

Meeting Minutes

MEETING OF THE NEW MEXICO BOARD OF
LICENSURE FOR PROFESSIONAL ENGINEERS
AND PROFESSIONAL SURVEYORS held at
9:00 a.m., Friday, January 13, 2023,
NMDOT, District 3, Auditorium,
7500 Pan American Fwy,
Albuquerque, NM 87109
& Virtual

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

Others Present – Perry Valdez, BLPEPS, Executive Director
Crystal Herrera, BLPEPS, Administrative Operations Manager
Miranda Gonzales, Administrative Manager
Isaac Maes, BLPEPS, Executive Assistant
Valerie Joe, AAG, Legal Counsel

1. Convene, Roll Call and Introduction of Audience

Prior to convening the meeting Mr. Maes read the meeting script regarding the virtual meeting protocols. Mr. Tonander convened the meeting at 9:04 a.m., roll call was taken and a quorum was noted. Audience introductions made at this time.

2. Meeting Notification

Ms. Gonzales informed the Board the meeting was noticed on the Board's website and at the Board Office.

3. Approval of Agenda

MOTION by Ms. McReynolds to approve the agenda as presented, **SECONDED** by Mr. Ney.

Discussion: Mr. Aragon requested to place the Board approved changes to the Practice Act on the agenda, specifically 61-23-27-4. Mr. Tonander responded that it could be discussed during the 'Public Comment' section. He noted that this item could be discussed but the Board could not take action on it.

Ms. Joe confirmed what Mr. Tonander said.

Roll Call Vote:

Voting 'Aye': Mr. Tonander, Ms. McReynolds, 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 November 4, 2022

MOTION by Mr. Gromatzky to approve the Minutes of November 4, 2022, 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

Abstain: Ms. McReynolds

The motion **PASSED.**

5. Public Comment/Correspondence

Mr. Aragon asked Mr. Tonander to clarify how the changes to the Practice Act occurred.

Mr. Tonander informed Mr. Aragon of the Board's process on how rule changes and the changes to the Practice Act take place.

Mr. Aragon voiced his concern with the proposed statute change for someone coming from out of state to become a licensed surveyor in New Mexico.

Mr. Tonander said this item stemmed from a similar change for engineers. Mr. Tonander noted that 15 years of Licensure, not just experience, is required for someone out of state to become licensed. He went on to say that this change happened because the Board kept encountering an issue where a potential licensee would have the necessary experience and other qualifications but were not being approved for licensure.

Mr. Tonander noted that at the time the PEC made this change the PSC did not follow a similar path. However, the PSC has since changed their opinion on this and made the proposed addition to the licensure requirement for those applying for licensure by comity.

Mr. Aragon thanked Mr. Tonander for explaining how these changes occurred.

Mr. Valdez informed the Board that Board Staff will be sending out email notifications and updates for any Bills that go before the Legislature that effect their professions.

Mr. Gromatzky provided background information on the proposed change from discussion he had with former Board Members.

6. Director's Report

a. Financial Report

Ms. Herrera gave the following financial report:

As of January 3, 2023, the Board has \$592,078 in revenue. The Board has expended \$322,800 on personal salaries and employee benefits. In the 300 categories, contracts, The Board has expended \$48,000.

In the Other Expenditures category, the Board has expended \$26,680 leaving \$252,900 in this budget.

Ms. Herrera asked the Board if they had any questions.

Mr. Tonander asked if there was anything in this report that was out of the ordinary.

Ms. Herrera said no, and the Board is doing well financially.

Mr. Tonander asked how overtime has impacted the budget.

Ms. Herrera informed the Board that some staff decided to get paid for it while others have decided to bank the hours. But she did not think it would impact the budget. However, she noted it is still too early to tell. She added that in the 200 categories, there is still \$355,900 left which shows that the Board spent less than the total budget of \$678,800.

Mr. Tonander noted that there was a budget hearing scheduled for January 26, 2023, at 1:30 PM. He added that it would be prudent that there be one to two board members who attend.

Mr. Ney and Mr. Gromatzky said they would attend the Budget Hearing meeting.

Mr. Tonander asked if the budget that will be discussed is the 2024 fiscal year budget.

Ms. Herrera said this is correct.

Mr. Tonander then asked if the budget for the upcoming fiscal year will need to be adjusted for the new licensing system.

Ms. Herrera said there will be changes to that budget. She then explained the process on how the Board can pull from the Fund Balance to pay for the new licensing system.

