ney, Mr. Gromatzky, Ms. McNally, Mr. Aragon, Ms. Nichols, Ms. Dohleman, Mr. Wayne

The motion **PASSED unanimously**.

5. Action on Proposed Rule Changes

- a. **16.39.2 NMAC – Continuing Professional Development**

Mr. Tonander stated the proposed language for 16.39.2 removed the words that have lines through them in Paragraphs (3) and (5) in Subsection C and a number with a line through it in Paragraph (9) of Subsection D.

Mr. Tonander noted that there were no public comments provided for this section.

MOTION by Ms. Nichols to approve 16.39.2 NMAC – Continuing Professional Development as presented, **SECONDED** by Ms. McNally

Roll Call Vote:

Voting 'Aye': Mr. Tonander, Dr. Elaksher, Mr. Ney, Mr. Gromatzky, Ms. McNally, Mr. Aragon, Ms. Nichols, Ms. Dohleman, Mr. Wayne

The motion **PASSED unanimously**.

b. 16.39.3 NMAC – Engineering Licensure, Disciplines, Applications, Exams, Practice, Seal of Licensee and Endorsements

Mr. Tonander stated the proposed language to 16.39.3 added the following categories of engineering disciplines: geotechnical, mineral and materials.

He also noted that the proposed language to 16.39.3.12 NMAC Seal of Licensee allows the size of the text to be as small as 0.1 inches in height in the design of an alternative Professional Engineer seal/stamp.

Mr. Tonander noted that there were no public comments provided for this section.

MOTION by Dr. Elaksher to approve 16.39.3 NMAC – Engineering Licensure, Disciplines, Applications, Exams, Practice, Seal of Licensee and Endorsements as presented, **SECONDED** by Mr. Ney

Roll Call Vote:

Voting ‘Aye’: Mr. Tonander, Dr. Elaksher, Mr. Ney, Mr. Gromatzky, Ms. McNally, Mr. Aragon, Ms. Nichols, Ms. Dohleman, Mr. Wayne

The motion **PASSED unanimously**.

c. 16.39.5 NMAC – Surveying

Mr. Tonander informed the Board that the proposed language for 16.39.5.8 NMAC Application - Surveyor Intern And Professional Surveyor added the New Mexico state specific exam as a requirement for licensure as a professional surveyor.

Mr. Tonander noted that there were no public comments provided for this section.

MOTION by Mr. Gromatzky to approve 16.39.5 NMAC – Surveying as presented, **SECONDED** by Ms. Dohleman

Roll Call Vote:

Voting ‘Aye’: Mr. Tonander, Dr. Elaksher, Mr. Ney, Mr. Gromatzky, Ms. McNally, Mr. Aragon, Ms. Nichols, Ms. Dohleman, Mr. Wayne

The motion **PASSED unanimously**.

d. 16.39.6 NMAC – Licensure for Military Service Members, Spouses and Veterans

Mr. Tonander stated that the proposed language to 16.39.6.7 NMAC Definitions, 16.36.6.8 NMAC Application Requirements and 16.39.6.9 NMAC Renewal Requirements modifies the definitions to align with updates to the Uniform Licensing Act (ULA) Section 61-1-34 NMSA 1978.

Mr. Tonander stated that one public comment was received by Valerie Joe during the Rules Hearing.

Ms. Joe noted that sections B and C of 16.39.6.7 Definitions should be updated to be in line with the Uniform Licensing Act. She stated that 16.39.6.7 B should reference paragraph 2 and 16.39.6.7 C should cite paragraph 3 instead of paragraph 1.

Mr. Tonander noted that the changes to section 16.39.6 were changes that had to be made.

Ms. Joe added that due to the legislature making it mandatory to change these definitions, it was copied from the prior section. But now since the legislature change the definition so regularly further changes will now reflect only one section.

Mr. Ney asked why there were only 3 paragraphs instead of 5 paragraphs within the definition section and if the term “Child” was stricken in the change.

Ms. Joe informed Mr. Ney that this is not the case but instead the term “Military Service Member” includes the term “Spouse” and “Child” within its definition.

