

Meeting Minutes

**MEETING OF THE PROFESSIONAL ENGINEERING
COMMITTEE of the Board Licensure for Professional
Engineers and Professional Surveyors held at
1:00 p.m., Thursday, August 10, 2023,
Sandia Conference Room, 2nd floor, Wilson & Company, Inc.
4401 Masthead Street NE, Suite 150, Albuquerque, NM 87109
Hybrid**

Members Present- Karen Nichols, Public Member, Committee Chair
Elizabeth McNally, PE, Vice Chair
Stephen Ney, PE
Karl Tonander, PE
Benjamin Aragon, PS

Members Absent- Dr. Ahmed Elaksher, PEPS
Emilie Dohleman, PE

Others Present- Perry Valdez, BLPEPS, Executive Director
Miranda Gonzales, BLPEPS, Administrative Manager
Dominique Trujillo, BLPEPS Licensing Administrator
Isaac Maes, BLPEPS, Executive Assistant
Earl Burkholder, PEPS
James Malcom
Eugenio Valdez
Tohid Khalili

1. Convene, Roll Call and Introduction of Audience

Mr. Valdez read the meeting script regarding the hybrid meeting protocols. Due to unforeseen circumstances Ms. Nichols was tardy to the meeting. Ms. McNally was attending virtually. Mr. Tonander was asked to volunteer to run the meeting until Ms. Nichols arrived.

Mr. Tonander convened the meeting at 1:25 p.m. Roll call was taken, and a quorum was noted. Audience introductions made at this time. Mr. Aragon, PS, joined the meeting to complete a quorum.

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

Mr. Valdez informed the Committee that item 8. b. would be removed as the applicant rescinded their retired status request.

MOTION by Ms. McNally to approve the agenda as amended to exclude item 8. b. PE Retired Status Request, **SECONDED** by Mr. Ney

Roll Call Vote:

Voting 'Aye': Mr. Tonander, Ms. McNally, Mr. Ney, Mr. Aragon

The motion **PASSED unanimously**.

4. Approval of Minutes

a. Minutes of June 8, 2023

b. Minutes of July 5, 2023

MOTION by Ms. McNally to approve the Minutes of June 8, 2023 and July 5, 2023 as presented, **SECONDED** by Mr. Ney

Roll Call Vote:

Voting 'Aye': Ms. McNally, Mr. Tonander, Mr. Ney, Mr. Aragon

The motion **PASSED unanimously**.

5. Public Comment/Correspondence

a. Malcolm, J.

Mr. Malcom was asking for clarification as to why his request to sit for the PE exam was overturned when he initially was approved in 2017. He cited section 61-23.14.1. B. (2) (a) of the Engineering and Surveying Practice Act.

Mr. Tonander asked for more clarification as to why he was denied.

Mr. Valdez informed the Committee that Mr. Malcom failed the exam the maximum attempts allowed.

Mr. Malcom said he took the PE exam in 2018, and due to the Covid-19 pandemic he was unable to attend the PE exam. He took the exam in 2021 and 2022.

Mr. Tonander asked Mr. Malcom, as of 2022, what he had been doing to prepare for the PE.

Mr. Malcom gave a detailed explanation in terms of course work and career courses that he would be taking to prepare for the PE exam.

Ms. McNally asked Mr. Malcom if the not wanting to take the FE Exam was a matter of time, as an issue.

Mr. Malcom informed the Committee that he tried to take the FE exam but noted

that the math component and core curriculum are different than that from what he has worked with under a licensed engineer. He also felt that the 12 years working under a PE qualified for a bypass of the FE exam.

Mr. Tonander reminded Mr. Malcom that their decision was not based on his education nor experience. He said they were ensuring he (Mr. Malcom) could pass the exam. Mr. Tonander thanked Mr. Malcom for his comments.

b. Valdez, E.