Mr. Ney asked if the cost of the new licensing system has changed.

Ms. Herrera explained to Mr. Ney and the Board the process that will be taking place with DOIT to obtain the new licensing software.

Ms. Dohleman asked if there will be software created for the new licensing system or if the Board will be purchasing off-the-shelf software.

Ms. Herrera said there are different products that we can use but it depends on what suits the Boards needs and how fast we can obtain it. She added that if the Board has any software preferences Staff can look into it.

Mr. Tonander requested that the Board convey information regarding the licensing system to the board as soon as possible.

Ms. Herrera said she will do this and noted that Mr. Valdez has been sending the Board staff a variety of information about the new licensing system.

Mr. Tonander said that an executive committee meeting should happen in the next 30 days to discuss the new licensing system.

b. License Renewals Procedures for 2022

Ms. Gonzales informed the Board that four renewal notices were sent out. The first notice was sent on November 21, 2022. The four-week notice was sent on December 7, 2022. The final week notice was sent on December 27, 2022. The penalty renewal notice was sent out on January 4, 2023.

As of January 13, 2023, there were 4,267 PE renewals, 6 PEPS renewals and 220 PS renewals. 654 PEs have not renewed, 2 PEPS have not renewed, and 27 PS have not renewed.

In addition, there were 29 PEs and 2 PS who went inactive, and 59 PEs and 9 PS who retired.

Out of the total of 5,275 licensees this renewal cycle, 683 have not renewed.

Ms. Gonzalez said that another penalty renewal notice will be sent out at the beginning of February and another one will be sent out two weeks prior to licensees going into lapse status. She also noted that of the 683 non-renewed licensees, 585 are out of state licensees.

Ms. Gonzalez read the following e-mail from a licensee that read:

“Morning all,

With the information provided on the Board's website, it looks like I am not the only one that missed the boat on Saturday, the 31st.

The board and committees need to take a look at this. As of January 4th, there are over 300 engineers/surveyors that are late with registration. I've never seen this information before (late registrants) because it hasn't affected me. This renewal cycle it has.

When will I receive the Active Status? It has been fun having a vacation after a vacation, but I need to get back to work.

There are familiar names on the "late" list that are employed by the state; can you actually tell me that they have been laid off until active status is given?

The past calendar year isn't unique with having the 31st on the weekend. Typically, the next working day is when business starts again. A grace period should be given to those that missed the boat...over 300.

Please advise at your convenience about my active status; please inform the board about this concern with 300+ non-licensed engineers/surveyors."

Mr. Tonander asked if the licensee was having issues with his renewal.

Mr. Valdez responded that the licensee said he wasn't having any issues with his renewal.

Ms. Joe noted that the USPS was open on the 31st of December.

Mr. Gromatzky asked when the renewal notices went out.

Ms. Gonzales informed the Board that renewal notices went out November 21, 2022, December 7, 2022, December 27, 2022, as well as another notice on January 4, 2023 to those who have not renewed, to inform them they are now in an expired status.

c. Update on Network and Licensing System

Ms. Herrera informed the Board that an agreement with DOIT has been signed and they are currently working on transferring the staff's computers to the DOIT network.

Mr. Tonander asked if they were switching hardware.

Ms. Herrera said DOIT is removing the RLD shared network information and transferring it to DOIT.

Mr. Ney asked if DOIT is installing an application.

Ms. Gonzales informed the Board that DOIT is trying to get Board Staff on to the Microsoft One Drive and Teams. However, they are having trouble because RLD has Board Staff Computers password protected, so they will need to factory reset Board Staffs computers.

Mr. Gromatzky asked if the network will no longer be with RLD but with DOIT.

Ms. Herrera said this is correct and all help services will be through DOIT.

Mr. Gromatzky asked if the Licensing system will be run through DOIT.

Ms. Herrera said staff are hoping to get a separate system just for the Board.

Mr. Gromatzky asked if the Board will be managers of the licensing system.

Ms. Herrera answered that is what the staff is hoping for.

Mr. Valdez noted that DOIT staff said they are clearing the Board Staff computers and lending Board Staff computers so they can still operate.

Mr. Valdez also said he will provide a presentation at the next meeting to the new board members as to why the Board is housed with RLD.

Mr. Gromatzky asked if the new licensing system was included in the budget.

Ms. Herrera said it was included in the 2022-2023 budget but for the 2024 budget, Board Staff will be pulling from the fund balance to pay for it since the budget did decrease.

Mr. Valdez said this is correct.

