

Meeting Minutes

MEETING OF THE NEW MEXICO BOARD OF
LICENSURE FOR PROFESSIONAL ENGINEERS
AND PROFESSIONAL SURVEYORS held at
9:00 a.m., Friday, August 11, 2023,
Wilson & Company, Inc., Sandia Conference Room, 2nd floor,
4401 Masthead Street NE, Suite 150, Albuquerque, NM 87109
Hybrid

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

Members Absent – Emilie Dohleman, PE, Vice Chair
Dr. Ahmed Elaksher, PEPS

Others Present – Perry Valdez, BLPEPS, Executive Director
Crystal Bustamante, BLPEPS, Budget/Finance Manager, CPO
Miranda Gonzales, BLPEPS, Administrative Manager
Isaac Maes, BLPEPS, Executive Assistant
Ron Bohannon, PE, Emeritus Board Member
Ralph Vincent, Project Manager

1. Convene, Roll Call and Introduction of Audience

Prior to convening the meeting Mr. Gromatzky read the meeting script regarding the virtual meeting protocols. He convened the meeting at 9:01 a.m., roll call was taken and a quorum was noted. There was no audience in attendance.

2. Meeting Notification

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

3. Approval of Agenda

Mr. Valdez requested the Board to remove item 6.a.1 and present this at an Executive Committee meeting.

MOTION by Mr. Tonander to approve the agenda as amended with the removal of item 6. a. 1., **SECONDED** by Ms. Nichols,

Roll Call Vote:

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

The motion **PASSED unanimously**.

4. Approval of Minutes

- a. Minutes of June 9, 2023**
- b. Minutes of June 22, 2023**
- c. Minutes of July 7, 2023**

MOTION by Ms. Nichols to approve the Minutes of June 9, 2023, June 22, 2023, and July 7, 2023, as presented, **SECONDED** by Mr. Aragon,

Roll Call Vote:

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

The motion **PASSED unanimously**.

5. Public Comment/Correspondence

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

6. Director's Report

a. Financial Report

Ms. Bustamante provided the trial balance report showing at the beginning of FY23 a fund balance amount of \$1,263,574.61. The FY23 revenue collected for the fiscal year was \$1,146,368.77, and expenditures were \$1,043,166.65 resulting in a net revenue amount of \$103,202.12. The estimated fund balance beginning FY24 is \$1,366,776.73.

Ms. Bustamante reported the FY24 Budget is \$1,404,300; \$729,300 in the personal services & employee benefits category, \$331,100 in the contractual services category and \$343,900 in the other operating costs category. This amount is expected to increase after a BAR to move \$473,000 from fund balance to the contractual services operating budget is complete, which will be used to acquire the professional licensing system.

The total fees waived for FY23, October 12, 2022, through June 30, 2023, amount to \$5,690.00 with a total of 61 fees waived. The total fees waived for FY24, July 1-31, 2023, amount to \$800.00 with a total of 7 fees waived.

1) FY25 Budget Appropriation

This item was removed from the agenda and will be presented to the Executive Committee at a later date.

b. Update on Network and Licensing System

Mr. Valdez informed the Board that there would be a project certification meeting at the end of the month. He added that the next phase would be the drafting of the contract with a selected vendor along with weekly report updates.

Mr. Vincent added that at this point, the discussion among the Project Steering Committee needs to happen. He went on to say that the Project Steering Committee would meet monthly and would require Board members along with some members of Board Staff to serve this administrative process.

Mr. Valdez said the Board members who were appointed to this committee were Mr. Tonander, Mr. Gromatzky, and Mr. Ney. In terms of Board Staff members appointed, he informed the Board that Ms. Bustamante, Ms. Gonzales, and himself would be on this committee.

Mr. Gromatzky asked if the committee should meet even after the vendor was selected.

Mr. Vincent said yes, and detailed reports would be given at each meeting for the project.

Mr. Valdez informed the Board that this committee would inform the Board where the project was in its timeline and goals. He also said they would include what could be done to ensure the project is implemented on time and correctly.

Mr. Gromatzky requested that the meeting of this committee be scheduled in the near future.

Mr. Tonander asked if this new committee could be added to committee reports for Full Board Meetings until its business is concluded.

Mr. Vincent added that because paper renewals take so much staff time, the staff will be less available during renewal period and the vendor will need to be informed to get a more accurate completion time.

Mr. Valdez added that staff unavailability may also be impacted by the legislative session.

Mr. Gromatzky asked if additional staff or temps would be hired to help with

renewals.

Mr. Valdez said as of now there are no plans for this, but he can review the budget to see if this is possible.

Ms. McNally asked if there is a way to see if there are data processing tools that can help with paper renewals.

Mr. Valdez said he and Mr. Vincent would look into this.

c. License Status Report

Mr. Valdez reported the following License Status:

August 2023: Number of Active Licenses: 10,515 as of August 2, 2023

- Active Professional Engineers: 9,994
 - In State: 1,973
 - Out of State: 8,021

- Active Professional Surveyors: 511
 - In State: 213
 - Out of State: 298

- Active Professional Engineers/ Professional Surveyors: 10
 - In State: 8
 - Out of State: 2

Of the number of engineers and surveyors listed above, these are individuals licensed as both engineers and surveyors with two separate license numbers (dual licensees).

