

MINUTES
REGULAR QUARTERLY BOARD MEETING
TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS
1917 S. Interstate 35
November 18, 2021—10:00 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 10:04 a.m. at the Texas Board of Professional Engineers and Land Surveyors, 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
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
Dr. Marguerite McClinton Stoglin	Public Member

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
Rick Strong, P.E.	Director of Licensing and Registration
Michael Sims, P.E.	Director of Compliance and Enforcement
Elissa Mazza	Staff Attorney
Jeff Mutscher	Chief Financial Officer
Janet Sobieski	Director of Operations

Cristabel Bodden

Executive Assistant

D. Excuse absent Board members

The following Board member was absent:

Kiran Shah

Public Member

It was MOVED/SECONDED (Norwood/Cheng) to excuse Mr. Shah from the Regular Quarterly Board meeting. A vote was taken and the MOTION PASSED

E. Welcome Visitors

Kahshay Aminabadi; Steven Freeman, R.P.L.S.; Jon Hodde, R.P.L.S., Advisory Member; Felix Rodriguez, R.P.L.S.; Bill Weber; and R. Kyle Womack, P.E., Retired, Advisory Member, were present.

F. Public Comment

There were no public comments.

The following items may be acted upon under [Consent Agenda*](#):

2. [Consent Agenda*](#)

- **August 26, 2021 Licensing and Registration Committee Meeting Minutes (See agenda item #3)**
- **August 26, 2021 Policy Advisory Opinion Committee Meeting Minutes (See agenda item #4)**
- **August 26, 2021 Legislative Issues Committee Meeting Minutes (See agenda item #5)**
- **August 26, 2021 Nominating Committee Meeting Minutes (See agenda item #6)**
- **August 26, 2021 Regular Quarterly Board Meeting Minutes (See agenda item #7)**
- **October 27, 2021 Strategic Planning Meeting Minutes (See agenda item #8)**
- **October 28, 2021 Strategic Planning Meeting Minutes (See agenda item #9)**
- **Administrative Reports, Outstanding Administrative Penalties, 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 (Ballí/Norwood) 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*](#) August 26, 2021 Licensing and Registration Committee Meeting Minutes**
4. **[Consent Agenda*](#) August 26, 2021 Policy Advisory Opinion Committee Meeting Minutes**
5. **[Consent Agenda*](#) August 26, 2021 Legislative Issues Committee Meeting Minutes**

6. **Consent Agenda*** August 26, 2021 Nominating Committee Meeting Minutes
7. **Consent Agenda*** August 26, 2021 Regular Quarterly Board Meeting Minutes
8. **Consent Agenda*** October 27, 2021 Strategic Planning Meeting Minutes
9. **Consent Agenda*** October 28, 2021 Strategic Planning Meeting Minutes

Agenda items 3-9 were approved under **Consent Agenda**, agenda item # 2.

Board and Advisory Members' Quarterly Activity Update:

10. Board Members' Quarterly Activity Update, including conferences and meetings

attended and presentations given:

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

No action was taken on agenda item.

11. Advisory Members' Quarterly Activity Update, including conferences and meetings

attended and presentations given:

- Edwards
- Gonzalez
- Hodde
- Nadkarni
- Womack

No action was taken on agenda item.

Finance and Budget Matters:

12. Finance and Budget

- **FY21 4th Quarter Budget Report**

Mr. Mutscher reviewed the 4th 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 August 2021.

Mr. Mutscher stated that this report reflects the collection of revenue and total expenses for the previous fiscal year, and the year ended with a positive fund balance.

Mr. Mutscher stated that due to legislative changes and Sunset's recommendation for the merger of the Land Surveyors and Professional Engineering Board, the total remaining fund balance from the Texas Board of Professional Land Surveying, which was merged into Texas Board of Professional Engineers and Land Surveyors, was \$148,899. This is singled-out as a line item as funds transferred in from the Comptroller's Office and these funds contributed to the Board's overall positive balance and increase in fund balance over the expected end of fiscal year budget.

Mr. Mutscher stated the Board did not spend as much as had been budgeted. Some of these savings were due to the move to hybrid operations and reduction in travel for outreach due to shifting to virtual presentations due to the pandemic. There are also job vacancies that were funded in the prior year budget, and the Board is continuing to try and fill these positions in the current fiscal year.

No action was required on this agenda item.

- **FY21 Annual Financial Report**

Mr. Mutscher stated that this report was prepared in a manner prescribed by the Comptroller's Office and distributed to various oversight agencies.

Mr. Mutscher stated that this report indicates our financial position according to the Comptroller rules and has other items in the report like the amount of our capital assets.

Mr. Mutscher stated that there is nothing out of the ordinary in this report.

No action was required on this agenda item.

