

Texas Board of Professional Engineers and Land Surveyors

Regular Quarterly Board Meeting

1917 S. Interstate 35

Austin, TX 78741

August 10, 2023

10:00 am 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 10:00 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

Mr. Sims called the roll. It was noted for the record that a quorum was present.

The following Committee 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
Karen Friese, P.E.	Member
Catherine Norwood, P.E.	Member
Mark Neugebauer, R.P.L.S., L.S.L.S.	Member
Dr. Marguerite McClinton Stoglin	Member

Ms. Kelley, 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
Rick Strong, P.E.	Director of Licensing and Registration
Michael Sims, P.E.	Director of Compliance and Enforcement
Jeff Mutscher	Chief Financial Officer
Elissa Mazza	Staff Attorney
Ed Brannan, P.E.	Technical Engineering Specialist
Jeff Rodriguez	Board Staff
Julia Estrada	Board Staff

D. Excuse absent Committee members

It was MOVED/SECONDED (Nejad/McClinton-Stoglin) to excuse Albert Cheng from the Regular Board Meeting. A vote was taken, and the MOTION PASSED.

E. Welcome Visitors

Scott Stewart, ACEC Texas; Jon Hodde, R.P.L.S., Advisory Member; Govind Nadkarni, P.E., Advisory Member; Dr. Davey Edwards, R.P.L.S., L.S.L.S., Advisory Member; Trish Smith, T.S.P.E.; Khashay Aminabadi, Seka Corporation; Mitch Brackin, Fittz & Shipman; and Colby Brackin, S.I.T. and C.F.M., were present.

F. Public Comment

Mr. Mitch Brackin addressed the board concerning surveying application education requirements. He shared his history with surveying registration and stated that he thinks the board should reconsider how they handle surveying education requirements.

Mr. Colby Brackin addressed the board concerning his application for registration as an RPLS. Under current statute and rules he does not meet the qualifications for education and asks the board to reconsider his application and that he be allowed to take the Texas Specific Surveying Exam (TSSE).

2. Consent Agenda

(The following items may be acted upon under Consent Agenda and are highlighted in blue on the Regular Quarterly Board Meeting Agenda).

- **May 10, 2023, Licensing and Registration Committee Meeting Minutes (See agenda item #3).**
- **May 11, 2023, Legislative Issues Committee Meeting Minutes (See agenda item #4).**
- **May 11, 2023, Regular Quarterly Board Meeting Minutes (See agenda item #5).**
- **Administrative Reports, Outstanding Administrative Penalties, Default Judgment, Dismissed Cases, Violation Terminated Cases, Voluntary Compliance Cases (See agenda item #17)**
- **Licensing and Registration Applications – Engineering and Land Surveying (See agenda item #19)**

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

Board and Committee Meeting Minutes:

3. **(Consent Agenda) May 10, 2023, Licensing and Registration Committee Meeting Minutes.**
4. **(Consent Agenda) May 11, 2023, Legislative Issues Committee Meeting Minutes**
5. **(Consent Agenda) May 11, 2023, Regular Quarterly Board Meeting Minutes**

Board and Advisory Members' Quarterly Activity Update:

6. **Board Members' Quarterly Activity Update, including conferences and meetings attended and presentations given:**
 - **Adejokun**
 - **Cheng**
 - **Friese**
 - **Johnson**
 - **Nejad**
 - **Neugebauer**
 - **Norwood**
 - **Rubiano**

- **Shah**
- **McClinton-Stoglin**

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

- **Balli**
- **Edwards**
- **Gonzalez**
- **Hodde**
- **Nadkarni**

No action was taken on items #6-7. They are for informational purposes only.

Finance and Budget Matters:

8. Finance and Budget

- **FY23 Third Quarter Budget Report**

Mr. Mutscher reviewed the Third Quarter Budget report with the Board. The first exhibit in the finance area of the report shows that the agency is on target with income and expenses at the end of May.

No action was required on this agenda item.

- **FY24 Budget and Fees**

Mr. Mutscher reviewed the FY24 Budget and Fees with the Board. The report shows the proposed budget revenues and expenses for FY24. The Board approved an increase in P.E. and Land Surveyor renewal fees from \$40 to \$50 for fiscal year 2024, effective August 1, 2023. Additionally, land surveyor exam fees were reduced from \$150 to \$75, in May, and put in place as of August 1.

