

**Texas Board of Professional Engineers and Land Surveyors**  
**Regular Quarterly Board Meeting Minutes**  
**1917 S. Interstate 35**  
**Austin, TX 78741**  
**November 17, 2022**  
**10:30 am-12:00 pm Central Time**

**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 10:39 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. Recitation of the Pledge of Allegiance**

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

**C. Roll Call**

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

**The following Board member was absent:**

Mark Neugebauer, R.P.L.S., L.S.L.S.	Member
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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
Michael Sims, P.E.	Director of Compliance and Enforcement
Rick Strong, P.E.	Director of Licensing and Registration
Elissa Mazza	Staff Attorney
Jeff Mutscher	Chief Financial Officer
Janet Sobieski	Director of Operations
Mason Schoolfield	Lead Systems Developer
Ed Brannan, P.E.	Technical Engineering Specialist
Cristabel Bodden	Executive Assistant

**D. Excuse Absent Board Members**

Dr. Nejad excused Mr. Neugebauer from the Regular Quarterly Board meeting.

**E. Welcome Visitors**

Lamberto Ballí, P.E., Advisory Member; Jon Hodde, R.P.L.S., Advisory Member; Govind Nadkarni, P.E., Advisory Member; and Stephanie Stanford, P.E., Texas Society of Professional Engineers, were present.

**F. Public Comment**

There were no public comments.

**2. Consent Agenda\***

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

- A. August 17, 2022 Licensing and Registration Committee Meeting Minutes (See agenda item #3)**
- B. August 18, 2022 Enforcement Committee Meeting Minutes (See agenda item #4)**
- C. August 18, 2022 Nominating Committee Meeting Minutes (See agenda item #5)**
- D. August 18, 2022 Regular Quarterly Board Meeting Minutes (See agenda item #6)**
- E. Administrative Reports, Outstanding Administrative Penalties, Default Judgment, Dismissed Cases, Violation Terminated Cases, Voluntary Compliance Cases (See agenda item #17)**
- F. Licensing and Registration Applications – Engineering and Land Surveying (See agenda item #21)**

It was MOVED/SECONDED (Johnson/McClinton Stoglin) to approve items A-D and item F as presented in the Consent Agenda. A vote was taken and the MOTION PASSED.

**Board and Committee Meeting Minutes:**

3. [Consent Agenda\\* August 17, 2022 Licensing and Registration Committee Meeting Minutes](#)
4. [Consent Agenda\\* August 18, 2022 Enforcement Committee Meeting Minutes](#)
5. [Consent Agenda\\* August 18, 2022 Nominating Committee Meeting Minutes](#)
6. [Consent Agenda\\* August 18, 2022 Regular Quarterly Board Meeting Minutes](#)

Agenda items 3-6 were approved under [Consent Agenda](#), see agenda item #2.

**Board and Advisory Members' Quarterly Activity Matters:**

7. **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

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

- A. Ballí
- B. Edwards
- C. Gonzalez
- D. Hodde
- E. Nadkarni

Agenda items 7-8 are provided as exhibits. No action was taken on agenda items 7-8.

**Finance and Budget Matters:**

9. **Finance and Budget**

- A. **FY22 4th Quarter Budget Report**

Mr. Mutscher reviewed the 4th Quarter Budget report with the Board. The report reflects our end of year activity as of August 31, 2022.

Mr. Mutscher stated that there are positive variances in many of the categories of the budget. An unexpected outcome was an increase in interest earned.

Mr. Mutscher stated that other key indicators that are tracked include revenue from individual applications, individual renewals, firm renewals, and firm registrations. These indicators posted positive variances and indicate health in the professions. Given these changes, Mr. Mutscher has increased his revenue estimates for 2023.

Mr. Mutscher stated that on the expenditure side, the agency also experienced positive variances which means that the agency did not spend as much as it had budgeted for the year in certain categories. Lower than projected expenditures is a good result and when coupled with the higher revenue than projected means the agency will end the year with a healthy fund balance within our target limits.

No action was taken on this agenda item.

### **B. FY22 Annual Financial Report**

Mr. Mutscher stated that this report was submitted in compliance with Comptroller regulations and distributed to oversight agencies per their requirements.

Mr. Mutscher stated that the most important page of this exhibit is page 37 which shows the revenue expenditures and changes in our fund balance. This provides a comprehensive picture of the revenue and expenses for the year and the ending fund balance of just over two million dollars.

No action was taken on this agenda item.

### **C. FY22 Internal Audit Report**

Mr. Mutscher stated that the agency underwent IT audits that dealt with the security of our IT platforms. Instead of contracting with an outside CPA to do an additional internal audit, we used those IT audits to meet our internal audit requirement. The IT audit was contracted by the Department of Information Resources through AT&T Cyber Security.

