

MINUTES
REGULAR QUARTERLY BOARD MEETING
TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS
Hyatt Regency Lost Pines
575 Hyatt Lost Pines Road
Lost Pines, Texas 78612
May 27, 2021—9:00 AM

Discuss and Possibly Act on the Following Agenda Items:

1. Preliminary Matters:

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 9:10 a.m. at the Hyatt Regency Lost Pines at 575 Hyatt Lost Pines Road, Lost Pines, 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

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 |
| Lamberto Ballí, P.E. | Vice-Chair |
| Rolando Rubiano, P.E. | Secretary |
| Albert Cheng | Treasurer |
| Ademola Adejokun, P.E. | Member |
| Coleen Johnson, R.P.L.S. | Member |
| Mark Neugebauer, R.P.L.S., L.S.L.S. | Member |
| Catherine Norwood, P.E. | Member |
| Kiran Shah | Public Member |
| Dr. Marguerite McClinton Stoglin | Public Member |

Veena Mohan, 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 |
| Elissa Mazza | Staff Attorney |

Jeff Mutscher
Janet Sobieski
Mason Schoolfield

Chief Financial Officer
Director of Operations
Lead Systems Developer

D. Excuse absent Board members

All Board members were present.

E. Welcome Visitors

Madeline Bergstrom, Office of the Attorney General; Dr. William Edwards, R.P.L.S., L.S.L.S., Advisory Member; Steve Freeman, R.P.L.S., Texas Society of Professional Surveyors; Edmundo Gonzalez, P.E., R.P.L.S., Advisory Member; Jon Hodde, R.P.L.S., Advisory Member; Govind Nadkarni, P.E., Advisory Member; Manuel J. Montemayor, P.E., R.P.L.S.; and R. Kyle Womack, P.E., Retired, 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** and are highlighted in blue on the Regular Quarterly Board Meeting Agenda)

- February 24, 2021 Licensing Committee Meeting Minutes (See agenda item #3)
- February 25, 2021 Policy Advisory Opinion Committee Meeting Minutes (See agenda item #4)
- February 25, 2021 Legislative Issues Committee Meeting Minutes (See agenda item #5)
- February 25, 2021 Regular Quarterly Board Meeting Minutes (See agenda item #6)
- Administrative Reports, Outstanding Administrative Penalties, Default Judgment, Dismissed Cases, Violation Terminated Cases, Voluntary Compliance Cases (See agenda item #16)
- Licensing and Registration Applications – Engineering and Land Surveying (See agenda item #21)

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

Board and Committee Meeting Minutes:

3. (**Consent Agenda**) February 24, 2021 Licensing Committee Meeting Minutes
4. (**Consent Agenda**) February 25, 2021 Policy Advisory Opinion Committee Meeting Minutes
5. (**Consent Agenda**) February 25, 2021 Legislative Issues Committee Meeting Minutes
6. (**Consent Agenda**) February 25, 2021 Regular Quarterly Board Meeting Minutes

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

7. Board Members' Quarterly Activity Update

- **Adejokun**
- **Ballí**
- **Cheng**
- **Johnson**
- **Nejad**
- **Neugebauer**
- **Norwood**
- **Rubiano**
- **Shah**
- **McClinton Stoglin**

8. Advisory Members' Quarterly Activity Update

- **Edwards**
- **Gonzalez**
- **Hodde**
- **Nadkarni**
- **Womack**

Agenda items 7-8 had no discussion and no action was taken.

9. Finance and Budget

• FY21 2nd Quarter Budget Report

Mr. Mutscher reviewed the 2nd Quarter Budget report with the Board. The report reflected income and expenses for the agency for both engineers and land surveyors through the end of February 2021.

Mr. Mutscher stated that the agency is currently on target with a slight positive variance on both revenues and expenditures and this trend is continuing.

No action was required on this agenda item.