Mr. Mutscher informed the Board that 94% of the annual budget has been collected and 83% spent, making them on target. The estimated ending fund balance is on target and within range as of August, contingent on the timing of payment to the Texas Facilities Commission for building renovations and lobby remodel improvements. The budget also covers salaries and benefits for the next fiscal year.

Mr. Mutscher's budget for the next fiscal year includes all IT needs. With the fee change and projected expenses for 2024, the budget ensures a healthy fund balance for the next 8-9 years, allowing the agency to operate comfortably. No additional fee changes are anticipated until after 2034.

Mr. Mutscher's exhibit also includes a fee history, highlighting the P.E. renewal fee remaining constant for the past 9 years, and the significant decrease in surveyor fees since land surveyors merged with the P.E. Board.

Mr. Mutscher stated that the chairman of the board did an annual performance evaluation for the executive director and the FY24 Budget also includes a merit increase for the executive director.

It was MOVED/SECONDED (Shah/Rubiano) to approve the FY24 Budget & Fees schedule as presented. A vote was taken, and the MOTION PASSED.

Mr. Mutscher had one more thing to discuss with the Board regarding the audit with the State Auditor's Office, focusing on financial transactions, reports, licensing, compliance, and enforcement procedures. The audit highlighted a few minor corrections, which were promptly rectified. The auditors were complementary about the agency's performance. Overall, it was a good report for the agency.

Committee Matters:

9. Licensing and Registration Committee Meeting Summary:

- **Applications for Licensure**
 - **Personal Interviews Cases:**
 - **Dew, Kevin Alan**

Ms. Norwood stated that the Committee recommends that Mr. Dew be issued a PE license after the successful completion of the 30-hour Basic level Engineering Ethics course from the Texas Tech Murdough Center.

It was MOVED/SECONDED (Rubiano/Johnson) to approve the committee recommendation. A vote was taken, and the MOTION PASSED.

- **McDonald, Mitchel Louis**

Ms. Norwood stated that the Committee recommends that that Mr. McDonald be allowed to sit for the TSSE upon the successful completion of the 30-hour Basic level Surveying Ethics course from the Texas Tech Murdough Center.

It was MOVED/SECONDED (Rubiano/Johnson) to approve the committee recommendation. A vote was taken, and the MOTION PASSED.

- **Adopt Amendments to 22 Tex. Admin. Code Chapter 134, Subchapter C – Land Surveyor Application Requirements**
 - **§ 134.23 Application from Standard Registration Holders**
- **Adopt Amendments to 22 Tex. Admin. Code Chapter 134, Subchapter H – Review Process of Applications and Registration Issuance**
 - **§ 134.101 Proposed Actions on Applications**

Mr. Sims stated that these items were discussed at the May Committee meeting. These amendments are reinstatements of previously adopted provisions that were inadvertently repealed and corrections of an erroneous rule citation. No public comments were received on the proposed amendments.

It was MOVED/SECONDED (Norwood/Johnson) to adopt amendments to Chapter 134, Subchapter C, land surveying application requirements, and Subchapter H, land surveying review process of applications and registration issuance, to the Texas Register. A vote was taken, and the MOTION PASSED.

- **Adopt Amendments to 22 Tex. Admin. Code Chapter 134, Subchapter G – Examinations**
 - **§ 134.61 Surveying Examinations Required for a Registration to Practice as a Professional Surveyor**
 - **§ 134.67 Examination on the Principles and Practice of Surveying**
 - **§ 134.71 Examination for Record Purposes**
 - **§ 134.73 Examination Results and Analysis**

Dr. Kinney stated that these rules relate to the changes that have been previously approved regarding surveying exams and the implementation of the PS and TSSE exams. No public comments were received on the rule amendments..

It was MOVED/SECONDED (Norwood/Adejokun) to adopt amendments to the Tex. Admin. Code Chapter 134, Subchapter G land surveying examination rules. A vote was taken and the MOTION PASSED.

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

Mr. Strong discussed the summary of examinations, stating the T.S.S.E. will be held on October 13th, and three more exams are scheduled for next year.

