

**MINUTES**  
**ENFORCEMENT COMMITTEE MEETING**  
**TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS**  
**VIA VIDEOCONFERENCE**  
**August 19, 2020—10:30 AM**

**Discuss and Possibly Act on the Following Agenda Items:**

**1. Preliminary Matters:**

**A. Call to Order.**

Mr. Lamberto Ballí, P.E., Chair, called the Enforcement Committee meeting of the Texas Board of Professional Engineers and Land Surveyors to order at 10:30 a.m. via Videoconference. (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:**

Lamberto Ballí, P.E.	Chair
Coleen Johnson, R.P.L.S.	Member
Catherine Norwood, P.E.	Member
Marguerite McClinton Stoglin, Ph.D.	Public Member

Veena Mohan, Assistant Attorney General and General Counsel for the Board, was present via Videoconference 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
Elissa Mazza	Staff Attorney
Janet Sobieski	Director of Operations
Mason Schoolfield	Lead Systems Developer
Cristabel Bodden	Executive Assistant

**C. Excuse absent Committee members.**

All Committee members were present.

**D. Welcome Visitors.**

Jibrael Ahmad, R.P.L.S.; Chuck Lucko, R.P.L.S.; Ranney McDonough, P.E.; Edmundo Gonzalez, P.E., R.P.L.S., Advisory Member; and R. Kyle Womack, P.E., Retired, Advisory Member, were present via Videoconference.

**E. Public Comment.**

There were no public comments.

**2. Adopt Amendments to 22 Texas Administrative Code Chapter 137, Subchapter A – Individual and Engineer Compliance.**

- **§137.7 – License Expiration and Renewal**
- **§137.9 – Renewal for an Expired License**
- **§137.13 – Inactive Status**

Dr. Kinney stated that Chapter 137 Subchapter A – Individual and Surveyor Compliance rules had gone through all the reviews necessary, had been posted on the Texas Register for public comment and no comments were received, and are ready for adoption.

It was MOVED/SECONDED (Johnson/Norwood) to recommend to the Board at its Regular Quarterly Board meeting on August 20, 2020, that the Board adopt the rules as submitted and presented to the Committee. A vote was taken and the MOTION PASSED.

**3. Propose Amendments to 22 Texas Administrative Code Chapter 138, Subchapter B – Sealing Requirements.**

- **§138.31 – Seal Specifications**
- **§138.33 – Sealing Procedures**
- **§138.35 – Electronic Seals and Electronic Signatures**
- **§138.37 – Sealing Misconduct**

Dr. Kinney discussed Chapter 138, Subchapter B – Sealing Requirements rule proposals prepared by Board staff with the Committee.

Ms. Johnson stated that the Surveying Advisory Committee spent many hours reviewing these rules and found no substantive changes needed and looked forward to any public comments.

It was MOVED/SECONDED (McClinton Stoglin/Johnson) to recommend to the Board at its Regular Quarterly Board meeting on August 20, 2020, that the Board propose for publication in the Texas Register Chapter 138, Subchapter B proposed rules submitted and discussed by staff for public comment, contingent upon no substantive changes to the rules after the Governor’s Office review. A vote was taken and the MOTION PASSED.

**4. Propose Amendments to 22 Texas Administrative Code Chapter 138, Subchapter C – Professional Conduct and Ethics.**

- **§138.51 – General Practice**
- **§138.53 – Surveyor Standards of Compliance with Professional Services Procurement Act**
- **§138.55 – Surveyors Shall Protect the Public**
- **§138.57 – Surveyors Shall Be Objective and Truthful**
- **§138.59 – Surveyors' Actions Shall Be Competent**

- **§138.61 – Surveyors Shall Maintain Confidentiality of Clients**
- **§138.63 – Surveyor's Responsibility to the Profession**
- **§138.65 – Action in Another Jurisdiction**

Dr. Kinney discussed Chapter 138, Subchapter C – Professional Conduct and Ethics rule proposals prepared by Board staff with the Committee.

Ms. Johnson stated that the Surveying Advisory Committee spent many hours reviewing these rules and found no substantive changes needed and looked forward to any public comments.

It was MOVED/SECONDED (McClinton Stoglin/Johnson) to recommend to the Board at its Regular Quarterly Board meeting on August 20, 2020, that the Board propose for publication in the Texas Register Chapter 138, Subchapter C proposed rules submitted by staff for public comment, contingent upon no substantive changes to the rules after the Governor’s Office review. A vote was taken and the MOTION PASSED.

**5. Propose Amendments to 22 Texas Administrative Code Chapter 138, Subchapter D – Firm and Governmental Entity Compliance.**

- **§138.73 – Firm Record Modifications**
- **§138.75 – Registration Renewal and Expiration**
- **§138.77 – Firm Registration Compliance**
- **§138.79 – Standards for Compliance with Professional Services Procurement Act**

Dr. Kinney discussed Chapter 138, Subchapter D – Firm and Governmental Entity Compliance rule proposals prepared by Board staff with the Committee.