- **FY22 Budget and Fees Discussion**

Mr. Mutscher reviewed the draft of the FY22 Budget and Fees report with the Board. The report highlights fees that the Board may want to reduce for the next fiscal year such as the Professional Engineer, RPLS, LSLS, and SIT application fees and the RPLS renewal fee.

Mr. Mutscher stated that even after reducing these fees, the Board can maintain a sustainable balance for up to the next five years.

No action was required on this agenda item.

10. Performance Measures Report

Mr. Sims discussed the Performance Measure Report with the Board. An exhibit was provided for the Board's review.

Mr. Sims stated that the report is split between engineering and surveying and added that data for the two professions are being kept separate for the time being to get baseline data for the surveying profession, but at some point, consideration will be given to combining the information for some measures.

No action was required on this agenda item.

Issues Relating to Committee Matters:

11. Policy Advisory Opinion Committee Meeting Summary (May 26, 2021)

- **Policy Advisory Opinion Request Regarding the Application of the Texas Engineering Practice Act to Predominant Use Studies Involving the Use of Natural Gas or Electricity by a Business Entity (Policy Advisory Request No. 56)**
- **Policy Advisory Opinion Request Regarding the Requirements of an Engineer to Sign and Seal Amended Engineering Plans and the Ability of a Governmental Entity to Accept Unsealed Revised Plans (Policy Advisory Request No. 57)**
- **Policy Advisory Opinion Request Regarding whether the Installation of Fiber Optic Lines by a Telecommunications Provider Qualifies for the Public Works or Telephone Company Exemptions in the Texas Engineering Practice Act (Policy Advisory Request No. 53)**
- **Policy Advisory Opinion Request Regarding the Application of the Exemption for Employees of Certain Utilities or Affiliates to the Crossing of Transit Corridors (Policy Advisory Request No. 55)**

The Board discussed and took action concerning the above four requests for policy advisory opinions (Requests 53, 55, 56, and 57).

Mr. Rubiano stated that the Committee feels that the Texas Engineering Practice Act fully addresses Policy Advisory Request No. 53, 55, 56, and 57 and there is no need for individual policy advisory opinions to be issued. He recommended that the Board approve the draft response as presented by staff.

It was MOVED/SECONDED (Rubiano/Johnson) to accept staff's recommendation on Policy Advisory Requests 53, 55, 56, and 57. A vote was taken, and the MOTION PASSED.

12. Legislative Issues Committee Meeting Summary (May 26, 2021)

- **Important Dates and Information Related to the 87th Legislative Session**

Mr. Cheng stated he had provided a summary of the legislative session to the Committee.

No action was required on this agenda item.

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

Mr. Cheng stated he had provided an update on the bills that affect our agency.

No action was required on this agenda item.

13. Licensing Committee Meeting Summary (May 26, 2021)

- **Applications for Licensure:**

- **Personal Interviews Cases**

- **Aminabadi, Khashay**
- **Blevins, Jamie Lynn**
- **Campos, Daniel Esteban**
- **Dixon, Larry Dean**
- **Gonzalez, Priscilla Monica**
- **Guerriero, Joseph Dean**
- **Martinez, Selinda Aveneti**
- **McIntyre, Thomas Andrew**
- **Perez-Angon, Osiel**
- **Sanchez Arellano, Ever**

Ms. Norwood reported that the Committee had met and discussed and reviewed the personal interviews cases. Ms. Norwood presented the committee recommendations

for all applicants. The committee made the following recommendations:

- to table Mr. Aminabadi's application until further consideration and review before he is allowed licensure in Texas.

- to allow Mr. Blevins licensure in Texas.

- to allow Mr. Campos licensure in Texas upon the successful completion of the 60-hour Intermediate Level Ethics course from Texas Tech Murdough Center for Engineering Ethics.

- to allow Mr. Dixon licensure in Texas upon the successful completion of the 30-hour Basic Level Ethics course from Texas Tech Murdough Center for Engineering Ethics.