- Licensees with two numbers = 53*
 - In State: 26
 - Out of State: 27

Mr. Aragon asked if the higher number of out-of-state engineers versus that of out-of-state surveyors is normal.

Mr. Tonander said this is a common trend and added that surveyors typically come from out of state.

Mr. Valdez said he would provide a chart to showcase the trend that Mr. Tonander was referring to at the next Full Board meeting.

Mr. Ney asked if the Board knew why this flip happened.

Mr. Gromatzky and Mr. Tonander said it would seem to them that advancements in technology could be a reason for more out of state surveyors practicing in New Mexico.

Mr. Gromatzky added that he expected the out-of-state influx to continue to increase with new surveying laws being passed.

d. FY 23 Performance Measures

Mr. Valdez gave a report the following report on the FY 23 Performance Measures to the Board. He added that this report will be brought to the Board every August.:

Output: Number of licenses or certifications issued in one year.

- 2021-2022 Actual: 1039
- 2022-2023 Projection: 700
- 2022-2023 Actual: 776

Efficiency

The number of days from receipt of a complaint to delivery to the respective professional committee of the board.

- 2021-2022: 94
- 2022-2023 Projection: 90
- 2022-2023 Actual: 85

Outcome

Percent of consumers requesting information who are provided with information.

- 2021-2022: 100%
- 2022-2023 Projection: 100%
- 2022-2023 Actual: 100%

Efficiency

Percent of cases resolved through compliance or legal action within one year.

- 2021-2022: 15%
- 2022-2023 Projection: 50%
- 2022-2023 Actual: 33%

Mr. Gromatzky asked if the pre-NCAs were helpful in reaching the projected goal.

Mr. Valdez said he felt they were effective.

Ms. McNally asked if staff could add more details to clarify the data presented, such as phone calls, e-mails etc.

e. Staff Vacancy

1) Plan/Timeline for filling Compliance position

Mr. Valdez informed the Board that the Compliance Officer position was filled, and the new employee will begin working on September 5, 2023. He added that the Board Staff will be fully staffed at that time.

7. Old Business

a. NM Tech – University Support Application

Mr. Wayne said the PSC agreed to bring this application to the Board and Ms. Nichols said that the PEC supported the application as well.

MOTION by Ms. Nichols to award New Mexico Tech \$49,508 to support their application, **SECONDED** by Mr. Aragon,

Roll Call Vote:

Voting ‘Aye’: Mr. Gromatzky, Mr. Ney, Ms. Nichols, Ms. McNally, Mr. Wayne, Ms. McReynolds, Mr. Aragon

Abstain: Mr. Tonander

The motion **PASSED**.

b. Seal Design

1) D. Adams

Mr. Ney recommended that the PE stamp should be standardized to represent the State of New Mexico, such as the state flower, bird, etc.

Mr. Tonander advised that the rules include the stamp requirements. He added that if there are going to be more restrictions, a new policy is required.

Mr. Wayne had concerns about copyright infringement and asked if the Board could be held responsible.

Mr. Tonander added, if the Board approves the PE stamp, a caveat should be included that it can't be copywritten.

Mr. Ney asked who is going to be the copyright officer to make sure it is not copywritten.

Mr. Tonander proposed that the submitter should include, with their submittal, an affidavit certifying that the artwork provided is original and not subject to copyright infringement and will not be subject to future copyright.

Ms. Nichols asked if a rules change is needed to add safeguards for copyright issues or is this a procedural issue to require an affidavit.

Mr. Gromatzky answered that providing an affidavit should be the process. The affidavit should include an indemnification statement that the state will be held harmless for any copyright claim.

Ms. McReynolds suggested that legal review from the Board's Counsel should be part of the approval process.

Ms. McNally agreed and thought a legal review with a copyright lawyer would be a good idea.

Mr. Tonander suggested that new seal submittals should include a copyright and offer the copyright over to the Board.

Ms. McReynolds suggested the Board adopt language for the future process for new seal design requests. Mr. Valdez said he will write up the procedure and bring it to the next Full Board meeting.

MOTION by Mr. Tonander to approve the proposed seal, so long as D. Adams copyrights the seal and transfers said copyright to the Board,
SECONDED by Ms. Nichols,

Roll Call Vote:

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

The motion **PASSED unanimously.**

8. New Business

a. NMSU University Support Application

MOTION by Mr. Aragon to grant the application from New Mexico State University requesting \$50,000 for the support of their equipment, **SECONDED** by Mr. Tonander,

Roll Call Vote:

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

The motion **PASSED unanimously.**

b. FY24 Board Member Sub-Committee Assignments

After discussion at length, the following committee assignments were assigned to the following board members.

