

MINUTES
REGULAR QUARTERLY BOARD MEETING
TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS
IN-PERSON AND VIA VIDEOCONFERENCE
February 10, 2022—10:30 AM

4099 Calder Ave
Beaumont, TX 77706

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 10:35 a.m. via in-person and videoconference. (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
Catherine Norwood, P.E.	Vice-Chair
Ademola Adejokun, P.E.	Secretary
Karen Freise, P.E.	Member
Coleen Johnson, R.P.L.S.	Member
Mark Neugebauer, R.P.L.S., L.S.L.S.	Member
Rolando Rubiano, 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

Mason Schoolfield
Cristabel Bodden

Lead Systems Developer
Executive Assistant

D. Excuse Absent Board Members

The following Committee members were absent:

Kiran Shah	Treasurer
Albert Cheng	Public Member

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

E. Welcome New Board Members

Dr. Nejad congratulated Ms. Norwood and Mr. Cheng on their reappointment to the Board.

Dr. Nejad welcomed new Board Member, Karen Friese, P.E.

F. Welcome Visitors

Lamberto Ballí, P.E.; Jon Hodde, R.P.L.S., Advisory Member; Govind Nadkarni, P.E., Advisory Member; Kevin Pata, CPA; and Kyle Sunday, L.S.L.S., were present.

G. Public Comment

Mr. Kevin Pata, CPA, came before the Board.

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

2. [Consent Agenda](#)*

- **November 18, 2021 Regular Quarterly Board Meeting Minutes (See agenda item #3)**
- **Administrative Reports, Outstanding Administrative Penalties, Default Judgment, Dismissed Cases, Violation Terminated Cases, Voluntary Compliance Cases (See agenda item #13)**
- **Licensing and Registration Applications – Engineering and Land Surveying (See agenda item #17)**

It was MOVED/SECONDED (McClinton Stoglin/Norwood) to approve items 3, 13, and 17 as presented in the [Consent Agenda](#). A vote was taken and the MOTION PASSED.

Board Meeting Minutes:

3. [Consent Agenda](#)* November 18, 2021 Regular Quarterly Board Meeting Minutes

Agenda item 3 was approved under [Consent Agenda](#), see above.

Board and Advisory Members' Quarterly Activity Matters:

4. Board Members' Quarterly Activity Update, including conferences and meetings attended and presentations given:

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

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

- Edwards
- Gonzalez
- Hodde
- Nadkarni
- Womack

No action was taken on agenda items 4-5.

6. Contract for Advisory Board Member for Fiscal Year 2022

- **Lamberto Ballí, P.E.**

It was MOVED/SECONDED (Nejad/Norwood) to approve Lamberto Ballí, P.E., as an Advisory Board Member for Fiscal Year 2022. A vote was taken and the MOTION PASSED.

Finance and Budget Matters:

7. Finance and Budget

- **FY22 1st Quarter Budget Report**

Mr. Mutscher reviewed the 1st Quarter Budget report with the Board. The report reflects a positive revenue variance of 11% and a positive expenses variance of 8% and this is very typical of the first quarter of the fiscal year. The positive variance has to do with the timing of December renewals that become available in November.

Mr. Mutscher stated that several new hires were budgeted and have come in to fill vacant positions. In addition, the budget has allowed IT purchases and everything is on track on the financial side.

No action was required on this agenda item.

Committee Matters:

8. Licensing and Registration Committee Meeting Summary

(February 9, 2022)

- **Applications for Licensure**

- **Personal Interviews Cases:**

- **Colle, Bruce James**

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

Ms. Norwood stated the Committee recommends licensure in Texas upon the successful completion of the 60-hour Intermediate Level Ethics course from Texas Tech Murdough Center for Engineering Ethics.

It was MOVED/SECONDED (Norwood/Rubiano) 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. A vote was taken and the MOTION PASSED. A vote was taken, and the MOTION PASSED.

- **Propose Amendments to 22 Tex. Admin. Code Chapter 133, Subchapter H – Review Process of Applications and License Issuance**
 - **§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**
- **Propose Amendment to 22 Tex. Admin. Code Chapter 134, Subchapter H – Review Process of Applications and Registration Issuance**
 - **§134.83 Executive Director Review, Evaluation, and Processing of Applications**
 - **§134.85 Board Review of and Action on Applications**
 - **§134.87 Final Action on Applications**
 - **§134.89 Processing of Administratively Withdrawn Applications**
- **Propose Amendments to 22 Tex. Admin. Code Chapter 140, Subchapter A – Criminal History and Convictions**
 - **§140.1 Criminal History and Convictions – Engineers**
 - **§140.3 Criminal History and Convictions – Surveyors**
- **Propose Repeal to 22 Texas Admin. Code Chapter 133, Subchapter H – Review and Process of Applications and Registration Issuance**
 - **§133.99 Processing of Applications with a Criminal Conviction**

Ms. Norwood stated that the Committee had discussed the proposed amendments and had voted to table them for further review. Staff will review the inputs and comments received from Committee members and bring the rules back before the Committee in May 2022.

