

MINUTES
REGULAR QUARTERLY BOARD MEETING
TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS
1917 S. Interstate 35
Austin, Texas 78741

May 12, 2022—10:30 AM

Discuss and Possibly Act on the Following Agenda Items:

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 10:33 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

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
Kiran Shah	Treasurer
Albert Cheng	Public Member
Karen Friese, 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
Jeff Mutscher	Chief Financial Officer

Mason Schoolfield
Ed Brannan, P.E.

Tejashri Kyle, P.E.

Cristabel Boddien

Lead Systems Developer
Special Projects, Qualifications & Rule
Requirements
Special Projects, Qualifications & Rule
Requirements
Executive Assistant

D. Excuse Absent Board Members

All Board members were present.

E. Welcome Visitors

Lamberto Ballí, P.E., Advisory Member; Terry Bilderback, P.E., Texas Society of Professional Engineers; Govind Nadkarni, P.E., Advisory Member; and Scott Stewart, American Council of Engineering Companies of Central Texas; were present.

F. Public Comment

There were no public comments.

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

2. [Consent Agenda*](#)

- A. February 9, 2022 Licensing and Registration Committee Meeting Minutes (See agenda item #3)**
- B. February 10, 2022 Enforcement Committee Meeting Minutes (See agenda item #4)**
- C. February 10, 2022 Regular Quarterly Board Meeting Minutes (See agenda item #5)**
- D. Administrative Reports, Outstanding Administrative Penalties, Default Judgment, Dismissed Cases, Violation Terminated Cases, Voluntary Compliance Cases (See agenda item #15)**
- E. Licensing and Registration Applications – Engineering and Land Surveying (See agenda item #18)**

It was MOVED/SECONDED (Johnson/Norwood) to approve items A-E as presented in the [Consent Agenda](#). A vote was taken and the MOTION PASSED.

Board Meeting Minutes:

- 3. [Consent Agenda*](#) February 9, 2022 Licensing and Registration Committee Meeting Minutes**
- 4. [Consent Agenda*](#) February 10, 2022 Enforcement Committee Meeting Minutes**
- 5. [Consent Agenda*](#) February 10, 2022 Regular Quarterly Board Meeting Minutes**

Agenda items 3-5 was approved under **Consent Agenda**, see above.

Board and Advisory Members' Quarterly Activity Matters:

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

A. Adejokun

B. Cheng

C. Friese

D. Johnson

E. Nejad

F. Neugebauer

G. Norwood

H. Rubiano

I. Shah

J. McClinton Stoglin

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

A. Ballí

B. Edwards

C. Gonzalez

D. Hodde

E. Nadkarni

F. Womack

Reports were provided as exhibits. No action was taken on agenda items 6-7.

Finance and Budget Matters:

8. Finance and Budget

A. FY22 2nd Quarter Budget Report

Mr. Mutscher reviewed the 2nd Quarter Budget report with the Board. The report reflects a positive revenue variance and a positive expense variance which is typical of the second quarter of the fiscal year.

No action was required on this agenda item.

B. FY23 Budget and Fees Discussion

Mr. Mutscher stated that the FY23 Budget and Fees report is the proposed budget, and the final report will be presented in August for adoption.

Mr. Mutscher stated that expenses will increase for the next fiscal year in several categories including staffing because we are filling vacancies and hiring new positions. In addition, there is a small increase in communications and utilities, and printing and reproduction.

Mr. Mutscher stated that our fund balance at the end of August will be over \$2million. This budget, without raising any fees and with the expenses presented today, would reduce our ending fund balance to approximately \$1.6 million.

No action was required on this agenda item.

Committee Matters:

9. Licensing and Registration Committee Meeting Summary

(May 11, 2022)

A. Applications for Licensure

Personal Interviews Cases:

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

1. Brecheisen, Brian Kelly

It was MOVED/SECONDED (Norwood/Rubiano) to allow Mr. Brecheisen to return in one year and submit one year of documented technical experience, submit a signed SER and PE references describing the one year of experience and sit for the P.E. exam 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.

