

Physical Meeting Location:
Texas Board of Professional Engineers and Land Surveyors
Regular Quarterly Board Meeting Minutes
Sigma Engineers, Inc.
4099 Calder Ave, Beaumont, Texas 77706
August 18, 2022
10:30 am - 1:00 pm Central Time

Discuss and Possibly Act on the Following Agenda Items:

1. Preliminary Matters (Sina K. Nejad, P.E., P.Eng., Presiding Officer)

A. Call to Order

Dr. Sina K. Nejad, P.E., P.Eng., Chair, called the Regular quarterly Board meeting of the Texas Board of Professional Engineers and Land Surveyors to order at 10:32 a.m. at the Texas Board of Professional Engineers and Land Surveyors in-person and via Videoconference. (NOTE: all votes are unanimous unless noted.)

B. Recitation of the Pledge of Allegiance

Dr. Nejad led the recitation of the Pledge of Allegiance.

C. Roll Call

Dr. Kinney called the roll. It was noted for the record that a quorum was present.

The following Board members were present:

Dr. Sina K. Nejad, P.E., P.Eng.	Chair
Catherine Norwood, P.E.	Vice-Chair
Ademola Adejokun, P.E.	Secretary
Kiran Shah	Treasurer
Albert Cheng	Public Member
Karen Friese, P.E.	Member
Coleen Johnson, R.P.L.S.	Member
Mark Neugebauer, R.P.L.S., L.S.L.S.	Member
Rolando Rubiano, P.E.	Member
Dr. Marguerite McClinton Stoglin	Public Member

Melissa Juarez, Assistant Attorney General and General Counsel for the Board, was present to provide legal counsel to the Board.

The following staff members were present:

Lance Kinney, Ph.D., P.E.	Executive Director
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Rick Strong, P.E.	Director of Licensing and Registration
Michael Sims, P.E.	Director of Compliance and Enforcement
Elissa Mazza	Staff Attorney
Jeff Mutscher	Chief Financial Officer
Janet Sobieski	Director Operations
Ed Brannan, P.E.	Technical Engineering Specialist
Tejashri Kyle, P.E.	Technical Engineering Specialist
Cristabel Bodden	Executive Assistant

D. Excuse Absent Board Members

All Board members were present.

E. Welcome Visitors

Lamberto Ballí, P.E., Advisory Member; Dr. William Edwards, R.P.L.S., L.S.L.S., Advisory Member; and Jon Hodde, R.P.L.S., Advisory Member; were present.

F. Public Comment

There were no public comments.

2. Consent Agenda*

The following items may be acted upon under Consent Agenda*:

- A. May 11, 2022 Licensing and Registration Committee Meeting Minutes (See agenda item #3)**
- B. May 12, 2022 Enforcement Committee Meeting Minutes (See agenda item #4)**
- C. May 12, 2022 Regular Quarterly Board Meeting Minutes (See agenda item #5)**
- D. Administrative Reports, Outstanding Administrative Penalties, Default Judgment, Dismissed Cases, Violation Terminated Cases, Voluntary Compliance Cases (See agenda item #15)**
- E. Licensing and Registration Applications – Engineering and Land Surveying (See agenda item #17)**
- F. Calendar Year 2023 Board Meeting Schedule (See agenda item #18)**

It was MOVED/SECONDED (Friese/Shah) to approve items B-F as presented in the **Consent Agenda**. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Norwood/Friese) to approve item A as amended in the **Consent Agenda**. A vote was taken and the MOTION PASSED.

Board and Committee Meeting Minutes:

3. Consent Agenda* May 11, 2022 Licensing and Registration Committee Meeting Minutes

4. Consent Agenda* May 12, 2022 Enforcement Committee Meeting Minutes

5. Consent Agenda* May 12, 2022 Regular Quarterly Board Meeting Minutes

Agenda items 3-5 were approved under **Consent Agenda**, see above.

Board and Advisory Members' Quarterly Activity Matters:

6. Board Members' Quarterly Activity Update, including conferences and meetings attended and presentations given:

A. Adejokun

B. Cheng

C. Friese

D. Johnson

E. Nejad

F. Neugebauer

G. Norwood

H. Rubiano

I. Shah

J. McClinton Stoglin

7. Advisory Members' Quarterly Activity Update, including conferences and meetings attended and presentations given:

A. Ballí

B. Edwards

C. Gonzalez

D. Hodde

E. Nadkarni

F. Womack

Reports were provided as exhibits. No action was taken on agenda items 6-7.

Finance and Budget Matters:

8. Finance and Budget

A. FY22 3rd Quarter Budget Report

Mr. Mutscher reviewed the 3rd Quarter Budget report with the Board. The report reflects a small variant in revenue and expenses in actual versus budgeted for this fiscal year.