7. Old Business

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

Mr. Wayne, Dr. Elaksher, and Ms. McNally said they will attend the Western Zone meeting in Houston, TX taking place April 27-29, 2023.

b. **Retention Policy**

MOTION by Ms. McReynolds to approve the Retention Policy **SECONDED** by Mr. Gromatzky.

Roll Call Vote:

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

The motion **PASSED**.

****When called on to vote, Ms. McNally, who was attending the meeting virtually, remained silent. *****

8. New Business

a. **Disciplinary Case Control Numbers**

Due to the existing disciplinary case control numbers sometimes, the numbers resulted in errors for compliance reports, the Board agreed to change the format of the disciplinary case control numbers to a new format for more efficient compliance reports.

The new format will read as follows: Case number -License Type-Year.

I.E.:

1-PE-2023, 2-PE-2023,1-PE-2024

1-PS-2023, 2-PE-2023, ...1-PS-2024

b. Emeritus Status Request(s)

- 1) Glen Thurow, PS - Renewal
- 2) Charles Cala, PS - Renewal
- 3) Gilbert Chavez, PS - Renewal

MOTION by Mr. Gromatzky to approve Glen Thurow, Charles Cala, and Gilbert Chaves for Emeritus Status Renewal, **SECONDED** by Mr. Wayne.

Roll Call Vote:

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

The motion **PASSED unanimously.**

Mr. Ney requested that Mr. Valdez send emeritus status renewals.

Mr. Valdez informed the Board that every year he sends an Emeritus status renewal notice to the Emeritus Members.

9. Committee Reports

a. PS Committee

Mr. Gromatzky gave the following report:

The PSC Convened at 9:09 am and audience introductions were made.

He asked audience members that may be Professional Surveyors or their representatives having business for agenda items in closed, Executive Session, to not reveal their identity to the Survey Committee members.

There were two audience members, Alan Grace and Jacobo Pacheco; both Professional Surveyors interested in the 2022 Datum Ellipsoid, State Plane Coordinates, and US Survey Foot

Mr. Gromatzky said during Old Business he discussed the 2022 Datum Ellipsoid and State Plane Coordinates.

He also mentioned a Webinar in which he participated that was hosted by the

NGS last month. Within the materials that he shared with the Committee Members there was a link from an NGS page to proposed legislative language for adopting the 2022 State Plane Coordinates. He added Examples of legislative language that has already been approved by other states are also available from the NGS Web page. He went on to say he reviewed the proposed legislative language from NGS and from States that have already passed legislation and concluded that NGS language points to a State Plane Coordinate System that has not been defined yet. States that have passed the NGS proposed language appear to have repealed definitions for the NAD 27 / NGVD 29 and NAD 83 NAVD 88 datums. He said that he did not believe repealing existing datums would be in the interest of the public. It was agreed by the committee members that we engage NMPS to form a committee to provide input on proposed legislative language for the definition of the 2022 Datum Ellipsoid and State Plane Coordinates as well as definitions for the International Foot. He also stated that the US Survey Foot was deprecated by the Federal Government as of last month. He also noted he will engage NMPS executive director and the President on forming a committee.

Jacobo Pacheco (audience member) asked if it was still appropriate to use the US Survey Foot definition. He responded that the International Foot and the 2022 State Plane Coordinates had not been defined yet, so the NAD 83/NAVD88 datum would still be in effect. Adding that the Minimum Standards for Surveying in New Mexico does not specify which units of length are to be used in a survey.

Mr. Gromatzky reported there was also a review of disciplinary fines.

He stated that the Surveying Penalties Fees Schedule that he had submitted to the committee for review and input would be an ad-hoc document for the purpose of standardizing action taken on repeat offenders. Survey Committee members noted the “Years” between offenses would need to be defined. Valerie Joe suggested that we share this document with the Board Chair and that we may want to make the document more than an Ad Hoc document so that stands a better chance of survivability in court. – He also said that he would share this document with the Board Chair.

He added the Committee voted for a pre-NCA for one case and an NCA for another case. He also said no additional action was taken on a case that was acted on at the November 3rd Meeting.

Mr. Gromatzky said there was a Status Review of Complaints in which the Board Staff provided a review of the existing cases and which cases a Pre NCA settlement agreement, NCA's, Ongoing Investigations, Pending Responses, and new cases.

Mr. Gromatzky concluded his report by informing the Board that it was voted to change the inactive status of a licensee to active for the purpose of moving the license to retired status as requested by the licensee.

b. PE Committee

Mr. Ney gave the following report:

The PEC meeting was convened at 1:02pm.

