

MINUTES
POLICY ADVISORY OPINION COMMITTEE MEETING
TEXAS BOARD OF PROFESSIONAL ENGINEERS
1917 IH-35 SOUTH, BOARD ROOM, AUSTIN, TEXAS
May 21, 2014— 9:30 AM

CALL TO ORDER. Carry Baker, Committee Chair, called the Policy Advisory Opinion Committee meeting of the Texas Board of Professional Engineers (TBPE) to order at 9:42 a.m. on May 21, 2014, at the Texas Board of Professional Engineers, 1917 South Interstate 35, Austin, TX. (NOTE: All votes are unanimous, unless noted otherwise.)

1. Roll call and welcome visitors.

Carry A. Baker, JD	Chair
Sina Nejad, P.E., P. Eng.	Member
Edward Summers, Ph.D.	Member
Kyle Womack, P.E.	Member

A quorum was present. Ms. Veena Mohan, Assistant Attorney General, was present to provide legal counsel to the Board. Mr. Edmundo Gonzalez, Jr., P.E, Mr. Jose I. Guerra, P.E., and Mr. Govind Nadkarni, P.E., Emeritus Board Members were present.

The following staff members were present:

Lance Kinney, P.E.	Executive Director
David Howell, P.E.	Deputy Executive Director
C.W. Clark, P.E.	Director of Compliance & Enforcement
Robert Opiela, P.E.	Director of Licensing
Dewey Helmcamp, III JD	Staff Attorney
Virginia Alayon	Investigator
Charles Pennington, P.E.	Staff Engineer
Dorothy Gonzales	Executive Assistant

Visitors. Jennifer McEwan, Ph.D., Texas Society of Professional Engineers (TSPE); Amy Holton, Office of the Attorney General (OAG); Peyton McKnight, American Council of Engineering Consultants (ACEC); Terry Bilderback, P.E., TSPE; Stephani Stanford, TSPE; Bill Finley, Cobb Finley; Shawn Bodine, FHR Resources; Alan Rossitter.

2. Public comment. None.

DISCUSS AND POSSIBLY ACT ON THE FOLLOWING ITEMS (AGENDA ITEMS 3-6):

3. Discuss and possibly approve the February 13, 2014, Policy Advisory Opinion Committee Minutes.

It was MOVED/SECONDED (Nejad/Womack) to approve the February 13, 2014, Policy Advisory Opinion Committee minutes as submitted. A vote was taken and the MOTION PASSED.

4. Engineering Advisory Opinion Request.

- **Discussion of stakeholder meetings and possible draft of EAOR #34 – Industry Exemption**

Mr. Pennington reviewed the draft response with the Committee members, and asked for the Committee's recommendation for approval at the May 21, 2014, Regular Quarterly Board meeting. Mr. Clark commented that there have been numerous stakeholder meetings. Mr. Womack added that the stakeholder meetings and meetings with staff have been successful and agrees with the staff's response being a fair statement to reinforce the Board's position as it stands in accordance with the statute.

It was MOVED/SECONDED (Summers/Womack) to recommend to the Board at its Regular Quarterly Board meeting on May 21, 2014 that the response to

EAOR#34 be approved as submitted. A vote was taken and the MOTION PASSED.

Mr. Alan Rossiter made a public comment that he had a concern with the following:

- Engineers are being brought in to do projects as “other personnel” without being licensed to do engineering work under the direct supervision of a PE.
- Bringing in people from a professional service company or a registered engineering firm.
- Is there anything in the statute that prevents a sole proprietor to contract directly with a company under their direct supervision?
- A reference to work on site; the Engineering Act allows to work remotely

The Committee Chair asked members if there were any other discussion regarding the public comment. Mr. Womack added that the changes required are in the statute which is a different process. Mr. Rossiter agreed with Mr. Womack regarding the response submitted today.

• **Discussion of stakeholder meeting and possible draft of EAOR #36 – Construction Management**

Mr. Pennington reviewed the draft response to EAOR#36 with the Committee members, and requested they recommend the Board approve the response at the May 21, 2014, Regular Quarterly Board meeting. Mr. Nejad added that he was the Board member liaison, and agrees with staff's response.

It was MOVED/SECONDED (Summers/Womack) to recommend to the Board at its Regular Quarterly Board meeting on May 21, 2014, to approve the response to EAOR#36 as submitted. A vote was taken and the MOTION PASSED.

• **Discussion and possible consideration of draft of EAOR#37 - Public Rights of Way and Private Utility Companies (Request from City of Austin)**

Mr. Pennington reported that staff is still conducting research on this PAO and requested additional time to continue to develop the response. Staff believes a draft response will be ready to present at the next scheduled Policy Advisory Opinion Committee meeting. Mr. Ballí added that he was the Board liaison on this request and it is a little more complicated than expected, and wants to ensure the correct response is provided. The Committee Chair agreed to give staff more time to research the subject matter.

5. **Discussion and possible action on the proposal of a Policy Statement concerning periodic review of current Policy Advisories.**

Mr. Clark reported that staff believes a policy statement regarding the review of all policy advisories will ensure appropriate and current information still addresses the policy advisories already written and approved. The proposed procedure is for staff to review the advisory opinions within 180 days of the end of every Legislative Session. The Committee Chair agreed that this process would be good housekeeping. Mr. Kinney added that the policy would be a best practice and it should keep all of the opinions current.

6. **Issues for consideration and schedule next meeting.**

None.

ADJOURN.

It was MOVED/SECONDED (Womack/Nejad) to adjourn the meeting at 10:07 am. A vote was taken and the MOTION PASSED.

Date minutes were approved by Committee as submitted: August 28, 2014
Date Board accepted the minutes: August 28, 2014