

Meeting Minutes

**MEETING OF THE PROFESSIONAL SURVEYING
COMMITTEE of the Board of Licensure for Professional
Engineers and Professional Surveyors held at
9:00 a.m., Thursday, January 12, 2023,
NMDOT, District 3, Auditorium, 7500 Pan American Fwy,
Albuquerque, NM 87109
& Virtual**

Members Present- Robert Gromatzky, PS, Committee Chair
Maxine McReynolds, Esq., Public Member
John Wayne, PS
Benjamin Aragon, PS

Others Present- Perry Valdez, BLPEPS, Executive Director
Crystal Herrera, BLPEPS, Administrative Operations Manager
Miranda Gonzales, BLPEPS, Administrative Manager
Isaac Maes, BLPEPS, Executive Assistant
Angelica Urioste, BLPEPS, Compliance Officer
Marlene Segura, BLPEPS, Licensing Administrator
Valerie Joe, AAG, Legal Counsel
Chuck Cala, PS Investigator
Clay Wygant, PS Investigator
Allen Grace, PS
Jacob Pacheco, PS

1. Convene, Roll Call and Introduction of Audience

Mr. Maes read the meeting script regarding the virtual meeting protocols. Mr. Gromatzky convened the meeting at 9:09 a.m. Roll call was taken and a quorum was noted. Audience introductions were made at this time.

2. Meeting Notification

Ms. Gonzalez informed the Committee 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. Wayne.

Roll Call Vote:

Voting 'Aye': Mr. Gromatzky, Ms. McReynolds, Mr. Wayne, Mr. Aragon

The motion **PASSED unanimously**.

4. Approval of Minutes

a. Minutes of November 3, 2022

MOTION by Mr. Wayne to approve the minutes of November 3, 2022 as amended with minor typographic edits to sections 5a, page 2, to read "Mr. Gromatzky concurred with this." and section 6a, page 3, to read "Once the item has gotten to a further point...", **SECONDED** by Mr. Aragon.

Roll Call Vote:

Voting 'Aye': Mr. Gromatzky, Mr. Wayne, Mr. Aragon

Abstain: Ms. McReynolds

The motion **PASSED**.

5. Public Comment/Correspondence

Mr. Gromatzky informed the Committee that there were no public comments or correspondence.

6. Old Business

a. 2022 Datum Ellipsoid and State Plane Coordinates

Mr. Gromatzky said he attended an online meeting that was sponsored by NGS in which the 2022 Datum Ellipsoid and State Plane Coordinates were discussed. In addition, the topic of the deprecation of the US survey foot was addressed.

Mr. Gromatzky said it was apparent that the deprecation of the US survey foot was in effect as of December 2022. He added that this removed continued support at the federal level for the definition of the US survey foot. Due to this, NGS has adopted the international foot as the definition as the 'foot' as far as a generic term

in relation to foot. In addition, the 2022 state plane coordinate projection and datum is going to be ready in 2024 or perhaps in 2025.

Mr. Gromatzky also said that he shared a link to the NGS website with the Board Staff, so they could distributed it to the other PSC members which includes proposed language to be approved within the State Legislature. Mr. Gromatzky said he reviewed this information and the intent was to have any proposed legislative language approved at the state level, to point towards the NGS definition of what the 2022 Datum Ellipsoid or State Plane Coordinates state. After reviewing this, he said if he were to take a look at the proposed language, he wouldn't know what he would be voting on because it doesn't point to any one specific item. Mr. Gromatzky recommended the PSC engage with NMPS to collaborate ideas of what the PSC wants to bring to the State Legislature. He added that the PSC has until 2024-2025 to address this matter. Mr. Gromatzky noted that there have already been states that have adopted the State Plane Coordinate Systems and the NGS proposed legislative laws. He was concerned about the PSC passing a law they are not familiar with, since NGS hasn't published the Datum yet. Before passing a law, he wanted to know what it entails and engage with NMPS for further discussion.

Mr. Aragon said he agreed with Mr. Gromatzky's approach and shared concerns about the changes being unclear and agreed that it would be beneficial for the PSC to engage with NMPS.

Mr. Gromatzky said he will contact the president elect of NMPS and he will include the laws that other states have passed. He added that other states have rescinded their definition for state plane coordinates referring back to NAD 27 NAD 83. He also said he will look for participation from NMPS about these changes to NAD 27 and NAD 83, but he didn't think the rescinding of these items would be something that the PSC would be interested in.

Mr. Pacheco asked Mr. Gromatzky, if the deprecation of the US survey foot from NGS, and the State Plane Projections for New Mexico being defined as the unit of measure being the US Survey foot, and going forward until a legislation changes, would surveyors have to continue using the US survey foot as the unit of measure?

Mr. Gromatzky suggested we should consider the legislative laws that define the State Plane Coordinate Systems. To his understanding, there hasn't ever been anything in the Minimum Standards that states how a surveyor reports their units. From this perspective as surveyors, the US survey foot will be used moving forward until determined otherwise.

