

**MEETING OF THE PROFESSIONAL ENGINEERING
COMMITTEE of the Board of Licensure for Professional
Engineers and Professional Surveyors held at
9:00 a.m., Friday, September 16, 2022
Conference Room of the Office of Tierra West,
LLC, 5571 Midway Park Pl, NE, Albuquerque, NM
& Virtual**

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

Others Present- Perry Valdez, BLPEPS, Executive Director
Miranda Gonzales, BLPEPS, Administrative Manager
Isaac Maes, BLPEPS, Executive Assistant
Delilah Tenorio, AAG, Legal Counsel
Joe Barela, PE, Board Investigator
Patricio Sanchez, PE
Farid

1. Convene, Roll Call and Introduction of Audience

Mr. Ney read the meeting script regarding the virtual meeting protocols. He convened the meeting at 9: 07 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 Mr. Bohannon to approve the agenda as presented, **SECOND** by Dr. Gerstle

Roll Call Vote:

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

The motion **PASSED unanimously.**

4. Requested Public Comment/Correspondence

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

5. Old Business

Mr. Valdez informed the Committee that there was no “old business.”

6. New Business

a. 61-23-14.1. D. – Expedited Licensure regarding Structural Engineering

Mr. Valdez introduced the item, he read the section of the Engineering and Surveying Practice Act regarding expedited licensure. He provided background information on the process of the staff’s review of structural engineering applications.

Mr. Tonander pointed out that the current language in the Practice Act does not make a distinction regarding the engineering disciplines and applications. He noted the Committee needs to be clear to staff on the direction of reviewing the applications.

Dr. Gerstle observed that the additional review is acceptable for structural engineering. Mr. Tonander commented that the staff’s review is setting a higher bar for those applicants and not in line with the current language. Mr. Bohannan agreed with setting the higher bar, noting that structural engineering has more devastating impacts to the safety of the public.

Mr. Bohannan stated the staff should continue as they are, if there is a grievance then staff should bring it to the Board. Mr. Ney agreed with Mr. Bohannan.

Dr. Gerstle said that if someone applies within a discipline such as structural then the expedited law should be followed, but if the applicant is licensed as a civil engineer and applies for the structural discipline in New Mexico, then their credentials warrant a thorough review. Mr. Tonander agreed with Dr. Gerstle. After further discussion, the Committee decided to include an update to the Practice Act language. Mr. Tonander stated he would draft up the proposed language for consideration at the next board meeting.

7. Executive Session

MOTION by Mr. Bohannon 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 Dr. Elaksher

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

****Karl exited the meeting at 11:10 a.m. and returned at 11:21 a.m. ****

8. Action on Items Discussed During Executive Session

Mr. Ney 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) and (3).

a. Disciplinary Cases

1) Case 1-PE-01-25-2021 – Investigator’s Report

MOTION by Dr. Gerstle to enter into a pre-NCA settlement agreement and that if no agreement is executed within 30 days, the matter will be automatically referred to the Attorney General’s Office for the issuance of an NCA, **SECONDED** by Dr. Elaksher

Roll Call Vote:

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

Recused: Mr. Bohannan

The motion **PASSED**.

2) Case 2-PE-01-31-2022

MOTION by Mr. Bohannan to refer to the Attorney General's Office for the issuance of an NCA and a Cease and Desist for violating the Engineering and Surveying Practice Act, **SECONDED** by Dr. Gerstle

Roll Call Vote:

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

The motion **PASSED unanimously**.

b. Self-Reporting

1) BJI-12-13-2021

MOTION by Mr. Bohannan to enter into a pre-NCA settlement agreement and that if no agreement is executed within 30 days, the matter will be automatically referred to the Attorney General's Office for the issuance of an NCA, **SECONDED** by Dr. Elaksher

Roll Call Vote:

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

The motion **PASSED unanimously**.

2) JME-12-19-2021

MOTION by Mr. Bohannan to enter into a pre-NCA settlement agreement and that if no agreement is executed within 30 days, the

matter will be automatically referred to the Attorney General's Office for the issuance of an NCA, **SECONDED** by Dr. Gerstle

Roll Call Vote:

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

The motion **PASSED unanimously.**

3) MDS-12-06-2021

MOTION by Dr. Elaksher to enter into a pre-NCA settlement agreement and that if no agreement is executed within 30 days, the matter will be automatically referred to the Attorney General's Office for the issuance of an NCA, **SECONDED** by Mr. Bohannan

Roll Call Vote:

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

The motion **PASSED unanimously.**

4) PAH-12-20-2021

MOTION by Dr. Elaksher to enter into a pre-NCA settlement agreement and that if no agreement is executed within 30 days, the matter will be automatically referred to the Attorney General's Office for the issuance of an NCA, **SECONDED** by Mr. Bohannan

Roll Call Vote:

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

The motion **PASSED unanimously.**

5) RVN-12-27-2021

MOTION by Dr. Gerstle to acknowledge receipt and take no action,
SECONDED by Mr. Bohannan

Roll Call Vote:

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

The motion **PASSED unanimously**.

6) **SSG-12-27-2021**

MOTION by Dr. Gerstle to acknowledge receipt and take no action,
SECONDED by Mr. Bohannan

Roll Call Vote:

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

The motion **PASSED unanimously**.

c. **Application for Review**

1) **PE Exam**

a. **Flores-Garcia, E.**

MOTION by Dr. Gerstle to approve for the PE exam,
There was no second for the motion, therefore the motion failed.

MOTION by Mr. Bohannan to not allow to take the PE exam,
SECONDED by Mr. Tonander

Discussion: Dr. Gerstle stated there was some questions about the applicant's references, he suggested informing the applicant of the issue and request new references. Mr. Tonander and Mr. Bohannan concurred with Dr. Gerstle.

Ms. Nichols asked what the waiting period for the applicant is to apply for the PE exam again. Mr. Bohannon responded the next meeting; as soon as the applicant resolved the issue.

Mr. Tonander suggested that the same references be updated so the applicant does not have to get new references.

Ms. Tenorio recommended that the original motion be withdrawn and amended to state partially what was discussed. She advised that the new motion be to deny the application for pe exam and request the individual provide updated references from the pool of references already provided for reconsideration.

MOTION by Mr. Bohannon to amend his original motion, to deny the application for the PE exam and request the individual provide updated references from the pool of references in order to be considered, **SECONDED** by Mr. Tonander

Roll Call Vote:

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

Abstained: Dr. Elaksher

The motion **PASSED**.

2) PE Endorsement

a. Leone, A.

MOTION by Dr. Gerstle to not approve for endorsement, **SECONDED** by Mr. Bohannon

Roll Call Vote:

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

Mr. Bohannan, Ms. Nichols

The motion **PASSED unanimously.**

b. Li, S.

MOTION by Dr. Gerstle to approve for endorsement in Civil engineering, **SECONDED** by Dr. Elaksher

Roll Call Vote:

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

The motion **PASSED unanimously.**

9. Next Scheduled Meeting Date:

a. November 3, 2022 – Las Cruces/Virtual

10. Adjourn

Meeting adjourned at 11:32 a.m.

Submitted by:

s/Isaac Maes

Isaac Maes, Executive Assistant

Approved by:

s/ Stephen Ney

Stephen Ney, Committee Chair

November 3, 2022 **Approved Date**