Mr. E. Valdez informed the Committee that he does not work under any professional engineers in his current profession and was asking why he needed a reference for reinstatement when he has been working for the past 4-5 months. He noted that he worked under a professional engineer (PE) in June of 2023 and the PE sent a reference.

Mr. Tonander asked if this position was industrial.

Mr. E. Valdez said he was working with USDA as a funding agency which didn't do any design work, but he reviewed a lot of design from other consulting engineers. He noted that there are several engineers from other states which collaborate and added he has 50-70 engineers working by his side.

Ms. McNally asked if the Committee had the most recent reference.

Mr. E. Valdez said that the Committee should have the most recent reference and he submitted two in May of 2023 and the most recent one submitted his reference in June.

Ms. Gonzales said she distributed the most recent reference to the Committee members.

****Ms. Nichols joined the meeting at 1:48 PM***

****Mr. Aragon exited the meeting at 1:48 PM***

6. Old Business

a. Recommendations for the Fines and Penalties Table

Mr. Valdez informed the Committee that this document came from Mr. Ney and noted that pages 3 and 4 had the most notable changes.

Mr. Ney added that when the review of fines was being examined, fees were very broad and were not clear in terms of what fine was associated to which violation. He wanted to make it clear in terms of what each fine was for.

Mr. Tonander asked if the advertising or practicing of engineering or surveying without a license or suspended license had a nominal fee from \$500.00 to \$1000.00 and stated that if this was the case, it seemed like a substantial drop if this was intended.

Mr. Ney noted that this is a work in progress and said that the amounts can be changed later to ensure that the offense be proportional to the fine. He also said this doesn't preclude the board from going to a higher fee.

Mr. Tonander asked since the nominal fee is listed if this would require the Committee to justify going higher in terms of legality.

Mr. Valdez said that since this document is labeled as a guideline and not policy document, justifying a higher fee should not be necessary.

Mr. Tonander asked if this document needed to be voted on today.

Mr. Valdez said this item can be brought back at a later meeting since it is a work in progress. He noted that Mr. Gromatzky from the PSC asked if this document could go to the Legal Enforcement committee for their review, which Mr. Valdez informed him that this could be done.

Mr. Tonander said he would like this item to be tabled and stay on old business.

Ms. McNally suggested keeping the change of address and employer on one row and have another row that is labeled failure to report.

Mr. Ney noted that this was one of the fines he proposed changing because it was substantially low.

Ms. Nichols took over as Committee Chair from Mr. Tonander as she had joined the meeting.

7. New Business

a. NM Tech University Support Application

Mr. Valdez introduced the item and explained the request.

MOTION by Ms. McNally to bring the NM Tech University Support Application before the Full Board, **SECONDED** by Mr. Ney

Roll Call Vote:

Voting Aye: Ms. Nichols, Ms. McNally, Mr. Ney

Voting 'Abstain': Mr. Tonander

The motion **PASSED**.

8. Application Review – Recommended Approval

a. Confirmation of Staff Reviewed Applications

The Committee acknowledged the list of staff reviewed applications.

b. PE Retired Status Request

This item was removed during the approval of the agenda.

c. PE Inactive Status Request

MOTION by Mr. Tonander to approve the inactive status request, **SECONDED** by Ms. McNally

Roll Call Vote:

Voting Aye: Ms. Nichols, Ms. McNally, Mr. Tonander, Mr. Ney

The motion **PASSED unanimously**.

9. Executive Session

MOTION by Mr. Ney 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. Tonander,

Roll call vote taken, voting 'Yes': Ms. Nichols, Ms. McNally, Mr. Tonander, Mr. Ney

10. 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 10-PE-09-01-2021(A)

Ms. Nichols said direction was given to Board Staff on the matter.

b. Self-Reporting

1) AF-01-04-2023

6) JME-12-19-2021

8) RKM-12-23-2019

9) RLB-02-28-2019

MOTION by Ms. McNally to close the cases for fulling their settlement agreements, **SECONDED** by Mr. Tonander

Roll Call Vote:

Voting Aye: Ms. Nichols, Ms. McNally, Mr. Ney, Mr. Tonander

The motion **PASSED unanimously**.