No action was required on this agenda item.

B. FY23 Budget and Fees

Mr. Mutscher stated that the FY23 Budget and Fees report starts September 1st of this year and is ready for adoption.

Mr. Mutscher stated the current year which ends on August 31st will have an ending fund balance of just over two million dollars and is on par with what he recommended it would be when the budget was discussed back in May 2022.

Mr. Mutscher stated that looking forward to fiscal year 2023, he is estimating an increase in revenue for this coming fiscal year of \$178,000 and on the expense side that agency expenses will increase by approximately \$370,000. When you take this information and factor in the projected activity for fiscal year 2023, he believes that at the end of fiscal year 2023, there will be a decrease in the fund balance to 1.4 million dollars.

Mr. Mutscher stated there are currently no planned fee increases for fiscal year 2023. Modeling and analysis shows that this will not put the board in a sustainable position for much longer. Agency workload, and therefore staffing and expenses, are increasing.

Mr. Mutscher discussed projected fund balances for the next five years and stated that without a fee increase, there will be a steady decline of revenue and it will not allow us to operate as we need to and keep a steady reserve to cover unexpected expenses or changes to operations.

Mr. Mutscher, Dr. Kinney, and Treasurer Shah have looked at multiple fee models and compared to budget trends and how it will impact the future fund balance. After considering different options, we are proposing a \$10 fee increase on all P.E. and Land Surveyor renewals - both active and inactive – to begin in FY24. This would raise the renewal amount from \$40 to \$50 beginning on September 1, 2023. The \$10 increase would allow us to continue to operate in a range that would allow us to operate comfortably without having to raise fees again for at least another 4 or 5 years.

Mr. Mutscher stated that Dr. Kinney and Mr. Shah reviewed the proposed budget and fees analysis, and it was also presented to Dr. Nejad for review. All three support the report.

Mr. Mutscher stated that as part of the report, in the expenditure section, the chairman of the board reviews the executive director's performance and prepares a performance evaluation, and the chairman did implement a merit increase to the executive director again and is therefore included in the fiscal year 2023 expenditure budget and must be noted in the minutes of the meeting.

Mr. Rubiano expressed his concern in that open positions had not been filled in the past year and wondered if this agency was competitive enough to attract the individuals needed and retain current staff. Mr. Mutscher replied that money has been set aside for this reason and money set aside of good merit raises for current staff members.

Dr. Kinney added that the cost of living in Austin and Texas in general is becoming more expensive, and that competition for employees is high. The board is working to fill the positions and bring in qualified candidates.

Dr. Nejad stated that the board had already discussed a succession plan to prepare when Dr. Kinney leaves in the future.

It was MOVED/SECONDED (Friese/Rubiano) to approve the fiscal year 2023 budget as presented. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Friese/Rubiano) to approve the fee increase of \$10 that will take effect on September 1, 2023, for fiscal year 2024. A vote was taken and the MOTION PASSED.

Committee Matters:

9. Licensing and Registration Committee Meeting Summary (August 17, 2022)

A. Applications for Licensure

Personal Interviews Cases:

1. Larson, Ryan Matthew

Ms. Norwood reported that the Committee had met and discussed the personal interviews cases.

Ms. Norwood reported that Mr. Larson had come before the committee for a reported criminal incident.

It was MOVED/SECONDED (Norwood/McClinton Stoglin) to allow licensure in Texas upon successful completion of the 30-hour Basic Level Ethics course from Texas Tech Murdough Center for Engineering Ethics. A vote was taken and the MOTION PASSED.

Agenda items #B-E were discussed as a group. Ms. Norwood provided a quick overview and stated that these rule proposals were presented at previous meetings, there had been a robust discussion, and the rules presented today had incorporated the changes recommended by the Committee.

It was MOVED/SECONDED (Norwood/Rubiano) to approve agenda items #B-E as presented. A vote was taken and the MOTION PASSED.