Mr. Cheng stepped out of the meeting at 10:48 a.m. and returned at 10:52 a.m.

2. Faz, Gerardo

It was MOVED/SECONDED (Norwood/McClinton Stoglin) to allow Mr. Faz waiver of the F.E. exam but not the Principals of Practice exam and be required to present 30 hours of continuing education prior to being allowed to take the Principals of Practice exam. A vote was taken and the MOTION PASSED.

Ms. Norwood stated that no action was take on agenda items B – E and that the committee is still discussing these items.

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

- 1. §133.83 Executive Director Review, Evaluation, and Processing of Applications**
- 2. §133.85 Board Review of and Action on Applications**
- 3. §133.87 Final Action on Applications**
- 4. §133.89 Processing of Administratively Withdrawn Applications**

C. Propose Amendment to 22 Tex. Admin. Code Chapter 134, Subchapter H – Review Process of Applications and Registration Issuance

- 1. §134.83 Executive Director Review, Evaluation, and Processing of Applications**
- 2. §134.85 Board Review of and Action on Applications**
- 3. §134.87 Final Action on Applications**
- 4. §134.89 Processing of Administratively Withdrawn Applications**

D. Propose Amendments to 22 Tex. Admin. Code Chapter 140, Subchapter A – Criminal History and Convictions

- 1. §140.1 Criminal History and Convictions – Engineers**
- 2. §140.3 Criminal History and Convictions – Surveyors**

E. Propose Repeal to 22 Texas Admin. Code Chapter 133, Subchapter H – Review and Process of Applications and Registration Issuance

- 1. §133.99 Processing of Applications with a Criminal Conviction**

No action was taken on agenda items 9B - 9E.

F. Texas Board of Professional Engineers and Land Surveyors' Land Surveying Exam Update

Ms. Norwood stated that Mr. Strong had provided an exam update.

No action was required on this agenda item.

G. Licensing and Registration Director's Report

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

Ms. Norwood stated that Mr. Strong had presented his report to the committee, but he would discuss his report in agenda item # 12A.

No action was required on this agenda item.

10. Enforcement Committee Meeting Summary

(May 12, 2022)

Ms. Johnson stated that the Committee had discussed the proposed amendments and recommends that the Board adopt the amendments as listed in items 10A – 100.

It was MOVED/SECONDED (Johnson/Norwood) to adopt the amendments as presented in agenda items 10A-100. A vote was taken and the MOTION PASSED.

A. Adopt Amendments to 22 Texas Administrative Code (Tex. Admin. Code) Chapter 133, Subchapter C – Professional Engineer License Application Requirements

- 1. § 133.23 – Applications From Former Standard License Holders**

B. Adopt Amendments to 22 Tex. Admin. Code Chapter 133, Subchapter H – Review Process of Applications and License Issuance

- 1. § 133.97 – Issuance of License**

C. Adopt Amendments to 22 Tex. Admin. Code Chapter 134, Subchapter C – Land Surveyor Application Requirements

- 1. § 134.23 Application From Standard Registration Holders**

- D. Adopt Amendments to 22 Tex. Admin. Code Chapter 134, Subchapter H – Review Process of Applications and Registration Issuance**
 - 1. § 134.97 – Issuance of Registration**
- E. Adopt Amendments to 22 Tex. Admin. Code Chapter 135, Firm Registration**
 - 1. § 135.3 – Application for a Certificate of Registration View**
- F. Adopt Amendment to 22 Tex. Admin. Code Chapter 136, Surveying Firm Registration**
 - 1. § 136.3 Application for a Certificate of Registration**
- G. Adopt Amendments to 22 Tex. Admin. Code Chapter 137, Subchapter A – Individual and Engineer Compliance**
 - 1. § 137.1 – License Holder Designations**
 - 2. § 137.12 – Suspended License**
 - 3. § 137.14 – Voluntary Surrender of License**
 - 4. § 137.17 – Continuing Education Program**
- H. Adopt Amendments to 22 Tex. Admin. Code Chapter 137, Subchapter B – Sealing Requirements**
 - 1. § 137.31 – Seal Specifications**
 - 2. § 137.33 – Sealing Procedures**
 - 3. § 137.37 – Sealing Misconduct**
- I. Adopt Amendments to 22 Tex. Admin. Code Chapter 137, Subchapter C – Professional Conduct and Ethics**
 - 1. § 137.55 – Engineers Shall Protect the Public**
 - 2. § 137.57 – Engineers Shall Be Objective and Truthful**
- J. Adopt Amendments to 22 Tex. Admin. Code Chapter 137, Subchapter D – Firm and Governmental Entity Compliance**
 - 1. § 137.77 – Firm Registration Compliance**
- K. Adopt Amendments to 22 Tex. Admin. Code Chapter 138, Subchapter A – Individual and Surveyor Compliance**

