

**Texas Board of Professional Engineers and Land Surveyors  
Policy Advisory Opinion Committee Meeting Minutes  
1917 S. Interstate 35  
Austin, TX 78745  
November 17, 2022  
9:00 am-10:00 am Central Time**

**1. Preliminary Matters (Ademola Adejokun, P.E., Chair)**

**A. Call to Order**

Mr. Ademola Adejokun, P.E., Chair, called the Policy Advisory Opinion Committee meeting of the Texas Board of Professional Engineers and Land Surveyors to order at 9:04 a.m. at the Texas Board of Professional Engineers and Land Surveyors at 1917 S. Interstate 35, Austin, TX. (NOTE: all votes are unanimous unless noted.)

**B. Roll Call**

Ms. Bodden called the roll. It was noted for the record that a quorum was present.

**The following Committee members were present:**

Ademola Adejokun, P.E.	Chair
Karen Friese, P.E.	Member
Rolando Rubiano, P.E.	Member
Kiran Shah	Member

**The following staff members were present:**

Lance Kinney, Ph.D., P.E.	Executive Director
Rick Strong, P.E.	Director of Licensing and Registration
Michael Sims, P.E.	Director of Compliance and Enforcement
Elissa Mazza	Staff Attorney
Mason Schoolfield	Lead Systems Developer
Ed Brannan, P.E.	Technical Engineering Specialist
Clif Bond	Investigator
Cristabel Bodden	Executive Assistant

**C. Excuse absent Committee members**

All Committee members were present.

**D. Welcome Visitors**

Albert Cheng, Board Member; Coleen Johnson, R.P.L.S., Board Member; Govind Nadkarni, P.E., Advisory Member; Sina K. Nejad, P.E., P.Eng., Board Member; Catherine Norwood, P.E., Board Member; and Dr. Marguerite McClinton Stoglin, Board Member, were present.

#### **E. Public Comment**

There were no public comments.

### **2. Policy Advisory Opinion Request Regarding Third-Party Plan Reviewers Working on Behalf of a City (Policy Advisory Request No. 59)**

Mr. Sims discussed Policy Advisory Request No. 59 regarding third-party plan reviewers working on behalf of a city.

Mr. Sims stated that this request, received on August 1, 2022, from Mr. Xavier Chapa, R.P.L.S., is seeking guidance on third-party planner reviewers working on behalf of a city. Specifically, he sought guidance on if third-party reviewers hired by a city in Texas are required to be Professional Engineers to review plans prepared by other Professional Engineers. He also asked if Board rules allow third-party reviewers to impose conditions on plans prepared by a Professional Engineer; and if they are allowed to impose those conditions, are they required to justify them if it is believed that the conditions the reviewer is seeking to impose are not necessary or needlessly add to costs.

Mr. Sims stated that after review and research, the Act and rules adequately address this situation so no formal Policy Advisory is required. Mr. Sims stated that the Engineering Practice Act and associated Board rules do not require one to be a professional engineer to review the work of a professional engineer for code compliance purposes.

As such, Mr. Sims stated that there is no requirement that one has to be a Professional Engineer either working directly for or on behalf of the city or review plans prepared by a Professional Engineer for code compliance. However, if the reviewer engages in the practice of engineering as defined by the Act, specifically Texas Occupations Code §1001.004(c)(1).a P.E. license would be required.

A draft response letter answering the questions at hand has been prepared and is included as an exhibit for the Committee. Mr. Sims recommends the Committee recommend the proposed response to the full Board.

It was MOVED/SECONDED (Rubiano/Shah) to accept the draft response and recommend to the full Board to adopt the response to Policy Advisory Request

No. 59 regarding third-party plan reviewers working on behalf of a city. A vote was taken and the MOTION PASSED.

**3. Policy Advisory Opinion Request Regarding Relying on Photos or Videos Provided By Parties Who Do Not Work Under An Engineer's Direct Supervision in the Formation of Engineering Opinions (Policy Advisory Request No. 60)**

Mr. Sims discussed Policy Advisory Request No. 60 regarding relying on photos or videos provided by parties who do not work under an Engineer's direct supervision in the formation of engineering opinions.

Mr. Sims stated that this request, received on August 26, 2022, from Mr. Michael Scholar, P.E., sought guidance on if Professional Engineers can rely on photos or videos provided to them by their clients or contractors or other people that do not work under their direct supervision.

Mr. Sims stated that after review and research, the questions can be answered with current rules and therefore does not require a formal Policy Advisory Opinion.

Board rule §137.33(b) allows license holders to only seal work done by them or performed under their direct supervision. While it is acceptable to incorporate information (such as photos) from third parties into an Engineers report, relying solely on third party information such as photographs or videos to form an engineering opinion without independently verifying the information is true and accurate should be avoided if possible. By engaging in this type of practice the Engineer could potentially violate Board rules such as failure to practice engineering in a careful and diligent manner or potentially issuing a written assertion that could be deceitful or misleading if it is found that the third party photos or videos are not truly representative of the on-site conditions.

Mr. Sims stated that ultimately, Engineers take full professional responsibility for any work product that they sign and seal. As a matter of best practice, the Board recommends that Engineers should not rely on information that has not been personally verified by them or someone working under their direct supervision. However, including or referencing third party information is not a violation of Board rules.

A draft response letter answering the question at hand has been prepared for Mr. Scholar to detail this position and is included as an exhibit.

Mr. Sims recommends the Committee recommend the proposed response to the full Board.

It was MOVED/SECONDED (Adejokun/Friese) to accept the draft response and recommend to the full Board to adopt the staff's response to Policy Advisory Request No. 60 regarding relying on photos or videos provided by parties who do not work under an Engineer's direct supervision in the formation of engineering opinions. A vote was taken and the MOTION PASSED.

**4. Policy Advisory Opinion Request Regarding the Reliance on Manufacturer Specifications for Ductile Iron Pipe (Policy Advisory Request No. 61)**

Mr. Sims provided an update on Policy Advisory Request No. 61 regarding the reliance on manufacturer specifications for ductile iron pipe.

Mr. Sims stated that the Policy Advisory Request No. 61 is not ready for the committee and the issue will be brought back to a future meeting.

No action was required on this agenda item

**5. Future Committee Meetings: Agenda items, dates, locations, and other arrangements**

No issues were presented or addressed for consideration at the next Committee meeting.

**6. Adjourn**

It was MOVED/SECONDED (Adejokun/Friese) to adjourn the meeting at 9:24 a.m. A vote was taken and the MOTION PASSED.

Date Committee approved minutes:

February 16, 2023

Date Board approved minutes:

February 16, 2023