No action was required on this agenda item.

10. Legislative Issues Committee Meeting Summary (August 10, 2023)

Dr. Kinney discussed the recent legislative session. Thousands of bills were filed and hundreds were tracked by the agency. The team has also been monitoring the recent special sessions. While most bills don't affect engineering or surveying practice directly, internal procedures like Open Records, HR, and IT policies may be affected.

House Bill 1, the state budget, increased state employees' salaries by 5% for the next two years, aiming to maintain retention. The Sunset dates for many agencies, including TBPELS, have been moved to 2033.

Dr. Kinney also mentioned Senate Bill 510 that impacts the release of personal data, including addresses, home phone numbers, and email addresses. It also seems that application packets can no longer be released. This personal data will no longer be released effective September 1st. We are monitoring guidance from the Attorney General's office and others. We are working on ensuring that everyone is informed of any updates.

No action was required on this agenda item.

11. Nominating Committee Meeting Summary (August 10, 2023)

- **Nomination of Board Officers for Fiscal Year 2024**

It was MOVED/SECONDED (Johnson/Rubiano) to approve the following Board Members as Board Officers for Fiscal Year 2024:

Ademola Adejokun, P. E. – Vice-Chair

Kiran Shah – Treasurer

Albert Cheng – Secretary

A vote was taken, and the MOTION/PASSED.

- **Renewal Contract of Current Advisory Board Members for Fiscal Year 2024**

It was MOVED/SECONDED (Friese/Shah) to approve the following Advisory Board Member contracts for Fiscal Year 2024:

- Lamberto Balli, P. E.
- William Edwards, Ph.D., R.P.L.S., L.S.L.S.
- Edmundo González, P.E., R.P.L.S.

- Jon Hodde, R.P.L.S.
- Govind Nadkarni, P. E.

A vote was taken, and the MOTION/PASSED.

Executive Matters:

12.State Auditor’s Office Audit Report – July 2023

Dr. Kinney discussed the State Auditor’s Office Audit Report which was included in the packet. During the audit, the auditors were at the agency about six months. Dr. Kinney is appreciative of everyone's prompt and efficient responses. The team received high marks from the auditors for their prompt response.

In essence, the report states that the Board has adequate and appropriate processes and controls. IT and security-related issues were also noted which were minor.

Dr. Kinney states it is an excellent report and the teams have done a great job and acknowledges their hard work and dedication.

13.Executive Director Activities and Reports

- **Quarterly Meeting Activity Update, including conferences and meetings attending and presentations given**

Dr. Kinney stated the exhibit lists his regular meetings and he would like to thank the Board for allowing him flexibility to work remotely and he will continue to engage as much as possible.

No action was required on this agenda item.

- **Agency Operations Report**

Dr. Kinney discussed one of the big things happening with TBPELS, as with all state agencies, is hiring. The agency has at least one vacancy in every department. Other agencies are in the same situation. We are doing our best and looking at different ways of posting jobs, looking at salary balance, and various other things.

Dr. Kinney stated he is aware of succession planning and other issues. It’s not just about hiring a person, we want to ensure we have a good team member who will continue with the agency’s culture.

No action was required on this agenda item.

- **National Council of Examiners for Engineering and Surveying (NCEES) – Meetings and Activity Update**
 - **NCEES Annual Meeting – August 2023**

Dr. Kinney stated the NCEES Annual Meeting is next week and would like to thank everyone who is able to attend. Staff has gone through and prepared a list of motions. Some of the motions will be related to surveying. There is a module discussion with the P.S. committee, and we've communicated with the surveyor members on different items. Also, we've requested to pull an motion on behalf of Texas based on feedback from surveyors.

Dr. Kinney regrets he will not be able to attend the NCEES meeting and appreciates the support from everyone.

No action was required on this agenda item.

- **Outreach Report**

Dr. Kinney reported that travel for the outreach program continues, and virtual presentations also continue to rise. The team continues doing an excellent job of providing outreach.

No action was required on this agenda item.

- **Kudos Report**

Dr. Kinney reported that staff continues to receive kudos for the in-person and virtual webinar presentations and thanked the team for their hard work.