The Board took a recess at 10:58 am

The Board reconvened at 11:13 am

Joint Practice Committee:

Mr. Aragon and Ms. Dohleman. Alternates: Mr. Ney, and Mr. Gromatzky

Public Information, Examination and Licensure Promotion Committee:

Ms. McNally (Chair), Ms. Nichols, Dr. Elaksher, and alternate: Mr. Tonander

Mr. Gromatzky requested Mr. Valdez to ask two Emeritus Members if they'd like to be involved, perhaps Chuck Cala and one other.

Legal Enforcement Committee: Rules and Regulations, Policies and Advisories Committee:

Mr. Gromatzky, Ms. McReynolds, Mr. Tonander, Ms. Nichols, and Ms. Dohleman.

Mr. Gromatzky requested Mr. Valdez to ask two Emeritus Members if they'd like to be involved, perhaps Glen Thurow and Ron Bohannon.

Penalties and Fees Committee:

Mr. Wayne (Chair), Mr. Ney, Mr. Aragon, Dr. Elaksher, and Ms. McNally.
Alternate: Ms. Nichols.

Executive Committee:

Mr. Gromatzky, Ms. Dohleman, Mr. Ney, Mr. Wayne, Ms. Nichols, and Mr. Tonander.

Steering Committee:

Mr. Gromatzky, Mr. Tonander, and Mr. Ney

c. PEC Recommendations for the fines and Penalties Tables

Mr. Ney gave a brief summary of the Guidelines for Fines and Sanctions document with some recommendations to change some of the fees to align with the actual penalty or fine that's being brought against an individual. The recommendations in this document should be brought to the Fees and Penalties Committee for further discussion.

9. Committee Reports

a. **PS Committee**

Mr. Wayne provided the following report:

There were 12 PS endorsement applications approved. There were 4 cases: 1 was dismissed, 1 entered into a settlement agreement with the understanding that if an agreement is not met there will be a hearing, and 2 cases were tabled for Board Staff to gather more information.

b. **PE Committee**

Ms. Nichols provided the following report:

The PEC met on July 5, 2023, virtually to consider 2 applications for PE endorsement: 1 was tabled to allow the individual to provide course descriptions for the required biology or chemistry courses to Board Staff, 1 application for structural endorsement was not approved. She signed 4 pre-NCA agreements.

She added that the PEC met again August 10, 2023; 1 disciplinary case was reviewed, direction was provided to Board Staff that no further action will be taken. There were 11 self-reports reviewed: 9 were closed and 2 were tabled to allow Board Staff to gather more information. There was 1 EI certification that was tabled for legal review, 1 FE bypass exam approved, and 3 FE bypass exams not approved. 4 PE endorsement applications reviewed: 1 PE endorsement was tabled for legal review and 3 PE endorsements were approved (2 structural and 1 mechanical).

c. **Executive Committee**

Mr. Gromatzky reported that the Executive Committee had not met.

d. **Joint Practice Committee**

Mr. Gromatzky reported that the Joint Practice Committee had not met.

e. **Public Information, Exam and Licensure Promotion Committee**

1) **Newsletter**

Mr. Valdez reported that Ms. Bustamante has been working on the next newsletter as well as requesting a picture and bio for Board Members.

2) **Presentation(s)**

Mr. Gromatzky reported that the Public Information, Exam and Licensure Promotion Committee had not met.

Mr. Tonander informed the Board that an event is planned to recognize the

first female surveyor in the state of Texas, Ms. Virginia Beck. The event is hosted by the Texas PS Chapter and the NMPS Rio Grande Chapter in El Paso, Texas, which he and Mr. Gromatzky will be attending.

Mr. Gromatzky added that this is an open invitation event, September 8-9, 2023.

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

Mr. Valdez informed the Board that he sent out letters regarding the enforcement of the Industrial Exemption in January 2024. He received a phone call from a Co-op, that expressed concerns regarding the deadline. They've requested to come before the Board to discuss the exemption.

Mr. Tonander suggested that Mr. Valdez ask them for a written statement that describes what they will be presenting to the Board as this will help the Board in the response to the request.

g. Penalties and Fees Committee

Mr. Gromatzky reported that the Penalties and Fees Committee had not met.

h. NCEES Committee Members

Mr. Gromatzky informed the Board that Ms. Gonzales sent an email about the State of Council meeting, regarding the motions to be presented at the annual meeting in Boston.

Mr. Valdez inquired if the Board has any issues with the motions and if the Board wanted to decide how to vote or allow the delegation that attends to vote as they see fit. He added that Mr. Gromatzky, Mr. Tonander, Mr. Wayne, and Ms. Dohleman plan to attend; and, the staff attending are Ms. Gonzales, Ms. Segura, and himself.

Mr. Tonander advised that in the past, the Board had special work sessions to discuss motions, but noted that there isn't time to do so as the meeting begins August 15th.

10. Next Scheduled Meeting Date: November 3, 2023 – Silver City/Virtual

11. Adjourn

The meeting was adjourned at 12:24 p.m.

Submitted by:

s/Isaac Maes

Isaac Maes, Executive Assistant

Approved by:

s/Robert Gromatzky

Robert Gromatzky, Board Chair

January 12, 2024 Approved Date