Ms. Joe added with this change, any changes that the legislature makes, besides where it is located, then the only change that would need to be made, is where it is located.

Ms. Joe explained, to the new members, the ULA and what it entails.

MOTION by Mr. Gromatzky to approve 16.39.6 NMAC – Licensure for Military Service Members, Spouses and Veterans as amended by Legal Counsel,
SECONDED by Ms. McNally

Roll Call Vote:

Voting 'Aye': Mr. Tonander, Dr. Elaksher, Mr. Ney, Mr. Gromatzky, Ms. McNally, Mr. Aragon, Ms. Nichols, Ms. Dohleman, Mr. Wayne

The motion **PASSED unanimously**.

e. 16.39.8 NMAC – Code of Professional Conduct – Engineering and Surveying

Mr. Tonander stated that the proposed language for 16.39.8.9 Rules of Professional Conduct modifies subsection (D)(6)(a) to correct the reference from the Subparagraphs to the Paragraphs of this rule. In addition, Subsection F of this rule referred to licenses and this has been corrected to licensees.

Mr. Tonander noted that there were no public comments provided for this section.

MOTION by Dr. Elaksher to approve 16.39.8 NMAC – Code of Professional Conduct – Engineering and Surveying as presented, **SECONDED** by Ms. Nichols

Roll Call Vote:

Voting 'Aye': Mr. Tonander, Dr. Elaksher, Mr. Ney, Mr. Gromatzky, Ms. McNally, Mr. Aragon, Ms. Nichols, Ms. Dohleman, Mr. Wayne

The motion **PASSED unanimously**.

6. Public Comment/Correspondence

Mr. Valdez informed the Board that there was no Public Comment or Correspondence.

7. Director's Report

a. Financial Report

1) Staff – Pay bands and Pay Salary

Mr. Valdez gave a brief summary of the pay band and pay salary of the Board Staff positions. He noted that he would like to reclassify the one position from a 65 pay band to a 70 pay band.

Mr. Ney asked for clarification in that a pay band of 70 exist but no one on Board Staff was receiving this pay band. Mr. Valdez confirmed that a pay band of 70 does exist but no one on Board Staff was receiving this pay.

Ms. Nichols asked what the procedure is in increasing the pay salary. Mr. Valdez informed Ms. Nichols that in 2019 the Board voted to increase the staff's pay salaries by 10 percent. He noted that the increases were finally approved at the beginning of 2022.

Mr. Aragon asked Mr. Valdez where the pay for Board Staff comes from. Mr. Valdez informed Mr. Aragon that the licensees' fees is what supplements Board Staff salaries.

b. License Renewals Procedures for 2022

Mr. Valdez informed the Board that due to recent technical issues, online renewal access for licensees is not yet available.

Mr. Valdez went on to say that one option for online renewal would be a temporary online renewal site. In addition, Mr. Valdez said that Ms. Gonzales suggested using *Ever Bright* or *Constant Contact*. However, the IT person, who is on contract to assist with finding a new licensing system, suggested this may not be cost effective since the Board is looking into a new licensing system. Mr. Tonander commented that the time it takes for approvals and other details it would not be viable to set up a temporary online renewal site.

Mr. Valdez added that another option would be to return to paper renewal applications which would be mailed in.

Mr. Valdez also said that another option would be use a software such as *Ever Bright* or *Constant Contact*, where the renewal data could be captured onto a spread sheet similar to the Ethics seminars.

Ms. McNally recommended reaching out to other state boards to inquire about what kind of licensing system they utilize.

Mr. Aragon and Mr. Tonander suggested that in regard to licensees inputting their PDHs and Ethics hours, they could do so on an honor system with the use of a check box.

Mr. Tonander requested that Mr. Valdez keep the Board informed on a weekly basis of the status of the License Renewal Procedures for 2022.

c. Network Issues

Mr. Valdez informed the Board that there was a data breach of RLD which resulted in data loss. However, because BLPEPS uses the RLD network, Board operations were also affected.

Mr. Ney asked Mr. Valdez when the last time was that RLD backed up data.

Mr. Valdez informed Mr. Ney and the Board that the last data backup that RLD performed was in 2020.