No action was required on this agenda item.

14. Department Director Reports

- **Licensing and Registration Reports, including department operations and workload updates.**

Mr. Strong stated the licensing division has several job postings, a P.E. Technical Reviewer and two postings for Program Specialists. A new hire from a year ago, Miss Carter, has resigned to work for a different agency, so the workload has been spread out to the remaining group.

Mr. Strong also stated that they are doing a lot of training, trying to bring everyone's skills set-up so they can continue to process a large volume of applications, but not lose the accuracy in what they do.

Mr. Strong would also like to thank the licensing team for all their hard work, not just licensing and the applications, but also the exams.

Mr. Strong also reviewed the surveying exams performance data with the board. He stated that the team is ready for the T.S.S.E. coming up in October. He also reported that many individuals have already started to register and take the NCEES PS exam. which they need in conjunction with our new state exam.

Mr. Strong stated he's been getting a lot of positive feedback from the surveying community that the exam fee has gone down.

No action was required on this agenda item.

- **Compliance & Enforcement Report, including department operations and workload updates.**

Mr. Sims noted some highlights from his report, including staffing which continues to be an issue and trying to hire an investigator. C&E currently has two openings for investigators. There is an entry-level position and an experienced position posted.

Mr. Sims went through the performance number for C&E, noting progress in working down the pending case numbers even while short staffed.

Mr. Sims stated that there are four Agreed Orders that will be considered later in the agenda and thanked the Board members who helped with the Informal Conferences. Mr. Sims will reach out in the next several weeks to schedule more Informal Conferences.

Mr. Sims stated that Ms. Mazza is currently working on our SOAH caseload. She is looking to docket cases in the coming months.

Mr. Sims stated that they are continuing to work on the paper files from the surveying board and they are getting close to wrapping up their side of those files and scanning into the electronic management system and they will be able to get rid of those paper files soon.

Mr. Sims also stated that they are looking at updating their web page for the complaint process and complaint forms, and getting more guidance so the person making a complaint is aware up front, of what the agency can and cannot do. We want to ensure the person filing a complaint is informed of the process upfront.

No action was required on this agenda item.

- **Operations report, including updates on the department's operations and workload.**

Dr. Kinney stated Mr. Schoolfield couldn't be at the meeting, but his report is in the packet.

No action was required on this agenda item.

15. Surveying Advisory Committee Report – July 27, 2023

- **Nomination of Surveying Advisory Committee Members**

Dr. Kinney stated the SAC met in July and had very good discussions. The first thing that was discussed was an exam update. The SAC is satisfied with the TSSE and PS exam process and are ready to move forward. The SAC will continue to monitor how things are working.

The SAC also went through the process of reviewing applications for new members for the SAC. The agency received several dozen applications and the SAC committee members reviewed and discussed them. The SAC selected 5 names to bring forward to recommend to the Board, highlighting 3 top recommendations.

Dr. Kinney also discussed a review that the SAC is doing about the 32 hour course requirement for applicants that do not have a formal 2 year or 4 year surveying degree. The current guidance the board has was developed by the previous board and is several decades old. The SAC is working to recommend a new and revised worksheet. The team has gathered information from surveying educators, industry members, and others. They are working on revisions that will assist applicants, educators, and surveying mentors understand what courses are appropriate for registration. At this point, the SAC is not ready to move this item forward and is still working to develop a final product.

Ms. Johnson said that the Surveying Advisory Committee does a great job and wanted to thank Paul Kwan, Jon Hodde, and Davey Edwards as they roll off the committee.

It was MOVED/SECONDED (Johnson/McClinton-Stoglin) to accept the Surveying Advisory Committee report and approve the new members recommended by the SAC. A vote was taken, and the MOTION PASSED.

16. Overview of Guidance for Applicants, Licensees, and Registrants with

Criminal Convictions (Updated May 11, 2023)

Ms. Mazza stated over the past couple of Board meetings that there were some questions regarding criminal history guidelines. The agency subscribes to the DPS database and requires fingerprinting for all applicants, including those already licensed. The criminal history record check, also known as CHRC, is essential and is highly monitored and has limited access. It is part of the application process.