The PEC approved past meeting minutes from Nov 3rd, Dec 9th, and Dec 12th. Convened special temporary PEC members to address Dec 12th meeting agenda items and to approve the minutes.

Public comment was given by Ms. E. Flores-Garcia about her readiness to sit for the Structural PE exam and her work experience. Committee members were able to ask her questions regarding different work aspects that she has done. There was no Old Business or New Business.

The PEC approved all requests for either PE Retired and PE Inactive status that were recommended by the NMBLPEPS staff.

In Executive Session the Committee reviewed the following:

One disciplinary case was reviewed which resulted in a vote for a Pre-NCA settlement agreement.

Eleven Self Reports:

-Four were Acknowledged Receipt, No Action -Six resulted in Pre-NCAs -One was moved to the PSC committee to review since it was regarding a PS.

The PEC received a status review of complaints and NCA Referrals - no action taken at this meeting.

Applications for Review:

Two PE Exams:

One application was tabled to get further information on the individual's experience.

One application was not approved, with the Committee requesting the individual to return after 6 months and provide information on how they further developed their technical skills.

One PE Endorsement was approved.

One PE Inactive Request was not approved.

One PE Retired Request was tabled until February special PEC meeting.

Next scheduled PEC meeting is on February 17th and will be virtual only. Next regular meeting will be April 20th in Ruidoso.

PEC meeting adjourned at around 3:30pm.

c. Executive Committee

Mr. Tonander informed the Board that the Executive Committee has not met. However, Mr. Tonander noted that he did speak to the lead bill sponsor for changes to the Act and they were in the process of getting it pre-filed and getting additional sponsors.

d. Joint Practice Committee

Mr. Tonander informed the Board that the Committee has not met.

Mr. Ney asked what the Joint Practice Committee entails.

Mr. Tonander informed Mr. Ney that the Joint Practice Committee consists of a member from the PEC, the PSC, the Architecture Board, and the Landscape Architect Board to coordinate and address issues that overlap.

e. Public Information, Exam and Licensure Promotion Committee

1) Newsletter

2) Presentations

Mr. Gromatzky asked Mr. Tonander when the last time was the State specific exam was reviewed.

Mr. Tonander said Mr. Valdez would be able to provide more information.

Ms. Gonzales said that at the November meeting the Board Staff requested the PSC to review the state specific exam. However, they have been unable to send the exam questions to the PSC due to the renewal season.

Mr. Gromatzky suggested that the Board Staff send the PSC the exam questions after the Sunset Act business was completed.

Mr. Tonander asked if the PS state exam is in multiple parts or if it is a single test.

Ms. Gonzales informed the Board of the process of how the PS exams are generated.

Mr. Tonander asked if one of the new licensing systems can generate and grade the test automatically.

Ms. Gonzales said that when researching new licensing systems, this is a feature that has been taken into consideration.

Mr. Tonander asked when the Board Staff will distribute another newsletter or news e-mail.

Ms. Herrera said that the Board of Staff was attempting to have another newsletter for the winter season. However, due to the unforeseen circumstances the next newsletter will be distributed in the Spring or Summer.

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

Mr. Tonander said that the Committee has not met.

Mr. Tonander requested that Mr. Valdez place the formatted bill on the website for the Board Members and public to see.

g. Penalties and Fees Committee

Mr. Tonander informed the Board that the Penalties and Fees Committee has not met.

Mr. Gromatzky said that he would like to meet with the Penalties and Fees Committee to discuss fees.

h. NCEES Committee Members

Mr. Tonander informed the Board that Mr. Valdez attended an MBA meeting in South Carolina. Mr. Tonander added that there was a UPLG meeting in mid-December in Louisville, Kentucky which he attended. He noted that Dr. Elaksher was unable to attend. He said the UPLG reviewed the entirety of the Model Rules and the Model Law for proposed changes. He added that at the next meeting, which would be virtual, those changes would be refined further and then presented at the annual meeting which will take place in Boston.

Mr. Tonander directed that Board Staff e-mail the Board Members the dates of the NCEES Western Zone and National meetings.

10. Next Scheduled Meeting Date: April 21, 2023 – Ruidoso/Virtual

11. Adjourn

Meeting adjourned at 10:30 a.m.

s/ Isaac Maes

Isaac Maes, Executive Assistant

s/Karl Tonander

Karl Tonander, Board Chair

April 21, 2023 Approved Date