

Meeting Minutes

SPECIAL MEETING OF THE PROFESSIONAL SURVEYING COMMITTEE of the Board of Licensure for Professional Engineers and Professional Surveyors held at 9:00 a.m., Friday, January 27, 2023, & 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
Miranda Gonzales, BLPEPS, Administrative Manager
Isaac Maes, BLPEPS, Executive Assistant
Angelica Urioste, BLPEPS, Compliance Officer
Marlene Segura, BLPEPS, Licensing Administrator

1. Convene, Roll Call and Introduction of Audience

Mr. Gromatzky read the meeting script regarding the virtual meeting protocols. He convened the meeting at 9:05 a.m. Roll call was taken and a quorum was noted. Mr. Valdez noted there was no audience in attendance.

2. Meeting Notification

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

Mr. Wayne exited the meeting at 9:08 am

3. Approval of Agenda

Mr. Gromatzky requested that the agenda be amended to include a question in regard to correspondence he received in relation to the Minimum Standards 12.8.2.Q.(a) the Basis of Bearings.

Mr. Valdez noted that this item could be amended to the Agenda but no action could be taken on it and would only serve a discussion item.

Mr. Gromatzky said this was okay.

MOTION by Ms. McReynolds to approve the agenda as amended to add a question addressing the Minimum Standards basis of bearings as item 4.a., **SECONDED** by Mr. Aragon.

Roll Call Vote:

Voting 'Aye': Mr. Gromatzky, Ms. McReynolds, Mr. Aragon The motion **PASSED unanimously.**

Ms. McReynolds struck her motion and made the following motion instead.

MOTION by Ms. McReynolds to approve the amended agenda, **SECONDED** by Mr. Aragon.

Roll Call Vote:

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

The motion **PASSED unanimously.**

4. Public Comment/Correspondence

Mr. Gromatzky stated this was a basis of bearing question he received. He requested Ms. McReynolds' legal input on the matter.

He stated the question that was posed to him was on the basis of bearing, which is in the NM Minimum Standards of Surveying, 12.8.2.7 Q. (a). Mr. Gromatzky read the section for the record, "New Mexico (NM) state plane grid coordinates with specifics to horizontal datum, zone, and convergence angle if pertinent..."

Mr. Gromatzky said the question which was asked was when the convergence angle is pertinent. Looking at the language itself, that seems to leave it up to the licensee to decide

when the angle is pertinent or not. However, from a legal perspective, with the placing of the language, how would that be perceived as whether it's a requirement or not?

Mr. Gromatzky provided some background information. He said the City of Albuquerque in their standard requires the convergence angle when you submit a plat to the city surveyor for their review and approval. Most other cities or counties don't have this requirement. Based on his research of the Minimum Standards, to answer the question of when the convergence angle is pertinent and drew the same conclusion.

He wondered from a legal perspective, the way the sentence is structured, how would the licensee go about applying this. The qualifier "if pertinent" would mean it may not be a requirement and the convergence angle is not necessary to establish a basis of bearings using state plane grid coordinates if one is using grid bearings.

However, it would be necessary if a licensee is using geodetic bearings and basing that off the state plane coordinates, then you would use the convergence angle.

Ms. McReynolds noted she is not Board counsel but is a member of the board and works in the legal profession. She interpreted the "if pertinent" language if a surveyor was engaged by somebody, filing with the City of Albuquerque, then this requirement would be applicable, pertinent for the surveyor to include the convergence angle.

If engaged for a survey where the ultimate need for the filed survey was to include the convergence angle, even if whether or not it's not required, it seems appropriate to include it on the plat by the surveyor.

Mr. Gromatzky asked if the convergence angle is not a requirement in another jurisdiction, then it would not be needed, he asked Ms. McReynolds if she understood the language that way. Ms. McReynolds understood it to be that way and advised requesting Valerie Joe's, the Board's legal counsel, opinion on the matter.

Mr. Aragon said based on the Minimum Standards sections Q (a) through (e) qualify as an option as a requirement for the basis of bearing. Based on the surveys he has done, very rarely is the convergence angle used. He agrees it is pertinent if it is a requirement from a geodetic standpoint then it really doesn't affect the plat in his opinion.

Mr. Valdez noted that the previous PSC the previous language made it seem it was a requirement whereas the new language makes it optional. The intent of the language was to state that if the angel is necessary the licensee needs to include it and if it is not needed the licensee does not need to include it.

Mr. Gromatzky asked if there has been any enforcement of how jurisdictions practice.

Mr. Valdez said the Board has sent letters to the counties in question as to what they should do but have no authority to enforce how the counites practice.

Mr. Gromatzky's understanding is that the municipalities and counties may promulgate further restrictive requirements, but they cannot be more permissive than what the Minimum Standards are, is that correct?

Mr. Valdez responded that was correct.

Mr. Wayne rejoined the meeting at 9:30 am

5. Application Review – Recommended Approval

a. Recommended for Approval List (Exhibit A)

PS Endorsement Application(s)

MOTION by Mr. Aragon to approve the recommended for approval list (Exhibit A) for PS endorsement applications, **SECONDED** by Ms. McReynolds.

Roll Call Vote:

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

Mr. Wayne had no audio and was having technical difficulties; therefore his vote was not recorded for the record.

The motion **PASSED**.

Mr. Wayne exited the Meeting at 9:31 am** **Mr. Wayne entered the meeting at 9:32 am

6. 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 Mr. Aragon.

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

7. 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. Self-Reporting

1) LW-12-06-2022

MOTION by Ms. McReynolds 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. Aragon.

Roll Call Vote:

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

The motion **Passed unanimously.**

b. Applications for Review

1) PS Endorsement

a) Thie, D.

MOTION by Mr. Gromatzky to approve for NM specific exam,
SECONDED by Mc Reynolds.

Roll Call Vote:

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

The motion **PASSED unanimously.**

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

9. Adjourn

Meeting adjourned at 10:08 a.m.

Submitted by:

s/ Isaac Maes

Isaac Maes, Executive Assistant

Approved by:

s/Robert Gromatzky

Robert Gromatzky, Chair

April 20, 2023 **Approved Date**