1. **§ 138.1 – License Holder Designations**
 2. **§ 138.5 – Notification of Name Change, Address Change, Employer Change and Criminal Convictions**
 3. **§ 138.12 – Suspended License or Registration**
 4. **§ 138.14 – Voluntary Surrender of License or Registration**
 5. **§ 138.17 – Continuing Education**
- L. Adopt Amendments to 22 Tex. Admin. Code Chapter 138, Subchapter B – Sealing Requirements**
1. **§ 138.31 – Seal Specifications**
 2. **§ 138.33 – Sealing Procedures**
 3. **§ 138.37 – Sealing Misconduct**
- M. Adopt Amendments to 22 Tex. Admin. Code Chapter 138, Subchapter C – Professional Conduct and Ethics**
1. **§ 138.57 – Surveyors Shall Be Objective and Truthful**
 2. **§ 138.61 – Surveyors Shall Maintain Confidentiality of Clients**
- N. Adopt Amendments to 22 Tex. Admin. Code Chapter 139, Subchapter B – Complaint Process and Procedures**
1. **§ 139.17 – Investigating a Complaint**
- O. Adopt Amendments to 22 Tex. Admin. Code Chapter 139, Subchapter C – Enforcement Proceedings**
1. **§ 139.35 – Sanctions and Penalties - Engineering**
 2. **§ 139.37 – Sanctions and Penalties - Surveying**
- P. Propose Amendments to 22 Tex. Admin. Code Chapter 138, Subchapter B – Sealing Requirements**
1. **§ 138.33 – Sealing Procedures**
- It was MOVED/SECONDED (Johnson/Norwood) to continue to propose the amendment changes in agenda item 10P. A vote was taken and the MOTION PASSED.
- Q. Compliance & Enforcement Director’s Report**
1. **Update on Compliance & Enforcement Department**

- 2. Status of Compliance & Enforcement caseload**
- 3. Status of Continuing Education audit(s)**
- 4. Overview of How Sanctions Are Calculated**

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

No action is required on this agenda item.

Executive Matters:

11. Executive Director Activities and Reports

A. 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.

B. Agency Operations Report

Dr. Kinney stated that moving forward, the agency is doing well under in a hybrid work system with various teleworking options for staff.

No action was required on this agenda item.

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

1. NCEES Southern Zone Meeting – April 2022

Dr. Kinney stated that there was very good attendance on behalf of the Texas Board. This was a good meeting and great discussion.

No action was required on this agenda item.

2. NCEES Annual Meeting – August 2022

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

Dr. Kinney stated that a workshop will be held for those attending the annual meeting to present a summary of motions.

No action was required on this agenda item.

3. NCEES Committee and Task Force Member Reports

Dr. Kinney stated that several members are engaged with NCEES committees.

a. Adejokun – Committee on Exam Policy and Procedures

Mr. Adejokun discussed his role and the major charges of this committee.

b. Johnson – Committee on Examinations for Professional Surveyors

Ms. Johnson discussed her role and the major charges of this committee.

c. McClinton-Stoglin – Committee on Awards

Dr. McClinton Stoglin discussed her role and the major charges of this committee.

d. Kinney – Engineering Licensure Model Task Force

Dr. Kinney discussed his role and the major charges of this task force.

e. Nadkarni – Committee on Examinations for Professional Engineers

Mr. Nadkarni discussed his role and the major charges of this committee.

f. Ballí – Southern Zone Assistant Vice President

Mr. Ballí discussed his role and the major charges of this committee.