- **FY21 Internal Audit Report**

Mr. Mutscher stated that there is a statute that requires an internal audit and in order to

comply with the requirements, our agency has contracted with Monday Rufus, CPA from Austin, TX to do an internal audit.

Mr. Mutscher stated that the plan last year was to audit some scope of the licensing functions but due to the pandemic in Fiscal Year 21, we plan to move forward with the audit in Fiscal Year 22.

Mr. Mutscher stated that the agency did undergo an extensive IT security audit, but the results are not yet final.

No action was required on this agenda item.

- **FY22 Internal Audit Plan**

Mr. Mutscher stated that the FY22 Internal Audit plan needed Board approval.

Mr. Mutscher stated the report is in the format required to be reported to the oversight agencies. Board staff will define some specific licensing functions in Fiscal Year 2022 for audit and doing so would satisfy the internal audit requirement.

Mr. Mutscher stated that this audit would solely focus on licensing functions.

Dr. Kinney provided background information on the history of auditing within the agency and explained that the State Auditor's Office does periodic audits and staff have been through many of them. A number of years ago, the agency adopted a policy of doing an internal audit that rotates through the agency functions each year, so we are always keeping up with what it is going on as opposed to waiting the gap of six or eight years before the State Auditor's Office performs an audit. This way, staff can fix, address, or look at what to improve before those big audits.

It was MOVED/SECONDED (Rubiano/Ballí) to approve the FY22 Internal Audit plan as presented and include an internal review of the licensing procedures. A vote was taken and the MOTION PASSED.

- **FY21 Annual Self-Directed Semi-Independent Report**

Mr. Mutscher stated that the items included in this report are prescribed in statute and the report goes to the Governor's Office, the Senate Finance Chair, the House Appropriations Chair, and the Legislative Budget Board.

Mr. Mutscher stated that the report includes the total salaries for the agency staff, Board member expenses, travel and outreach expenses, the last major strategic plan, and financial data. We include 5 years of history as well as some performance measures.

No action was required on this agenda item.

Executive Matters:

13. Executive Director Activities and Reports

- **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.

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

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

Dr. Kinney stated that return to office plans are still on hold and staff are in the office on an as needed basis.

Dr. Kinney discussed the building expansion project and stated the agency was re-visiting the evaluation to see what the needs are now and based on possible staffing increases as well as hybrid operations mode.

No action was required on this agenda item.

- **Texas Board of Professional Engineers and Land Surveyors' Strategic Planning Meeting – October 27-28, 2021**

Dr. Kinney stated that great recommendations and ideas came from the Strategic Planning Meeting and staff are eager to start executing the recommendations.

No action was required on this agenda item.

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

- **NCEES Annual Meeting – September 2021**

Dr. Kinney stated that he provided the Board the summary of the NCEES annual virtual meeting and the outcome of the various votes that were taken and the actions.

No action was required on this agenda item.

- **NCEES Southern Zone Meeting – April 2022**

Dr. Kinney stated that the Southern Zone meeting will be held in Oklahoma in April 2022.

Dr. Kinney stated that the Southern Zone meeting will be a combined meeting between Central and South and therefore much larger.

No action was required on this agenda item.

- **NCEES Annual Meeting – August 2022**

Dr. Kinney stated that the NCEES Annual meeting will be held in California in August 2022.

No action was required on this agenda item.

- **Texas Board of Professional Engineers and Land Surveyors' Regional Advisory Meeting – Corpus Christi – Spring 2022**

Dr. Kinney reported that staff continue plans for the next Regional Advisory Meeting in Corpus Christi and it will be held in spring 2022.

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 also 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 and thanked the team for their hard work during this challenging time.

No action was required on this agenda item.

14. Performance Measure 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 Performance Measures report has 11 Compliance and Enforcement measures in total and have them separated between engineering and surveying so there are 11 measures for each.

Mr. Sims highlighted a few Compliance and Enforcement measures.

The first measure in the report shows that 99.9 % of licensees do not have any disciplinary action against them and is a testament that our licensees are doing things properly.

The second measure in the report shows the complaints received and overall, the number of complaints have been trending up the last year and staff continue to monitor the number of complaints received.

The fifth measure, complaint resolution days, is fairly steady at 140 days and a lot of this is due to the higher case load. It takes longer to work through them but management is taking

steps to try to bring in additional staff to get this number lowered.

Mr. Strong stated that the Performance Measures report has 12 Licensing and Registration measures that they track.

Mr. Strong highlighted a few Licensing and Registration measures.

Mr. Strong stated that on the engineering side, the number of engineer licenses have gone up slightly. EITs and Engineer Firms have also gone up. On the Surveying side, Surveyors have leveled out.