Mr. Brannon stated that he performs the technical review of applications, which is the last review in the licensing process. When our system indicates a CHRC hit or something in the criminal history he will check the DPS database to see what it is. If the applicant has not disclosed or provided information about the incident. If so, he will ask the applicant for the information, including the court records, documentation, etc. This is the same process that has been used historically to review criminal history. The new guidelines follow the same process in the previous guidelines. Also, any incident or documentation showing that incident has been expunged or the record is sealed, is excluded from the review

Mr. Brannon stated any incident that meets the criteria in the guidelines is referred to the Director of Licensing for further review. This process involves reviewing documentation to identify behavior related to P.E. or R.P.L.S., such as multiple arrests, drug and alcohol convictions, felonies, or incidents posing a risk to safety. The history and documentation are also considered to determine if a licensee could lead to similar criminal activity. Other factors include lapse time since last incidents, applicant's age at the time, and evidence of rehabilitation efforts. After review, applicants are approved or referred to the licensing committee.

Ms. Mazza stated that the Occupations Code requires that only convictions can be considered. Therefore, once convicted of an offense, we look at the criteria and see how it may impact licensure. Also, there is a duty to self-report.

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

18.Agreed Board Orders

Mr. Sims presented the Agreed Board Orders and relayed which Board members would be recused.

Engineering

1. Boyd Branch, P.E. – B-40929 (Adejokun – recused)

It was MOVED/SECONDED (Norwood/McClinton-Stoglin) to approve Agreed Board Order #1 as submitted. A vote was taken, and the MOTION PASSED.

2. Stuart Allen Lynn, P.E. – D-38359 & D-38771 (Rubiano – recused)

It was MOVED/SECONDED (Norwood/McClinton-Stoglin) to approve Agreed Board Order #2 as submitted. A vote was taken, and the MOTION PASSED.

Surveying

3. Christopher James Walterscheidt, R.P.L.S. – D-41370 & D-41609 (Johnson – recused)

It was MOVED/SECONDED (Norwood/McClinton-Stoglin) to approve Agreed Board Order #3 as submitted. A vote was taken, and the MOTION PASSED.

4. Barry Shane Rhodes, R.P.L.S. – D-41786 (Johnson – recused)

It was MOVED/SECONDED (Norwood/McClinton-Stoglin) to approve Agreed Board Order #4 as submitted. A vote was taken, and the MOTION PASSED.

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

- **Professional Surveyor Registration:**
 - **Firms Approved**
 - **Licensed State Land Surveyor (L.S.L.S.) Approved**
 - **Registered Professional Land Surveyor (R.P.L.S.) Approved**
 - **Surveyor-In-Training (S.I.T.) Approved**
- **Professional Engineering Licensing:**
 - **Licensure/Registration Status Counts**

- **Approved for Exams**
- **Approved for Licensure**
- **Firms Approved**
- **Waivers – Fundamentals of Engineering Examination**
- **Waivers – Professional Engineering Examination**
- **Not Approved for Licensure**

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

Miscellaneous Matters:

20.Licensing Applications Reconsideration

Mr. Strong stated that Mr. Khashay Aminabadi was before the board. He originally applied in May 2021 and with reconsideration in August 2021. Mr. Strong included in the packet his completion papers, his SER, his letter of reference on our form from the P.E., and the course completion he did in accordance with the Board's motion two years ago.

Mr. Rubiano stated he had gone through the updated SER. It is different from a year and a half ago or so, and would like to congratulate the applicant on the additional education and the time he prepared in a well-drafted and detailed experience, representing projects, and appreciates this applicant heeding the Board's needs and requirements to protect the public's safety and welfare and congratulates the applicant for getting it done.

It was MOVED/SECONDED (Norwood/Friese) to accept the recommendation from the staff, to approve Mr. Aminabadi's licensing application. A vote was taken, and the MOTION PASSED.

21. Future Board Meetings: Agenda items, dates, locations, and other Arrangements

No items were presented or addressed for future consideration at the next Board meeting.

22. Adjourn

It was MOVED/SECONDED (Nejad/McClinton-Stoglin) to adjourn the meeting. A vote was taken, and the MOTION PASSED.

Date Board Approved Minutes: November 9, 2023