B. Propose Amendments to 22 Tex. Admin. Code Chapter 133, Subchapter H – Review Process of Applications and License Issuance

- 1. §133.83 Executive Director Review, Evaluation, and Processing of Applications**
- 2. §133.85 Board Review of and Action on Applications**
- 3. §133.87 Final Action on Applications**
- 4. §133.89 Processing of Administratively Withdrawn Applications**
- 5. §133.101 Proposed Actions on Applications**

C. Propose Amendment to 22 Tex. Admin. Code Chapter 134, Subchapter H – Review Process of Applications and Registration Issuance

- 1. §134.83 Executive Director Review, Evaluation, and Processing of Applications**
- 2. §134.85 Board Review of and Action on Applications**

3. **§134.87 Final Action on Applications**
 4. **§134.89 Processing of Administratively Withdrawn Applications**
 5. **§134.101 Proposed Actions on Applications**
- D. Propose Amendments to 22 Tex. Admin. Code Chapter 140, Subchapter A – Criminal History and Convictions**
1. **§140.1 Criminal History and Convictions – Engineers**
 2. **§140.3 Criminal History and Convictions – Surveyors**
- E. Propose Repeal to 22 Texas Admin. Code Chapter 133, Subchapter H – Review and Process of Applications and Registration Issuance**
1. **§133.99 Processing of Applications with a Criminal Conviction**
- F. Texas Board of Professional Engineers and Land Surveyors’ Land Surveying Exam Update**

Ms. Norwood stated that Mr. Strong had provided his report during the committee meeting on the exam update and had relayed that the exam back in April 2022 had gone off without any issues.

**10. Enforcement Committee Meeting Summary
(August 18, 2022)**

Ms. Johnson reported that the Committee had met and recommended that the Board adopt the Amendments presented to the Committee.

- A. Adopt Amendments to 22 Tex. Admin. Code Chapter 138, Subchapter B – Sealing Requirements**
1. **§ 138.33 – Sealing Procedures**

It was MOVED/SECONDED (McClinton Stoglin/Norwood) to adopt Chapter 138, Subchapter B – Sealing Requirements rule as presented.

**11. Nominating Committee Meeting Summary
(August 18, 2022)**

A. Nomination of Board Officers for Fiscal Year 2023

It was MOVED/SECONDED (Nejad/Adejokun) to approve the following Board members as Board Officers for Fiscal Year 2023:

- Rolando Rubiano, P.E. – Vice-Chair
- Coleen Johnson, R.P.L.S. – Secretary
- Kiran Shah – Treasurer

A vote was taken and the MOTION PASSED.

B. Renewal Contract of Current Advisory Board Members for Fiscal Year 2023

1. **Lamberto Ballí, P.E.**
2. **William Edwards, Ph.D., R.P.L.S., L.S.L.S**
3. **Edmundo Gonzalez, P.E., R.P.L.S.**
4. **Jon Hodde, R.P.L.S**
5. **Govind Nadkarni, P.E.**

It was MOVED/SECONDED (Nejad/Rubiano) to approve the following Advisory Board Member contracts for Fiscal Year 2023:

- Lamberto Ballí, P.E.
- William Edwards, Ph.D., R.P.L.S., L.S.L.S.
- Edmundo Gonzalez, P.E., R.P.L.S.
- Jon Hodde, R.P.L.S.
- Govind Nadkarni, P.E

Executive Matters:

12.Executive Director Activities and Reports

A. Quarterly Meeting Activity Update, including conferences and meetings attended and presentations given

Dr. Kinney stated his report is provided as an exhibit.

No action was required on this agenda item.

B. Agency Operations Report

Dr. Kinney stated that the agency is continuing a hybrid schedule and it is working quite well with a focus on keeping everyone safe but getting in the office and meeting operational objectives.

Dr. Kinney stated that the agency has a great retention rate with several employees with 15, 20, 25 years of service to this agency and we need to make sure that we focus on retention and recruiting going forward so that we keep operations going and can transfer institutional knowledge.

Dr. Kinney discussed that lobby reconstruction moving forward.

Dr. Kinney provided a brief overview of the Survey of Employee Engagement (SEE) and we are looking forward to employee feedback, concerns, and improvements and recommendations made.

No action was required on this agenda item.

C. National Council of Examiners for Engineering and Surveying (NCEES) – Annual Meeting

Dr. Kinney stated that the annual meeting is set for next week, travel has been finalized, and there will be great Board and staff representation. NCEES motions were discussed during a workshop held last week.

No action was required on this agenda item.

D. Honorary Engineering Award Report

Dr. Kinney stated that he and Dr. Nejad are discussing a type of recognition and award that the Board can present to individuals or groups who have encouraged or do work to encourage licensure in engineering and surveying in Texas.

Dr. Nejad asked the Board members for their support and to come up with something through the rules and guidelines because it is very important for our Board to be able to encourage and show our appreciation.

No action was required on this agenda item.

E. Outreach Report

Dr. Kinney reported that travel for the outreach program has picked up but requests for virtual presentations also continue to rise. The team is doing an excellent job of providing outreach presentations remotely.

No action was required on this agenda item.

F. Kudos Report

Dr. Kinney recognized staff for their hard work and dedication to the Board. No action was required on this agenda item.