No action was required on this agenda item.

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

Dr. Kinney reported that the Regional Advisory meeting was a great success and had a good attendance.

No action was required on this agenda item.

E. 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.

F. Staff Recognition

Dr. Kinney recognized staff for their hard work and dedication to the Board.

No action was required on this agenda item.

12. Department Director Reports

A. Licensing & Registration Report

Mr. Strong discussed his report with the Board, relayed that Mr. Hartmann had retired and introduced two new staff members, Ms. Kyle and Mr. Brannan, to the Licensing & Registration Department.

B. Compliance & Enforcement Report

Mr. Sims discussed his report with the Board and stated that two new positions had been posted for this department. He also discussed caseloads and case processing.

C. Operations Report

Ms. Sobieski stated her report is provided as an exhibit and provided an overview of the Operations Department and introduced Mr. Contreras, a new developer in the department.

No action was required on this agenda item.

13. Surveying Advisory Committee Report

Dr. Kinney thanked the members of this committee and reported they had recently met to discuss rules and explore new options.

No action was required on this agenda item.

14. FY22 Mid-Year Performance Measures Report

Mr. Sims discussed the FY22 Mid-Year Performance Measures Report with the Board.

Mr. Sims stated that there are thirty-three performance measures that the agency must report on and are presented in full as an exhibit for the Board. He discussed various Compliance & Enforcement measures and answered questions from the Board.

Mr. Strong discussed performance measures for Licensing & Registration and answered questions from the Board.

No action was required on this agenda item.

Enforcement/Disciplinary Matters:

15. [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

16. Consent Orders

A. Engineering

1. David Aldana - B-41115

2. Informal Reprimand

a. D-41459

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

B. Surveying

1. Jean Michael Bravo-Mejia, individually and doing business as Gibbons & Bravos Surveying - B-40821

2. John William Tobin, RPLS - D-40608

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

17. Final Board Order

A. SOAH Docket No.: 460-22-0830; Texas Board of Professional Engineers & Land Surveyors v. Leo Stengel Bond, RPLS #5793; Before the State Office of Administrative Hearings - Our Files D-38482 and D-38494

It was noted for the record that Mr. Bond did not come before the Board.

It was MOVED/SECONDED (Norwood/Friese) to adopt the final Board Order as submitted. A vote was taken and the MOTION PASSED.

Licensing and Registration Matters:

18. **Consent Agenda*** Licensing and Registration Applications - Engineering and Land Surveying

A. Professional Surveyor Registration:

1. Firms Approved

2. Licensed State Land Surveyor (LSLS) Approved

3. Registered Professional Land Surveyor (RPLS) Approved

4. Surveyor-In-Training (SIT) Approved

B. Professional Engineer Licensing:

1. Licensure/Registration Status Counts

2. **Approved for Exams**
3. **Approved for Licensure**
4. **Firms Approved**
5. **Waivers – Fundamentals of Engineering Examination**
6. **Waivers – Professional Engineering Examination**
7. **Waivers – Both**
8. **Not Approved for Licensure**

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

Miscellaneous Matters:

19. **Update on Request for an Attorney General Opinion on Potential Conflict Between the Professional Land Surveying Practices Act, the Texas Engineering Practice Act, and Local Government Code Regarding Platting Subdivisions Near An International Border**

Mr. Sims stated that the Attorney General Opinion has not been issued but should be available in the next few weeks.

No action was required on this agenda item.

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

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

21. Adjourn

It was MOVED/SECONDED (Rubiano/Johnson) to adjourn the meeting at 12:03 p.m. A vote was taken and the MOTION PASSED.

Date Board approved the minutes as submitted:

August 18, 2022