No action was taken on this agenda item.

### **D. FY23 Internal Audit Plan**

Mr. Mutscher stated that each year the board approves an internal audit plan for the coming year. Last year, the agency planned to do an internal audit on licensing processes and procedures; however, since the IT audit was used to meet this requirement, the license process audit has been rolled forward to the current fiscal year. This audit will take place sometime between January and July 2023.

It was MOVED/SECONDED (McClinton Stoglin/Shah) to accept the FY23 Internal Audit Plan as presented. A vote was taken and the MOTION PASSED.

### **E. FY22 Annual Self-Directed Semi-Independent Report**

Mr. Mutscher stated that this report provides an overall picture of the agency performance over the last year and provides specific performance measures, financial information, and includes a copy of the strategic plan that was submitted to cover the years of FY2023 through FY2027. The strategic plan is required by state oversight agencies.

No action was taken on this agenda item.

### **Committee Matters:**

#### **10. Licensing and Registration Committee Meeting Summary**

##### **A. Applications for Licensure**

##### **Personal Interviews Cases:**

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

##### **1. Bulloch, Zackary Thomas**

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

##### **2. Eghtedari-Tehrani, Behrouz**

It was MOVED/SECONDED (Norwood/Friese) to waive the Fundamentals of Engineering exam and allow licensure in Texas upon successful passage of the PE exam and the successful completion of the 60-hour Intermediate Level Ethics course from Texas Tech Murdough Center for Engineering Ethics. A vote was taken and the MOTION PASSED.

##### **3. Van Vleck, Abraham**

It was MOVED/SECONDED (Norwood/Shah) to allow licensure in Texas upon the successful completion of the 60-hour Intermediate Level Ethics course from Texas Tech Murdough Center for Engineering Ethics and the review of a new criminal history record by agency staff. A vote was taken and the MOTION PASSED.

##### **4. Purser, Benjamin John-Franklin**

It was MOVED/SECONDED (Norwood/Rubiano) to deny licensure until the applicant can demonstrate a character fit for licensure, show that he can

manage proper communication with colleagues and regulatory agents, and provide experience verified by other professional engineers. A vote was taken and the MOTION PASSED.

**B. Adopt 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**

Ms. Norwood stated that Chapter 140, Subchapter A was discussed in the Committee meeting and asked Dr. Kinney to provide a brief summary of the rules.

Dr. Kinney stated that these rules are part of the ongoing update of rules related to the criminal history background review and addition of a path to review by the State Office of Administrative Hearings (SOAH). The revised versions of these rules are proposed and presented here which indicate that the Board follows Chapter 53.

It was MOVED/SECONDED (Norwood/Friese) to publish the rule amendments to Rules §§140.1 and 140.3. A vote was taken and the MOTION PASSED.

**C. Texas Board of Professional Engineers and Land Surveyors' Land Surveying Exam Update**

Ms. Norwood stated that Mr. Strong provided his report on the exams to the Committee and everything went well at the recent September exams.

No action was required on this agenda item.

**D. Review and approval of the national NCEES Principles and Practice of Surveying (PS) examination in conjunction with a state-specific Texas Land Surveying examination to meet the requirements to become an RPLS**

Ms. Norwood stated that Mr. Strong provided his report on the exam development and conversion process over the last two years.

Dr. Kinney stated that the revised exam process would require that Texas Specific Surveying Exam (TSSE) be given in conjunction with the national NCEES Principles and Practice of Surveying (PS) exam. Both exams will complement each other and there will be no overlap between exams. There has been extensive work done on the TSSE and the change to the exam requirements has been monitored by the Surveying Advisory Committee (SAC).

The SAC recommends this change to the exam process.

It was MOVED/SECONDED (Norwood/Johnson) to convert the current Texas surveying exam and process to the National NCEES Principles and Practice of Surveying (PS) examination in conjunction with a state-specific Texas Land Surveying examination to meet the requirements to become an Registered Professional Land Surveyor (RPLS) beginning in October 2023. A vote was taken and the MOTION PASSED.

**E. Licensed State Land Surveyor (LSLS) New License Recognition:  
Davis Trent Busch**

Ms. Norwood stated that we have one new LSLS, Mr. Davis Trent Busch. The board will formally recognize him in February 2023 when Mr. Neugebauer can be present.

**11. Policy Advisory Opinion Committee Meeting Summary**

Mr. Adejokun stated the Committee had met and discussed three agenda items and asked Mr. Sims to provide a summary.