2) DFL-11-30-2022

3) DTS-03-08-2023

4) EBK-03-08-2023

5) EBK-12-21-2022

10) RRH-12-05-2022

MOTION by Mr. Tonander to acknowledge receipt and take no further action, **SECONDED** by Mr. Ney

Roll Call Vote:

Voting Aye: Ms. Nichols, Ms. McNally, Mr. Ney, Mr. Tonander

The motion **PASSED unanimously**.

7) HAD-11-28-2022

Ms. Nichols said Bord Staff was given direction on this matter.

11) WRG-12-13-2022

MOTION by Mr. Ney to require the individual to provide proof of report or a signed affidavit that they self-reported, **SECONDED** by Ms. McNally,

Roll Call Vote:

Voting Aye: Ms. Nichols, Ms. McNally, Mr. Ney, Mr. Tonander,

The motion **PASSED unanimously**.

c. Status Review of Complaints and NCA Referrals

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

d. Applications for Review

1) EI Certification

a) Boyle, J.

Ms. Nichols tabled this item for legal review.

2) PE Exams

a) Khalili, T

MOTION by Mr. Tonander to not approve and require applicant to provide additional experience, **SECONDED** by Ms. McNally

Roll Call Vote:

Voting Aye: Ms. Nichols, Ms. McNally, Mr. Ney, Mr. Tonander

The motion **PASSED unanimously.**

b) Malcom, J. – Reconsideration

MOTION by Mr. Ney to not approve the bypass of the FE exam, **SECONDED** by Ms. McNally

Roll Call Vote:

Voting Aye: Ms. Nichols, Ms. McNally, Mr. Ney, Mr. Tonander

The motion **PASSED unanimously.**

c) Ramirez, A

MOTION by Mr. Ney to approve a bypass of the FE exam, **SECONDED** by Ms. McNally

Roll Call Vote:

Voting Aye: Ms. Nichols, Ms. McNally, Mr. Ney, Mr. Tonander

The motion **PASSED unanimously.**

d) Varela, I.

MOTION by Ms. McNally to not approve applicant to sit for PE exam, **SECONDED** by Mr. Tonander

Roll Call Vote:

Voting Aye: Ms. Nichols, Ms. McNally, Mr. Ney, Mr. Tonander

The motion **PASSED unanimously.**

3) PE Endorsement

a) Gold, J.

Ms. Nichols tabled for legal review.

b) Houdeshell, M.

c) Lazarraga, D.

MOTION by Mr. Tonander to approve for PE endorsement in structural engineering, **SECONDED** by Mr. Ney

Roll Call Vote:

Voting Aye: Ms. Nichols, Ms. McNally, Mr. Ney, Mr. Tonander,

The motion **PASSED unanimously.**

d) Morris, M.

MOTION by Ms. McNally to approve for PE endorsement in mechanical engineering, **SECONDED** by Mr. Tonander,

Roll Call Vote:

Voting Aye: Ms. Nichols, Ms. McNally, Mr. Ney, Mr. Tonander

The motion **PASSED unanimously.**

4) PE Reinstatement

a) Morris, P.

b) Valdez, E. – Reconsideration

c) Vrettos, N.

MOTION by Ms. McNally to approve for PE reinstatement, **SECONDED** by Mr. Ney

Roll Call Vote:

Voting Aye: Ms. Nichols, Ms. McNally, Mr. Tonander, Mr. Ney

The motion **PASSED unanimously.**

11. Next Scheduled Meeting Date:

a. September 15, 2023 – Virtual (if needed)

b. November 2, 2023 – Silver City/Virtual

12. Adjourn

Meeting adjourned at 3:57 a.m.

Submitted by:

s/Isaac Maes

Isaac Maes, Executive Assistant

Approved by:

s/ Karen Nichols

Karen Nichols, Committee Chair

September 15, 2023 Approved Date