No action was required on this agenda item.

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

Ms. Norwood stated that Mr. Strong had provided an exam update and stated that the next Surveying exam will be on April 8th and the exam is on schedule.

Ms. Norwood stated that the content and blueprints for the Texas-specific exam are complete, and staff are working on next steps.

- **Licensing and Registration Director’s Report**

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

Ms. Norwood stated that the Licensing and Registration department had hired two new employees. Both are really strong candidates and are coming on board in the next couple of weeks.

9. Enforcement Committee Meeting Summary

(February 10, 2022)

Ms. Johnson stated that the Committee had discussed the proposed amendments and Mr. Sims would review them with the Board.

Mr. Sims stated that they are proposing several amendments that are mostly cleanup language and clarifications to existing Board rules.

- **Propose Amendments to 22 Texas Administrative Code (Tex. Admin. Code) Chapter 133, Subchapter C – Professional Engineer License Application Requirements**
 - **§ 133.23 – Applications From Former Standard License Holders**

Mr. Sims stated that amendments to Rule 133.23 – Applications From Former Standard License Holders are clarifying that previous enforcement actions can be considered if somebody reapplies for an engineering license.

- **Propose Amendments to 22 Tex. Admin. Code Chapter 133, Subchapter H – Review Process of Applications and License Issuance**
 - **§ 133.97 – Issuance of License**

Mr. Sims stated that amendments to Rule 133.97 – Issuance of License are the amendments that would eliminate the need for licensees to submit their seal imprints as part of the licensing process and establishing rules for use of a non-compliant seal.

- **Propose Amendments to 22 Tex. Admin. Code Chapter 134, Subchapter C – Land Surveyor Application Requirements**
 - **§ 134.23 Application From Standard Registration Holders**

Mr. Sims stated that amendments to Rule 134.23 – Application From Standard Registration Holders are clarifying that previous enforcement actions can be considered if somebody reapplies for registration as a surveyor.

- **Propose Amendments to 22 Tex. Admin. Code Chapter 134, Subchapter H – Review Process of Applications and Registration Issuance**
 - **§ 134.97 – Issuance of Registration**

Mr. Sims stated that amendments to Rule 134.97 – Issuance of Registration are the amendments that would eliminate the need for licensees to submit their seal imprints as part of licensing process and establishing rules for use of a non-compliant seal.

- **Propose Amendments to 22 Tex. Admin. Code Chapter 135, Firm Registration**
 - **§ 135.3 – Application for a Certificate of Registration View**

Mr. Sims stated that amendments to Rule 135.3 – Application for a Certificate of Registration View add language to make the rules consistent with the information already gathered on the firm registration forms making the rules and the forms match up and adding a clear statement that is already in the Act that governmental entities are exempt from the firm registration requirements.

- **Propose Amendment to 22 Tex. Admin. Code Chapter 136, Surveying Firm Registration**
 - **§ 136.3 Application for a Certificate of Registration**

Mr. Sims stated that amendments to Rule 136.3 – Application for a Certificate of Registration View add language to make the rules consistent with the information gathered on the firm registration forms making the rules and the forms match up and adding a clear statement that is already in the Act that governmental entities are exempt from the firm registration requirements.

- **Propose Amendments to 22 Tex. Admin. Code Chapter 137, Subchapter A – Individual and Engineer Compliance**
 - **§ 137.1 – License Holder Designations**
 - **§ 137.12 – Suspended License**
 - **§ 137.14 – Voluntary Surrender of License**
 - **§ 137.17 – Continuing Education Program**

Mr. Sims stated that amendments to Chapter 137, Subchapter A rules are to clean up some language and add a new rule to expressly state that you cannot practice or offer services if your license is suspended. The existing rules only reference signing and sealing when a license is suspended but do not mention practicing or offering of services. The rules also add some flexibility to when a voluntary surrender can be done as part of the resolution of an enforcement case and adding some clarification to the continuing education program language.