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

Mr. Sims stated that the requestor is seeking guidance on third-party plan reviewers working on behalf of a city. Specifically, he sought guidance about whether third-party reviewers hired by a city in Texas are required to be Professional Engineers to review plans prepared by other Professional Engineers; and 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 the engineer believes that the conditions the reviewer is seeking to impose are not necessary or are costly.

Mr. Sims stated that after review and research, the Act and rules adequately address the questions. 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. However, a non-licensed engineer cannot offer or practice professional engineering.

A draft response letter answering the questions at hand has been prepared and included as an exhibit.

It was MOVED/SECONDED (Adejokun/Shah) to adopt the staff's 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.

**B. 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 stated that the requestor sought guidance on if Professional Engineers can rely on photos or videos provided to them by their clients' contractors or other people that do not work under their direct supervision.

Mr. Sims stated that after review, he believes the Act and Board rules adequately address the questions. 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 to detail this position.

It was MOVED/SECONDED (Adejokun/Shah) 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.

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

Mr. Sims stated that the Policy Advisory Request No. 61 is not ready for review or adoption and there is no formal written response at this time.

No action was required on this agenda item.

**12. Legislative Issues Committee Meeting Summary**

Mr. Cheng stated the Committee met and reviewed key legislative dates and information. The committee has no motions.



Mr. Cheng stated that Dr. Kinney would provide a one-pager with updates to bills affecting TBPELS.

**A. Important Dates and Information Related to the 88th Legislative Session**

No action was required on this agenda item.

**B. Update on bills relating to the Texas Board of Professional Engineers and Land Surveyors**

No action was required on this agenda item.

**C. Legislative Communications Plan**

No action was required on this agenda item.

**Executive Matters:**

**13. 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 doing well under its hybrid work system with various teleworking options for staff.

Dr. Kinney stated that Ms. Sobieski was retiring in December 2022 and had been with the Board for 21 years. The board congratulated Ms. Sobieski on her retirement.

No action was required on this agenda item.

**C. National Council of Examiners for Engineering and Surveying (NCEES) - Meetings and Activity Update**

**1. NCEES Annual Meeting Report - August 2022**

Dr. Kinney stated that Texas was well represented at the annual meeting. All Board members are very engaged and many are on NCEES committees or task forces.

No action was required on this agenda item.

**2. NCEES Zone Meeting - April 2023**

Dr. Kinney stated that the Zone meeting in April 2023 would be an all-zone meeting and will be held in Houston. This was originally planned to be held in 2020 but was postponed due to the pandemic.

No action was required on this agenda item.

### **3. NCEES Committee Member Update**

Dr. Kinney stated that Texas has worked hard to get board members, advisory members, and staff on committees and task forces and many members have been appointed.

Dr. Kinney asked the Board members to discuss what committees they are involved in with NCEES and describe any ongoing activities.

No action was required on this agenda item.

### **D. 2022 Survey of Employee Engagement**

Dr. Kinney stated that the Survey of Employee Engagement (SEE) is done every two years. It is done through an organization at the University of Texas and all state agencies are required to take the survey.

The survey is an internal survey of employees and their views on how things are doing in the agency. There are many questions that are rolled into constructs that guide management to improve the working environment.

The main issues highlighted by the survey results include whether pay is keeping up with inflation.

No action was required on this agenda item.

### **E. Honorary Engineering and Surveying Awards Report**

Dr. Kinney stated that he has been working with Dr. Nejad on this and it is a work in progress.

No action was required on this agenda item.

### **F. Outreach Report**

Dr. Kinney reported that the Outreach team is doing an excellent job of providing outreach presentations both in-person and remotely.

Dr. Nejad encouraged members to participate and get involved more in Outreach presentation in their area to get the members more engaged and

reduce some of the travel for staff.  
No action was required on this agenda item.

### **G. Kudos Report**

Dr. Kinney reported that staff continue to receive kudos for the Outreach ethics presentations as well as assistance from staff to the public.

No action is required on this agenda item.

## **14. Department Director Reports**

### **A. Licensing and Registration Report, including updates on the department's operations and workload.**

Mr. Strong discussed his report with the Board.

Mr. Strong stated that Ms. Kyle had resigned from her position in the Licensing and Registration department and moved back to her previous job. Mr. Brannan is currently covering application reviews.

Mr. Strong relayed that the division workload has increased as can be seen in the Performance Measures report.

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

Mr. Sims discussed his report with the Board.

Mr. Sims stated that Ms. Olfers is retiring at the end of December 2022. Mr. Sims continues to search for people to join their team of investigators.

Mr. Sims stated that they had opened 97 cases, closed 103 cases, and have 280 cases pending as of November 2022.