Mr. Pacheco thanked Mr. Gromatzky for his response.

b. Review of Disciplinary Fines

Mr. Gromatzky asked for input from other members of the PSC about this document.

Ms. McReynolds asked how this document would work with the current policy of fines and sanctions that has been adopted.

Mr. Gromatzky said this document is not meant to replace current fines that are approved and adopted by the Board, but is meant for repeat offenders, and was made at the suggestion of the Board Chair. He also added that this document allows for cases to be decided subjectively.

Mr. Gromatzky said the number of years compared to the number of offenses committed would be taken into account to determine the proper disciplinary action to take.

Ms. McReynolds asked if language should be added to indicate what each violation entails.

Mr. Gromatzky agreed with this and asked if the Committee had any other comments.

Mr. Cala asked Mr. Gromatzky when proceeding with further investigations, how he should report when a case has a repeat offender.

Mr. Gromatzky said that during an investigation and the weighing of the evidence, the number of offenses is irrelevant. However, if a notice of contemplated action is issued or a Pre-NCA is unsuccessful and the Committee Members are engaged in discussion, from his prospective he would like to know if

they have multiple offenses. He added that this information should come from the Executive Director not the Investigator.

Mr. Cala asked if this would be an internal process.

Mr. Gromatzky said this is correct.

Ms. Joe informed the Committee that it should have a counterpart on the Engineering side to be sure that they are following the same standards and that it is documented together and attached easily after an investigation is concluded should there be any penalties imposed.

Ms. McReynolds suggested that it would be good for the Committee to have a discussion about the number of years between offenses. She then asked if the Committee would issue a letter of concern to someone.

Ms. Joe said that the Board would issue a letter of concern if there was no finding of a violation of the rules.

Mr. Gromatzky asked the other PSC members to send him any comments relating to the Review of Disciplinary Fines and he will update the document as needed and they will review it at the next PSC meeting.

Ms. McReynolds asked if once the document is complete, will it go before the Rules Committee for review.

Mr. Gromatzky said yes, it will go before the Rules Committee.

7. New Business

Ms. Gonzalez informed the Committee that there was no New Business.

8. Application Review – Recommended Approval

a. Recommended for Approval List (Exhibit A) PS Endorsement Application(s)

Mr. Gromatzky tabled this item and directed staff to gather more information.

b. PS Inactive Status Request(s)

MOTION by Mr. Aragon to approve the PS inactive status requests,
SECONDED by Ms. McReynolds.

Roll Call Vote:

Voting 'Aye': Mr. Gromatzky, Ms. McReynolds, Mr. Wayne, Mr. Aragon

The motion **PASSED unanimously**.

c. PS Retired Status Request(s)

MOTION by Mr. Wayne to approve the PS retired status requests, **SECONDED**
by Mr. Aragon.

Roll Call Vote:

Voting 'Aye': Mr. Gromatzky, Ms. McReynolds, Mr. Wayne, Mr. Aragon

The motion **PASSED unanimously**.

9. Executive Session

MOTION by Mr. Gromatzky 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 Ms. McReynolds.

Roll call vote taken, voting 'Yes': Mr. Gromatzky, Ms. McReynolds, Mr. Wayne, Mr. Aragon

Mr. Gromatzky exited the meeting at 9:45

Mr. Gromatzky rejoined the meeting at 10:45 am

10. Action on Items Discussed During Executive Session

Mr. Gromatzky 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 4-PS-02-05-2021 – Investigator’s Report

MOTION by Ms. McReynolds to refer for an NCA and engage in settlement agreement discussions, **SECONDED** by Mr. Wayne.

Roll Call Vote:

Voting ‘Aye’: Ms. McReynolds, Mr. Wayne, Mr. Aragon

Recused: Mr. Gromatzky

The motion **PASSED**.

Ms. McReynolds requested that Board Staff make the settlement agreement discussions a priority.

****Mr. Gromatzky left the meeting prior to the discussion of the case and rejoined afterwards.****

2) Case 3-PS-02-08-2021 – Investigator’s Report

The Committee received updated information on this case and did not take additional action at this time.

b. Status Review of Complaints and NCAs

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

c. Applications for Review

1) PS Retired Status

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MOTION by Ms. McReynolds to change the applicants’ status from inactive to active and staff will grant the application for retired status,

SECONDED by Mr. Wayne.

Roll Call Vote:

Voting 'Aye': Mr. Gromatzky, Ms. McReynolds, Mr. Wayne, Mr. Aragon

The motion **PASSED unanimously.**

11. Next Scheduled Meeting Date: April 20, 2023 – Ruidoso/Virtual

12. Adjourn

MOTION by Mr. Wayne to adjourn the meeting at 11:49 a.m., **SECONDED** by Mr. Aragon.

Roll Call Vote :

Voting Aye: Mr. Gromatzky, Ms. McReynolds, Mr. Wayne, Mr. Aragon

The motion **PASSED unanimously.**

Submitted by:

s/ Isaac Maes

Isaac Maes, Executive Assistant

Approved by:

s/Robert Gromatzky

Robert Gromatzky, Committee Chair

April 20, 2023 Approved Date