Mr. Ney stated that RLDs managing data is unacceptable and needs to be performing back up procedures every week. Mr. Ney asked if the Board needs to stay with RLD.

Mr. Tonander informed Mr. Ney and the Board that due to a Governor's executive order, the Board has to stay within RLD. Mr. Tonander noted that with the data breach however, there may be a change in which the Board does not have to work under RLD.

Mr. Valdez said that The New Mexico Department of Information Technology is working with the Agency to transfer the Board's operations to their network.

Mr. Ney asked Mr. Valdez when moving forward with future Board business, how does one know if the Board Staff are receiving the most up to date data.

Mr. Valdez informed Mr. Ney and the Board that Board staff is utilizing the Microsoft One Drive, the Microsoft Teams online drive, as well as ordering external backups to ensure all data is backed up moving forward.

8. New Business

a. Emeritus Status Request

1) Dr. Walter Gerstle, PE

2) Ronald R. Bohannon, PE

MOTION by Ms. Nichols to approve Dr. Gerstle and Mr. Bohannon for Emeritus Status, **SECONDED** by Mr. Wayne

Roll Call Vote:

Voting 'Aye': Mr. Tonander, Dr. Elaksher, Mr. Ney, Mr. Gromatzky, Ms. McNally, Mr. Aragon, Ms. Nichols, Ms. Dohleman, Mr. Wayne

The motion **PASSED unanimously.**

- b. New Mexico Board Nomination for NCEES Treasurer Candidacy** Mr. Tonander announced his intention to run for the NCEES Treasurer candidacy. He explained that the treasurer position is voted in for a 2-year term, that the current NCEES Treasurer's term ends in 2023.

Mr. Tonander is looking for the Board's sanction and nomination.

MOTION by Dr. Elaksher to nominate Mr. Tonander for NCEES Treasurer,
SECONDED by Mr. Gromatzky

Roll Call Vote:

Voting 'Aye': Dr. Elaksher, Mr. Ney, Mr. Gromatzky,
Ms. McNally, Mr. Aragon, Ms. Nichols, Ms. Dohleman, Mr. Wayne

Abstain: Mr. Tonander

The motion **PASSED**.

9. Old Business

a. Western Zone Attendance (Houston, TX – April 27-29, 2023)

Mr. Valdez informed the Board that the Western Zone Meeting in Houston would be a combination meeting with other zones across the country. He added that the member zones will meet to cover items related to their specific zone. However, in the event in which an agenda item may affect all the NCEES Zones, all the zones will converge to discuss that agenda item.

Mr. Aragon asked what an NCEES zone is.

Mr. Tonander explained what an NCEES zone entails, and which zones certain parts of the country are categorized under.

Mr. Tonander informed the Board that NCEES will fund up to 3 Board members to attend the Houston Western Zone Meeting.

Board members then shared their experience of attending an NCEES meeting to encourage new Board Members to attend.

Mr. Valdez requested that the Board inform him who would be attending the Houston Western Zone Meeting by the next Full Board Meeting.

Ms. Dohleman exited the meeting at 10:56 A.M.

The Full Board broke for recess at 10:58A.M for the NCEES 2022 Surveying Education Award presentation to NMSU

The Full Board returned from recess at 11:54 AM

10. Committee Reports

a. PS Committee

In regard to the 2022 Datum Ellipsoid and State Plane Coordinates Mr. Gromatzky said he made contact with Ms. Bell who is the NGS coordinator and she informed Mr. Gromatzky the 2022 new plane coordinates will not be ready until approximately 2024. Mr. Gromatzky informed the Board that due to this; the state laws will not be able to be updated due to the new state plane coordinates needing to be updated. However, the US survey book is still being created and will be done by the December.

Mr. Gromatzky added that without the State Plane Coordinates being defined by NGS, he didn't believe the Committee could address the issue of the coordinate system and how units are defined until 2024.

Mr. Gromatzky went on to say that there were two PS exams applications that were approved and 2 PS Endorsement applications were approved.

Mr. Gromatzky added that there was an order to show cause in which the associated case was not proven to be in violation of the settlement agreement.