Mr. Rubiano recommended that they reach out to college students as possible applicants for the investigator positions.

### **C. Operations Report, including updates on the department's operations and workload.**

Ms. Sobieski discussed her report with the Board.

Ms. Sobieski stated that Operations had a new systems administrator, Juan Contreras, that will be making new improvements to our network.

Ms. Sobieski stated that new hardware had been purchased, some network

upgrades had been done, and laptops and some workstations have been upgraded.

Ms. Sobieski stated that her position had been posted internally and a replacement will be named shortly.

No action was required on this agenda item.

### **15. Surveying Advisory Committee Report**

Dr. Kinney stated they are undertaking a project as part of the review of the surveying application process. Statute and rules provide an option for non-surveying associates degrees to be eligible for registration as long as the applicant has completed at least 32 hours of courses related to surveying. The current list of acceptable coursework transitioned over from the previous Board and the SAC is reviewing the list to see if any modifications might be relevant.

The SAC is developing a plan to include educators, practitioners, industry, and TSPS in the review and anticipate making recommendations, if necessary, later this fiscal year.

No action was required on this agenda item.

### **16. FY 22 Performance Measures Report**

Mr. Sims discussed performance measures for the Compliance and Enforcement division.

On the engineering side, the number of pending cases has been steadily decreasing while the average processing time has stayed fairly constant.

On the surveying side, the number of resolved cases has increased in the past few quarters and the average processing time has decreased.

Mr. Strong stated Licensing and Registration performance measures show that there is a steady stream of engineers being licensed and we are now close to 72,000 current PEs.

Mr. Strong discussed the average processing time for engineering licenses. Mr. Strong stated that it has increased in the last two years by 15%. The response to this Mr. Strong stated is to add more people and more training to continue to have our program specialists who are the ones that touch all this first with the customers piece everything together. The average processing time very much depends on that

customer interaction. However, because of our volume and first come first served, we are sitting at about 45 days before we have the first contact with the customer.

In addition, our program specialists have to handle the workload for surveyors at the same time. Therefore, the processing time for surveyors has increased from 30 days to 45 days as well.

No action was required on this agenda item.

**Enforcement/Disciplinary Matters:**

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

Dr. Nejad stated that agenda item 17 was pulled off the Consent Agenda by Ms. Johnson for further consideration. Ms. Johnson has asked to remove case number B-40834 from the dismissed cases to continue review of the case.

It was MOVED/SECONDED (Johnson/Friese) to approve all items in agenda item 17 as presented in the **Consent Agenda** except case B-40834. A vote was taken and the MOTION PASSED.

**18. Agreed Board Orders**

**A. Engineering**

**1. Mark A. DeStefano, P.E. - D-41397 (Norwood - recused)**

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

**19. Consent Orders**

**A. Engineering**

**1. Iron Square Foot, Inc. - B-41426**

**2. Correen Corena Robertson, P.E. - D-40863**

**3. Steven Wayne Burns, P.E. - D-41709**

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

**B. Surveying**

**1. Francisco Sanchez - B-40839**

**2. George Enrique Lazro - B-41039**

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

## **20. Request for Complaints to Be Deemed Frivolous**

### **A. Engineering**

- 1. P-41823**
- 2. P-41828**
- 3. I-41862**
- 4. I-41867**

Mr. Sims stated that section 1001.252(l) of the Engineering Practice Act allows a subject to a complaint to request a complaint be deemed frivolous or without merit. If the complaint is found to be frivolous or without merit, the complaint and all other enforcement case information related to that complaint is considered confidential and is not subject to discovery, subpoena, and/or other disclosure. In order for a complaint to be considered a frivolous complaint, the Executive Director with Board approval must determine that the complaint was made for the purpose of harassment and does not demonstrate harm to any part or to any person.

Mr. Sims stated that they have four requests for frivolous complaints. After review of the content of the complaints and the requests from the respondents, the Compliance and Enforcement Department and the Executive Director recommend that these complaints be deemed frivolous and without merit as it appears these complaints were made for the purpose of harassment and no demonstratable harm had occurred.

The specifics of each of the complaints are in the Board materials and the four case numbers are listed in the agenda.

It was MOVED/SECONDED (Norwood/Johnson) to deem all four complaints frivolous. A vote was taken and the MOTION PASSED.

### **Licensing and Registration Matters:**

## **21. 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:**

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

No issues were noted at this time.

**23. Adjourn**

It was MOVED/SECONDED (Johnson/Adejokun) to adjourn the meeting at 12:31 p.m. A vote was taken and the MOTION PASSED.

Date Board approved the minutes as submitted:

February 16, 2023