- to allow Ms. Gonzalez licensure in Texas upon the successful completion of the 30-hour Basic Level Ethics course from Texas Tech Murdough Center for Engineering Ethics.

- to allow Mr. Guerriero licensure in Texas upon the successful completion of the 30-hour Basic Level Ethics course from Texas Tech Murdough Center for Engineering Ethics.

- to allow Mr. Galvez licensure in Texas upon the successful completion of the 30-hour Basic Level Ethics course from Texas Tech Murdough Center for Engineering Ethics.

This applicant did not come before the Committee. No action was taken on Ms. Martinez; and her matter was removed from board consideration at this meeting.

- to allow Mr. McIntyre to take the Registered Professional Land Surveyor (RPLS) Exam.

- to allow Mr. Perez licensure in Texas upon the successful completion of the 30-hour Basic Level Ethics course from Texas Tech Murdough Center for Engineering Ethics.

- to allow Mr. Sanchez licensure in Texas upon 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.

It was MOVED/SECONDED (Norwood/Johnson) to accept the recommendations of the committee. A vote was taken, and the MOTION PASSED.

Ms. Norwood recommended taking the following proposed rule changes for Chapter 133, Subchapters C, F, and H, and Chapter 134, Subchapters C, F, and H together in one

motion.

- **Propose Amendments to Add 22 Tex. Admin. Code Chapter 133, Subchapter C – Professional Engineer License Application Requirements**
 - **§133.21 – Application for Standard License**
 - **§133.23 – Applications from Former Standard License Holders**
 - **§133.25 – Applications from Engineering Educators**
 - **§133.27 – Applications for Temporary License for Engineers Currently Licensed Outside the United States**

Dr. Kinney stated that at the last Board meeting, a white paper was presented with revisions that looked at streamlining the licensing process as well as providing for an appeal process to the State Office of Administrative Hearings (SOAH). The following rules package has been developed to implement those process changes.

Dr. Kinney stated that when there is a problem with an application, the current process includes a Board circulation process and may include an appearance before the Licensing Committee. If the applicant disagrees with the outcome, they may appeal it to the full Board.

Agency staff have worked with the General Counsel to come up with a reasonable alternative approach to include the SOAH appeals process. It models the process flow after the enforcement case flow including a type of informal review conference where two board members participate on a panel.

Dr. Kinney stated that Chapter 133, Subchapter C – Professional Engineer License Application Requirements rules that reference the main body of the changes proposed. In addition to these, the rules complete the package for the engineer application process. The rule package included are mirrors of the rules for engineers but for surveyors.

- **Propose Amendment to 22 Tex. Admin. Code Chapter 133, Subchapter F – Reference Documentation**
 - **§133.53 – Reference Statements**

Dr. Kinney stated that Chapter 133, Subchapter F – Reference Documentation rule involves reference statements.

- **Propose Amendments to 22 Tex. Admin. Code Chapter 133, Subchapter H – Review Process of Application and License Issuance**
 - **§133.81 – Receipt and Processing of Applications by the Board**
 - **§133.83 – Executive Director Review, Evaluation, and Processing of Applications**
 - **§133.85 – Board Review of and Action on Applications**
 - **§133.87 – Final Action on Applications**

- **§133.89 – Processing of Administratively Withdrawn Applications**
- **§133.97 – Issuance of a License**
- **§133.99 – Processing of Applications with a Criminal Conviction**
- **§133.101 – Proposed Actions on Applications**

Dr. Kinney stated that Chapter 133, Subchapter H – Review Process of Applications and License Issuance rules involve the main body of the rule package such as how an application is received, processed, and reviewed.