Ms. Johnson stated that the Surveying Advisory Committee spent many hours reviewing these rules and found no substantive changes needed and looked forward to any public comments.

It was MOVED/SECONDED (McClinton Stoglin/Johnson) to recommend to the Board at its Regular Quarterly Board meeting on August 20, 2020, that the Board propose for publication in the Texas Register Chapter 138, Subchapter D proposed rules submitted by staff for public comment, contingent upon no substantive changes to the rules after the Governor’s Office review. A vote was taken and the MOTION PASSED.

**6. Propose Amendments to 22 Texas Administrative Code Chapter 138, Subchapter E – Professional and Technical Standards.**

- **§138.83 – Precision and Accuracy**
- **§138.85 – Boundary Construction**
- **§138.87 – Monumentation**
- **§138.89 – Certification**
- **§138.91 – Survey Drawing/Written Description/Report**

- **§138.93 – Subdivision Plat**
- **§138.95 – Descriptions Prepared for Political Subdivisions**
- **§138.97 – Easement Depiction**

Dr. Kinney discussed Chapter 138, Subchapter E – Professional and Technical Standards rule proposals prepared by Board staff with the Committee.

Ms. Johnson stated that the Surveying Advisory Committee spent many hours reviewing these rules and found no substantive changes needed and looked forward to any public comments.

It was MOVED/SECONDED (McClinton Stoglin/Johnson) to recommend to the Board at its Regular Quarterly Board meeting on August 20, 2020, that the Board propose for publication in the Texas Register Chapter 138, Subchapter E proposed rules submitted by staff for public comment, contingent upon no substantive changes to the rules after the Governor’s Office review. A vote was taken and the MOTION PASSED.

**7. Propose Amendments to 22 Texas Administrative Code Chapter 139, Subchapter C – Enforcement Proceedings.**

- **§139.35 – Sanctions and Penalties – Engineering**
- **§139.37 – Sanctions and Penalties – Surveying**

Dr. Kinney discussed Chapter 139, Subchapter C – Enforcement Proceedings rule proposals prepared by Board staff with the Committee. He stated that there were no substantive changes made to the language and only minor changes to the titles of these rules.

Ms. Johnson stated that the Surveying Advisory Committee spent many hours reviewing these rules and agreed with changes needed and looked forward to any public comments.

It was MOVED/SECONDED (Johnson/Norwood) to recommend to the Board at its Regular Quarterly Board meeting on August 20, 2020, the proposed amendments to Chapter 139, Subchapter C – Enforcement Proceedings submitted and discussed by staff. A vote was taken and the MOTION PASSED.

**8. Propose Amendment to 22 Texas Administrative Code Chapter 137, Subchapter C – Professional Conduct and Ethics.**

- **§137.63 – Engineer's Responsibility to the Profession**

Dr. Kinney discussed Chapter 137, Subchapter C – Professional Conduct and Ethics rule proposal prepared by Board staff with the Committee.

It was MOVED/SECONDED (Norwood/Johnson) to recommend to the Board at its Regular Quarterly Board meeting on August 20, 2020, that the Board propose for publication in the Texas Register Chapter 137, Subchapter C rules submitted and discussed by staff, contingent upon no substantive changes to the rules after the Governor’s Office review. A vote was taken and the MOTION PASSED.

**9. Compliance & Enforcement Report.**

- **Update on Compliance & Enforcement Department**

Mr. Sims provided an update on Compliance and Enforcement staff. He relayed that there were two current openings for investigators and interviews for these positions started in July and new applications had been received.

- **Status on Compliance & Enforcement caseload**

Mr. Sims stated that since March, there are 177 new cases, 236 closed cases, and 240 cases pending in the third quarter of Fiscal Year 2020 which is a decrease of 64 from the previous Enforcement Committee meeting. Mr. Sims reported that the average processing timeframe for cases will increase during the next year due to staff shortages.

- **Status of Continuing Education audit(s)**

The RPLS renewals in December 2019 went smoothly with 100% compliance of those audited. Staff are currently working on June RPLS renewals and continuing education audits continue without any issues despite COVID and no allowances or waivers have been requested.

**10. Issues for consideration for future committee meetings.**

Mr. Ballí requested a report of the benchmarks discussed in agenda item #9 at the next Enforcement Committee meeting.

**11. Adjourn.**

It was MOVED/SECONDED (Norwood/Johnson) to adjourn the meeting at 11:10 a.m. A vote was taken and the MOTION PASSED.

Date Committee approved minutes:

November 19, 2020

Date Board accepted minutes:

November 19, 2020