- **Propose Amendments to 22 Tex. Admin. Code Chapter 137, Subchapter B – Sealing Requirements**
 - **§ 137.31 – Seal Specifications**
 - **§ 137.33 – Sealing Procedures**
 - **§ 137.37 – Sealing Misconduct**

Mr. Sims stated that amendments to Chapter 137, Subchapter B rules are to update the rules to reflect that we are no longer requiring seal imprints to be submitted as part of the licensing process and adopting new rules to lay-out the use of a non-compliant seal as a violation of board rules.

- **Propose Amendments to 22 Tex. Admin. Code Chapter 137, Subchapter C – Professional Conduct and Ethics**
 - **§ 137.55 – Engineers Shall Protect the Public**
 - **§ 137.57 – Engineers Shall Be Objective and Truthful**

Mr. Sims stated that amendments to Chapter 137, Subchapter C rules are to eliminate some rules that were redundant and not enforceable and tweaking other rules that current language is possibly unenforceable.

- **Propose Amendments to 22 Tex. Admin. Code Chapter 137, Subchapter D – Firm and Governmental Entity Compliance**
 - **§ 137.77 – Firm Registration Compliance**

Mr. Sims stated that amendments to Chapter 137, Subchapter D rules regard firm registration and clarify that a firm must employ an engineer in order to be licensed and that all engineering work done by the firm must be supervised by a professional engineer but not necessarily the same engineer that made the firm registration valid.

- **Propose Amendments to 22 Tex. Admin. Code Chapter 138, Subchapter A – Individual and Surveyor Compliance**
 - **§ 138.1 – License Holder Designations**
 - **§ 138.5 – Notification of Name Change, Address Change, Employer Change and Criminal Convictions**
 - **§ 138.12 – Suspended License or Registration**
 - **§ 138.14 – Voluntary Surrender of License or Registration**
 - **§ 138.17 – Continuing Education**

Mr. Sims stated that items 12, 13, and 14 in the Enforcement agenda are amendments to the surveying rules. Essentially, a lot of these cleanups mirror the changes proposed on the engineering side. The one exception is a correction to change a reference to engineering that was missed during the last rule proposal package.

- **Propose Amendments to 22 Tex. Admin. Code Chapter 138, Subchapter B – Sealing Requirements**
 - **§ 138.31 – Seal Specifications**
 - **§ 138.33 – Sealing Procedures**
 - **§ 138.37 – Sealing Misconduct**
- **Propose Amendments to 22 Tex. Admin. Code Chapter 138, Subchapter C – Professional Conduct and Ethics**
 - **§ 138.57 – Surveyors Shall Be Objective and Truthful**
 - **§ 138.61 – Surveyors Shall Maintain Confidentiality of Clients**
- **Propose Amendments to 22 Tex. Admin. Code Chapter 139, Subchapter B – Complaint Process and Procedures**
 - **§ 139.17 – Investigating a Complaint**

Mr. Sims stated that amendments to Chapter 139, Subchapter B rules regard rules clarifying the enforcement process and mirroring the language in the statute.

- **Propose Amendments to 22 Tex. Admin. Code Chapter 139, Subchapter C – Enforcement Proceedings**
 - **§ 139.35 – Sanctions and Penalties - Engineering**
 - **§ 139.37 – Sanctions and Penalties - Surveying**

The amendments to Subchapter B - sanction tables will reduce the penalty for continuing education violations and incorporate some of the new rules mentioned earlier such as practicing on a suspended license and the seal imprint rules. Similar amendments are being added to the enforcement tables on the engineering and surveying sides.

It was MOVED/SECONDED (Johnson/Norwood) to approve the proposed amendments as listed in the Enforcement Committee agenda items 2-16. A vote was taken and the MOTION PASSED.

- **Discussion about Licensed State Land Surveyor Seals**

Ms. Johnson stated the Enforcement Committee had discussed the Licensed State Land Surveyor Seal current rules and the Committee decided to move forward with the proposed amendments. Staff will develop rule language to bring back to the May meeting.

Mr. Sims stated that the surveying rules adopted in late 2020 established that licensed state land surveyors had to seal their state land surveying work with both an RPLS seal and a LSLS seal. We got some feedback from the LSLS community concerning the rules as written. Staff sought guidance from the committee on potential resolutions.

No action was required on this agenda item.

- **Compliance & Enforcement Director's Report**

- **Update on Compliance & Enforcement Department**
- **Status of Compliance & Enforcement caseload**
- **Status of Continuing Education audit(s)**
- **Overview of Investigative and Enforcement Process**

Ms. Johnson stated Mr. Sims had presented his report to the Committee.

Mr. Sims relayed that the department workload is maintaining high, PE audits are ongoing, and the department had hired a new staff member and one staff member was no longer with the agency.