- **Propose Repeal of 22 Tex. Admin. Code Chapter 133, Subchapter H – Review Process of Applications and License Issuance**
 - **§133.91 – Reconsideration of Denied Applications or Requests for Examination Waivers**
 - **§133.93 – Personal Interview of Applicants**

Dr. Kinney stated that the rules presented in Chapter 133, Subchapter H – Review Process of Applications and License Issuance and Chapter 134, Subchapter H – Review Process of Applications and Registration Issuance rules involve the repeal of rules that are no longer applicable with the new process.

- **Propose Amendments to 22 Tex. Admin. Code Chapter 134, Subchapter C – Land Surveyor Application Requirements**
 - **§134.21 – Application for Standard Registration**
 - **§134.23 – Applications from Standard Registration Holders**
 - **§134.25 – Applications from Out-of-State Registration Holders**

Dr. Kinney stated that Chapter 134, Subchapter C – Land Surveyor Application Requirements rules involves standard registration, standard license holders, and out-of-state registration holders amendments.

- **Propose Amendment to Add 22 Tex. Admin. Code Chapter 134, Subchapter F – Reference Documentation**
 - **§134.53 – Reference Statements**

Dr. Kinney stated that Chapter 134, Subchapter F – Reference Documentation rule involves reference statements.

- **Propose Amendment to 22 Tex. Admin. Code Chapter 134, Subchapter H – Review Process of Applications and Registration Issuance**
 - **§134.81 – Receipt and Processing of Applications by the Board**
 - **§134.83 – Executive Director Review, Evaluation, and Processing of Applications**

- **§134.87 – Final Action on Applications**
- **§134.89 – Processing of Administratively Withdrawn Applications**
- **§134.97 – Issuance of Registration**
- **§134.99 – Applications with a Criminal Conviction**
- **§134.101 – Proposed Actions on Applications**

Dr. Kinney stated that Chapter 134, Subchapter H – Review Process of Applications and Registration Issuance rules involve the main body of the rule package such as how an application is received, processed, and reviewed.

It was MOVED/SECONDED (Norwood/Johnson) that the Board publish, subject to review and approval by Legal Counsel, amendments to Chapter 133, Subchapter C – Professional Engineer License Application Requirements, Chapter 133, Subchapter F – Reference Documentation; Chapter 133, Subchapter H - Review Process of Applications and License Issuance; Chapter 134, Subchapter C – Land Surveyor Application Requirements, Chapter 134, Subchapter F – Reference Documentation; Chapter 134, Subchapter H - Review Process of Applications and Registration Issuance rules as presented. A vote was taken and the MOTION PASSED.

- **Propose Repeal of 22 Tex. Admin. Code Chapter 134, Subchapter H – Review Process of Applications and Registration Issuance**
 - **§134.91 – Reconsideration of Denied Applications**
 - **§134.93 – Personal Interview of Applications**

It was MOVED/SECONDED (Norwood/Ballí) to publish subject to review and approval by Legal Counsel the repeal of the listed rules in Chapter 133, Subchapter H – Review Process of Applications and License Issuance and Chapter 134, Subchapter H – Review Process of Applications and Registration Issuance. A vote was taken and the MOTION PASSED.

- **Criminal History Question Revision on Application Form**

Dr. Kinney stated that this was the application question related to criminal background that many applicants have difficulty with. In the past, there were no background checks required for an application, and the Board simply asked applicants to provide information on criminal issues. Once the Legislature required background checks, the board would now know for certain if an applicant had criminal violations.

Dr. Kinney stated that the question has been modified innumerable times to make it more clear to applicants. The inclusion of the question on the application often caused unnecessary issues with an application. The goal of this proposed change is to remove the question from the application and rely, instead, on the required criminal history record check for that information.

Dr. Kinney stated that this change is only related to the application form and is not a rule change. The form will state that an applicant is required by statute and rule to submit their criminal

background information and will require the applicant to affirm the applicant understands the requirement by checking a box on the application form.

If the applicant does not send in the supporting documentation regarding the background check, the process will stop until the applicant submits the required information.