Mr. Gromatzky also said that all the members of the PSC attended the meeting, but Ms. McReynolds had to exit the meeting during closed session and added that Mr. Ney joined to ensure that the PSC had a quorum.

Mr. Gromatzky said that there was one case which resulted in an NCA. There were also wo cases that resulted in dismissal with no action taken.

Mr. Gromatzky added that there was a Pre-NCA with additional plat review that was submitted to Board Staff, one case was closed due to compliance.

Two applications which were reviewed and discussed during closed session were not approved.

b. PE Committee

Mr. Ney reported that there were no disciplinary cases discussed.

He said, there were two PE Exam applications that were approved one for architectural discipline and one for environmental. Mr. Ney noted, in addition, there was one PE licensure approved for Civil as well as one PE Endorsement application approved for the Structural discipline.

Mr. Ney said there was also one reinstatement application approved.

Mr. Ney also reported that there was one PE status that was approved for reinstatement to be eligible to move into retired status then the applicant was approved for retired status due to special circumstances.

Mr. Wayne rejoined the meeting at 11:59 a.m.

c. Executive Committee

Mr. Tonander informed the Board that the Executive Committee had not met.

d. Joint Practice Committee

Mr. Tonander informed the Joint Practice Committee had not met.

Mr. Valdez noted that the Joint Practice Committee has not meet and is currently with the Landscaping Architecture Board as the host Board.

Mr. Valdez also said that if the Joint Practice Committee does meet, it probably won't be until the next fiscal year when the BLPEPS is the host Board.

e. Public Information, Exam and Licensure Promotion Committee

1) Newsletter

2) Presentations

Mr. Tonander informed the Board that the member who oversaw the committee has been retired from the Board but noted that the newsletter has gone out.

Mr. Tonander added that there was an upcoming presentation at NMSU with one of Dr. Elaksher's courses.

Mr. Tonander also informed the Board that the first virtual ethics seminar had 700 attendees via *Microsoft Teams*. Mr. Tonander also said that the next two Ethics seminar would be in person and taking place in Santa Fe and Albuquerque. Mr. Tonander added that after the Albuquerque Ethics seminar there would be

another virtual session via zoom which would be hosted by NCEES which topped out at 1,000 attendees.

Mr. Tonander said that due to reaching the cap for the second virtual session there would be another virtual session via *Microsoft Teams* which would take place on November 21, 2022.

Mr. Tonander also informed the members that the Board has been posting updates frequently on LinkedIn.

Dr. Elaksher stated that he and Mr. Valdez had been collaborating for more outreach and integration from the Board and New Mexico universities.

Dr. Elaksher informed the members that they were welcome to participate in this outreach and integration effort.

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

1) Bucket List

Mr. Tonander informed the Board that the committee had not met but believed the committee may be dormant due to the recent Rules Hearing as well as the Act coming up in the legislature. Mr. Tonander added that he will look at the membership on this committee.

Mr. Valdez noted that the bucket list is outdated but provided it because at the working meeting nor in their meeting packets for that meeting and thought the new Board members should know what the bucket list was about.

Mr. Valdez also said for all the new members, he will be sending out what the changes are to the Practice Act, so they are aware of them when it goes to the legislature.

g. NCEES Committee Members

Mr. Tonander informed the Board that there would be an NCEES Uniform Procedures and Legislative Guidelines (UPLG) Committee meeting in December in Louisville, Kentucky. Both Mr. Tonander and Dr. Elaksher are members of UPLG for the current year.

Mr. Tonander said that Board Members, Emeritus Members, and MBA's can volunteer to be on NCEES Committees.

Mr. Valdez noted that he will be attending the MBA meeting in South Carolina at the NCEES headquarters from January 9, 2023 through January 10, 2023.

11. Next Scheduled Meeting Date: – January 13, 2023 – Albuquerque/Virtual

12. Adjourn

Meeting adjourned at 12:08 p.m.

Submitted by:

s/Isaac Maes

Isaac Maes, Executive Assistant

Approved by:

s/ Karl Tonander

Karl Tonander, Board Chair

January 13, 2023 **Approved Date**