Executive Matters:

10. 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 Report**

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

Dr. Kinney stated that moving forward, the agency will be a hybrid agency with teleworking options for staff.

No action was required on this agenda item.

- **Revision of Agency Mission Statement**

Dr. Kinney stated his report is provided as an exhibit and had stemmed from the Board retreat.

Dr. Kinney stated that they want to make sure that education, outreach, ethics, and competency are included in the agency mission statement.

Dr Nejad asked Board members to review the exhibit and provide any input to staff.

No action was required on this agenda item.

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

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

- The NCEES Southern Zone meeting is scheduled for April in Oklahoma City, Oklahoma.

- Dr. Kinney asked that Board members participate in committees and get their name submitted to NCEES.

- No action was required on this agenda item.

- **NCEES Annual Meeting – August 2022**

- The NCEES National meeting is scheduled for August 23-26, 2022, in Carlsbad, California.

- No action was required on this agenda item.

- **Texas Board of Professional Engineers and Land Surveyors’ Regional Advisory Meeting, Corpus Christi – March 2022**

Dr. Kinney reported that staff is continuing with plans for the next Regional Advisory Meeting in Corpus Christi on March 28, 2022, at Texas A&M University and would like Board members to attend.

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 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.

11. Operations Department Report

Ms. Sobieski stated her report is provided as an exhibit and provided an overview of the Operations Department and the projects they are working on.

Ms. Sobieski stated that the Operations Department is a support department in the agency and support everyone internally as well as licensed and registration holders and members of the public.

Ms. Sobieski stated that security is their top priority and work closely with the Department of Information Resources.

No action was required on this agenda item.

Dr. Nejad called for a break at 11:45 a.m.

The meeting reconvened at 11:52 a.m.

All Board members were present.

12. Surveying Advisory Committee

- **Surveying Advisory Committee Meeting Notes – December 7, 2021**

Dr. Kinney stated that the notes from this committee meeting were available as an exhibit.

No action was required on this agenda item.

- **Surveying Advisory Committee Meeting Notes – January 27, 2022**

Dr. Kinney stated that the notes from this committee meeting were available as an exhibit.

No action was required on this agenda item.

- **Recommendation on Committee Structure**

Dr. Kinney stated that the SAC was put in the statute when the two agencies merged. The SAC has been running for two years and it is time to formalize the structure and expand the committee to nine members. Each member would serve for 3 years. Each year, three members would come on the committee and three would come off.

It was MOVED/SECONDED (Friese/Johnson) to adopt the policy as written. A vote was taken and the MOTION PASSED.

- **State-Specific Exam – Draft Exam Specification**
- **State Specific Exam – Draft Exam Format**

Dr. Kinney discussed the state specific exam and stated the PAKS study has been completed and an exam specification has been developed and reviewed by the surveyor workgroups and SAC. The specification was put together with a broad cross section of topics that need to be on a Texas state specific RPLS exam.

Dr. Kinney stated that the list was sent to active RPLS and received over two hundred responses. The responses were sorted and ranked.

Dr. Kinney stated the draft exam format is available as an exhibit.

It was MOVED/SECONDED (Norwood/Johnson) to accept the recommendation on the specific exam for the draft exam specification and the draft exam format. A vote was taken and the MOTION PASSED.

Enforcement/Disciplinary Matters:

13. [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.

14. Agreed Board Orders

Engineering

- **Clinton Terry Butts, P.E. – D-38007 (Nejad – recused)**
- **Kent Douglas Schlager, P.E. – D-40480 (Nejad – recused)**

Informal Reprimand

- **D-41125 (Balli)**

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

15. Consent Orders

Engineering

Informal Reprimand

- **D-41272**

- **D-41273**

It was MOVED/SECONDED (Friese/Rubiano) to approve Consent Orders D-41272 and D-41273 as submitted. A vote was taken and the MOTION PASSED.

Licensing and Registration Matters:

16. Licensed State Land Surveyor (LSLS) New License Recognition:

- **Sunday, Kyle Carson, R.P.L.S., L.S.L.S.**

Mr. Neugebauer welcomed, introduced, and congratulated the newest LSLS, Mr. Kyle Carson Sunday.

Mr. Sunday came before the Board and thanked everyone for their assistance.

No action was required on this agenda item

17. [Consent Agenda](#)* Licensing and Registration Applications – Engineering and Land Surveying

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

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

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

19. Adjourn

It was MOVED/SECONDED (McClinton Stoglin/Johnson) to adjourn the meeting at 12:18 p.m.
A vote was taken and the MOTION PASSED.

Date Board approved the minutes as submitted:

May 12, 2022