It was MOVED/SECONDED (Norwood/McClinton Stoglin) to approve the revisions to the criminal history question on the application form proposed by staff. A vote was taken and the MOTION PASSED.

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

Ms. Norwood stated that Mr. Strong had discussed and provided an update on the Professional Engineers and Land Surveyors' Exams with the Committee.

The results of the April 16, 2021, Surveyor exams are available in the exhibit. Applicants and examinees will be notified in the next few days via email.

No action was required on this agenda item.

- **Licensing Director's Report**
 - **Engineer Results and Statistics: Licensing Application and Examination Report**
 - **Surveyor Results and Statistics: Registration Application and Examination Report**

Ms. Norwood stated Mr. Strong had discussed the Director's Report with the Committee.

No action was required on this agenda item.

The Board Chair called for a break at 10:13 a.m.

The meeting reconvened at 10:25 a.m.

All Board members were present.

Executive Matters:

14. Executive Director Activities and Reports

- **Quarterly Meeting Activity Update**

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

No action was required on this agenda item.

- **Agency Operations/COVID-19 Report**

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

Dr. Kinney stated that TBPELS staff are in the office on a 50 percent capacity. Agency communications continue to be primarily remote via Zoom or telephone meetings.

No action was required on this agenda item.

- **Surveying Advisory Committee (SAC) Report**

Dr. Kinney stated that the Committee continues to meet and last met in April and solicited feedback from the Texas Society of Professional Surveyors on several topics.

No action was required on this agenda item.

- **Texas Board of Professional Engineers and Land Surveyors' Strategic Planning Meeting – Summer 2021**

Dr. Kinney stated that staff are working to coordinate an in-person strategic planning meeting and will reach out with possible dates and locations.

No action was required on this agenda item.

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

- **Southern Zone Meeting**

- **Lamberto Ballí – Southern Zone Assistant Vice President**

Dr. Kinney congratulated Mr. Ballí as the new Southern Zone Assistant Vice President for NCEES.

- **Annual Meeting – August 19-20, 2021 – New Orleans**

The NCEES National meeting is scheduled for August 18-21, 2021, in New Orleans.

- **Annual Meeting Workshop Presentation – To Be Determined**

Dr. Kinney stated that staff will coordinate the NCEES Annual Meeting Workshop and will send the motions and the reports will be available online.

No action was required on this agenda item.

- **Texas Board of Professional Engineers and Land Surveyors' Regional Advisory Meeting – Fall 2021**

Dr. Kinney reported that staff alongside Dr. Edwards have started discussing the next Regional Advisory Meeting in Corpus Christi to engage with students and engineering community.

No action was required on this agenda item.

- **Outreach Report**

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

No action was required on this agenda item.

- **Kudos Report**

Dr. Kinney reported that staff continue to receive kudos for the virtual webinar presentations and thanked the team for their hard work during this challenging time.

No action was required on this agenda item.

Enforcement/Disciplinary Matters:

15. Compliance and Enforcement Report

- **Update on Compliance and Enforcement Department**

Mr. Sims stated that there were still two openings for investigators. Unfortunately, we are having difficulty getting a robust applicant pool. The job postings have been adjusted several times and hope to bring in new applicants.

No action was required on this agenda item.

- **Status of Compliance and Enforcement caseload**

Mr. Sims presented the compliance and enforcement statistics.

No action was required on this agenda item.

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

Mr. Sims stated that since December staff had wrapped up the continuing education audits and there is 100 percent compliance.

Mr. Sims stated that the March renewal audit process was well under way and about half have been completed.

No action was required on this agenda item.

16. (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.

17. Consent Orders.

Engineering.