Mr. Strong stated that processing time for engineers has picked up a little over the last year. The volume of work coming in is the same, but it is the number of people we have to process the work, so we see an uptick in the processing time.

Mr. Strong stated that the processing time for both surveyors and engineers is 60-70 days. This is a mix of queue time waiting to be processed, communication wait time for application responses, and actual processing time. Our actual time to handle an application is five-man hours. However, this is spread out over the time of references and information coming in.

No action was required on this agenda item

Compliance and Enforcement/Disciplinary Matters:

15. Compliance and Enforcement Report

- **Update on Compliance and Enforcement Department**

Mr. Sims stated that the Department still has an Investigator II position open and have also added an Investigator IV opening.

There has been one interview thus far and it seems very promising. The department is working on scheduling an interview with a second applicant to get the Investigator IV position filled.

No action was required on this agenda item.

- **Status of Compliance and Enforcement caseload**

Mr. Sims presented the compliance and enforcement statistics.

Mr. Sims stated that the caseload continues at a high level and staff is working hard to reduce the number of pending cases.

No action was required on this agenda item.

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

Mr. Sims stated that there was 100% compliance with the continuing education audits for June. Staff are currently in the midst of the September PE renewal audits.

Mr. Sims stated that the FAQs for the RPLS continuing education has been updated to reflect rule changes that occurred over the past year.

No action was required on this agenda item.

Dr. Nejad called for a break at 11:24 a.m.

The Board meeting reconvened at 11:38 a.m.

Board members in attendance were all present.

16. Consent Agenda* Administrative Reports, Outstanding Administrative Penalties, Dismissed Cases, Violation Terminated Cases, Voluntary Compliance Cases

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

17. Implementation of Senate Bill 424 [87(R)] Relating to Agency Enforcement of Laws Regulating Small Businesses

Mr. Sims stated that agenda item # 17 was an update to the Board on Senate Bill 424 which was passed during the last legislative session. The bill became effective September 1, 2021.

Mr. Sims stated that Senate Bill 424 amends the government code and relates to how agencies take enforcement actions against small businesses.

Mr. Sims stated that Senate Bill 424 requires state agencies to administer the provisions of Senate Bill 424. However, SB 424 does not apply to actions taken by state agencies to protect public health or safety and it does not apply if the legislature did not appropriate money specifically for the purpose of implementing this bill. As such, TBPELS does not have to implement SB 424 but will keep the provisions of this bill in mind when processing enforcement cases against small businesses.

It was MOVED/SECONDED (Ballí/McClinton Stoglin) to approve the implementation of Senate Bill 424. A vote was taken and the MOTION PASSED.

18. Consent Orders

Engineering

1. Louis Faraklas, Jr., P.E. – D-38656

Surveying

1. Silvio Prieto – B-40359

2. Herman Winter Crichton, RPLS – D-40869

Mr. Sims presented the Consent Orders and relayed they were the result from an agreement between Board staff and the respondent to settle pending enforcement cases.

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

Licensing and Registration Matters:

19. Aminabadi, Kahshay – Request to Reconsider Application

Mr. Strong stated that Mr. Aminabadi comes to the full Board as an appeal for the decision taken by the Board in the August 26, 2021, Regular Quarterly Board meeting.

Mr. Aminabadi addressed the Board. Mr. Aminabadi stated that he is now licensed in the state of California. Since the last Board meeting, he submitted another set of documents requested of him, and submitted the experience form signed by his employer.

Mr. Aminabadi stated that he is appearing to get clarity from the Board regarding the type of experience he needs to complete prior to licensure approval. He wants to return in 18 months to be licensed and not come back to be in the same spot he is in today.

Mr. Strong read the previously approved Order to the Board. The Board passed a motion to approve his Texas PE licensure after the successful documentation and completion of one and a half years of qualifying engineering experience starting in August 26, 2021. In addition, Mr. Aminabadi needed to document the year and a half experience with detailed SER demonstrating specific work, design, analysis that he personally performed, and provide at least one PE reference that can verify his experience demonstrated in the SER.

It was MOVED/SECONDED (Rubiano/Norwood) to affirm the decision taken on August 26, 2021, as noted in the record. A vote was taken and the MOTION PASSED.

Dr. McClinton Stoglin stepped out of the Board meeting at 12:20 p.m.

Dr. McClinton Stoglin returned to the Board meeting at 12:24 p.m.

20. Licensing Director's Report

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

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

Mr. Strong discussed the Director's Report with the Board.

No action was required on this agenda item.

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

- **Professional Surveyor Registration:**
 - **Firms Approved**
 - **Licensed State Land Surveyors (LSLS) 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**
 - **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.

Miscellaneous Matters:

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

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

23. Adjourn

It was MOVED/SECONDED (Norwood/Ballí) 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 10, 2022