13. Department Director Reports

1. Licensing & Registration Report, including updates on the department's operations and workload.

Mr. Strong relayed that there are two new Licensing Specialists that have joined the department, Ameshia Carter and Brandy Guerrero and their training was going great.

2. Compliance & Enforcement Report, including updates on the department's operations and workload.

Mr. Sims discussed his report with the Board and discussed caseloads and case processing.

Mr. Sims stated that it has been a challenge to fill the Investigator positions.

Mr. Sims stated that in terms of cases are progressing well as are the continuing education audits.

3. Operations Report, including updates on the department's operations and workload.

Ms. Sobieski stated her report is provided as an exhibit and provided an overview of the Operations Department.

Ms. Sobieski stated that online applications continue to be a focus and her team is in the process of deploying our new PE application to a better portal and it will allow them to add SIT and RPLS applications online in the future.

No action was required on this agenda item.

14. Surveying Advisory Committee Report

A. Nomination of Surveying Advisory Committee Members

Dr. Kinney stated that notes about the meeting and process were provided for the committee.

Dr. Kinney stated that the Surveying Advisory Committee had met in person and that travel reimbursement was now available for the committee members.

Dr. Kinney stated that the committee had discussed rules and SAC membership and that it needed to become more robust.

Ms. Johnson stated that three new RPLS had been recommended by the SAC to join the Surveying Advisory Committee.

It was MOVED/SECONDED (Johnson/McClinton Stoglin) to approve the three new Survey Advisory Committee members recommended by the committee for Fiscal Year 2023 for a 3-year commitment.

Enforcement/Disciplinary Matters:

15. Consent Agenda* Administrative Reports, Outstanding Administrative Penalties, Default Judgment, Dismissed Cases, Violation Terminated Cases, Voluntary Compliance Cases

This agenda item was approved under the Consent Agenda, see agenda item #2.

16. Consent Orders

A. Engineering

1. Adam J. Huff, P.E. - D-41262

B. Informal Reprimand

1. D-41515

2. D-41544

3. D-41589

C. Surveying

1. Dante Carlomagno, RPLS - D-40796

2. Jeffery Scott Cole, RPLS - D40948

It was MOVED/SECONDED (Rubiano/Norwood) to approve the Consent Orders as submitted. A vote was taken and the MOTION PASSED.

Licensing and Registration Matters:

17. Consent Agenda* Licensing and Registration Applications – Engineering and Land Surveying

A. Professional Surveyor Registration:

- 1. Firms Approved**
- 2. Licensed State Land Surveyor (LSLS) Approved**
- 3. Registered Professional Land Surveyor (RPLS) Approved**
- 4. Surveyor-In-Training (SIT) Approved**

B. Professional Engineer Licensing:

- 1. Licensure/Registration Status Counts**
- 2. Approved for Exams**
- 3. Approved for Licensure**
- 4. Firms Approved**
- 5. Waivers – Fundamentals of Engineering Examination**
- 6. Waivers – Professional Engineering Examination**
- 7. Waivers – Both**
- 8. Not Approved for Licensure**

This agenda item was approved under Consent Agenda, see agenda item #2.

Miscellaneous Matters:

18. Consent Agenda* Calendar Year 2023 Board Meeting Schedule

This agenda item was approved under Consent Agenda, see agenda item #2.

19. Update on Request for an Attorney General Opinion on Potential Conflict Between the Professional Land Surveying Practices Act, the Texas Engineering Practice Act, and Local Government Code Regarding Platting Subdivisions Near An International Border

Mr. Sims provided a brief overview and stated that the Board has requested an opinion from the Office of the Attorney General and the Office of the Attorney General had provided a reply to the Board's request.

On June 6, 2022, the Office of the Attorney General issued the following opinion: that there is no conflict between the local government code and the surveying act as they felt a court would likely interpret the applicable sections of the government code to require both a land surveyor and an engineer to formally attest to the portion of the subdivision planning requirements corresponding to their respective areas of professional expertise which has been our position the whole time.

Mr. Sims stated that the AG opinion had been posted on the website, in the FAQs, and will mention it in our next newsletter.

20. Future Board Meetings: Agenda items, dates, locations, and other arrangements

Dr. Nejad thanked Cristabel Bodden, Executive Assistant for arranging all the stuff for the Board meetings and all the trouble that she goes through to assist the Board and I appreciate her and the work she does.

No issues were presented or addressed for future consideration at the next Board meetings.

21. Adjourn

It was MOVED/SECONDED (Shah/Rubiano) to adjourn the meeting at 11:56 a.m. A vote was taken and the MOTION PASSED.

Date Board approved minutes:

November 17, 2022