1. Ponce Engineering – B-40787

2. **Ricardo Fierro-Stevens, P.E. – D-37582 & D-38160 (Cheng – recused)**
3. **Jorge Luis Trevino, P.E. – D-38128**
4. **Douglas Eugene Winters, Jr., P.E. – D-38398**
5. **Jordan Michael Rey, P.E. – D-38530**
6. **Craig Joseph Patterson, P.E. – D-38602**
7. **Neil B Hall & Associates LLC, DBA Groundtruth Forensics – D-40396**
8. **Thomas Joseph Gaetano, P.E. – D-40487**
9. **Daniel Ray Roseman, P.E. – D-40561**
10. **Nathan Anton Seifert, P.E. – D-40587**
11. **Michael Henry Matustik, P.E. – D-40600**

Informal Reprimands

12. **D-38429**
13. **D-38473**
14. **D-40717**
15. **D-40718**
16. **D-40719**

Surveying

17. **Edward Christopher Rumsey, RPLS – D-38595**
18. **Bryan Douglas Connally, RPLS – D-40384**

It was MOVED/SECONDED (Norwood/Rubiano) to approve the Consent Orders presented in items 1-18 as submitted. A vote was taken and the MOTION PASSED.

18. **Johnnie Almaguer Terrazas, P.E. – D-38282, Request for an extension to complete ethics course**

Mr. Terrazas requested an extension until August 15, 2021, to complete the ethics course required by the order for the referenced case. Background information on the request was presented to the Board for its consideration.

It was MOVED/SECONDED (Ballí/Rubiano) to allow Mr. Terrazas an extension until August 15, 2021, to complete the ethics course. A vote was taken and the MOTION PASSED.

19. Revocation Orders

- **Stewart Andre Aucoin, P.E. – D-38250**

Mr. Aucoin requested an agreed revocation to resolve the compliance issues associated with this case.

It was MOVED/SECONDED (Norwood/Ballí) to allow Mr. Aucoin to surrender his license to resolve this. A vote was taken and the MOTION PASSED.

20. Final Board Order

- **SOAH Docket No.: 460-18-4641; *Texas Board of Professional Engineers & Land Surveyors v. Manuel Jesus Montemayor*; Before the State Office of Administrative Hearings – Our File D-30672**

Ms. Mazza addressed the Board and provided history and facts on SOAH Docket No.: 460-18-4641.

Ms. Mazza recommended that the Board accept the Administrative Law Judge's recommendations in the proposal for decision and to adopt the sanctions as set out; license revocation and an administrative penalty of \$ 27,000.00.

Mr. Montemayor was given an opportunity to address the Board. He stated that he was advised by his legal counsel to not provide any comments.

It was MOVED/SECONDED (Rubiano/ Ballí) to adopt the Final Board Order and authorize the Board Chair to sign the Final Order. A vote was taken and the MOTION PASSED.

Licensing Applications Requiring board Ruling:

21. (Consent Agenda) Licensing and Registration Applications – Engineering and Land Surveying

- **Professional Surveyor Registration:**
 - **Firms Approved**
 - **Licensed State Land Surveyors (RPLS) Approved**
 - **Registered Professional Land Surveyors (RPLS) Approved**
 - **Surveyor-In-Training (SIT) Approved**

- **Professional Engineer Licensing:**
 - **Licensure/Registration Status Counts**
 - **Approved for Exams**
 - **Approved for Licensure**
 - **Approved for Registration**
 - **Firms Approved**
 - **Waivers – Fundamentals of Engineering Examination**
 - **Waivers – Professional Engineering Examination**
 - **Waivers – Both**
 - **Not Approved for Licensure**

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

22. Issues for consideration for the next scheduled Board meeting of the Texas Board of Professional Engineers and Land Surveyors

Mr. Neugebauer requested that the Board present the LSLS license certificate to successful applicants and have their Oath of Office presented during each Regular Quarterly Board meeting.

Dr. Nejad stated that he supported this idea and will work with staff.

No action was required on this agenda item.

23. Adjourn

It was MOVED/SECONDED (Norwood/Johnson) to adjourn the meeting at 10:58 a.m. A vote was taken and the MOTION PASSED.

Date Board approved the minutes as submitted:

August 26, 2021