

MINUTES
TEXAS BOARD OF PROFESSIONAL ENGINEERS
REGULAR QUARTERLY BOARD MEETING
1917 SOUTH INTERSTATE 35
AUSTIN, TX 78741
AUGUST 28, 2014 – 10:30 AM

Call to Order. Daniel O. Wong, Ph.D., P.E., Presiding Officer, called the Texas Board of Professional Engineers Regular Quarterly Meeting to order at 10:30 am on August 28, 2014, at the Texas Board of Professional Engineers, 1917 South Interstate 35, Austin, TX. (NOTE: all votes are unanimous unless noted.)

1. Roll Call and Welcome Visitors.

Daniel O. Wong, Ph.D., P.E.	Chair
James "Jim" Greer, P.E.	Vice Chair
Elvira Reyna	Secretary - Public Member (Excused Absence)
Edward Summers, Ph.D.	Treasurer - Public Member
Carry Ann Baker	Public Member
Lamberto "Bobby" Ballí, P.E.	Member
Sina Nejad, P.E., PEng.	Member
R. Kyle Womack, P.E.	Member (Excused Absence)
Sockalingam "Sam" Kannappan, P.E.	Member (Excused Absence)

A quorum was present. Ms. Veena Mohan, Assistant Attorney General, was present to provide legal counsel to the Board. Mr. Jose I. Guerra, P.E., Emeritus Board Member, was 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
Jeff Mutscher	Director of Finance
Robert Opiela, P.E.	Director of Licensing
Dewey Helmcamp, III JD	Staff Attorney
Charles Pennington, P.E.	Staff Engineer
Dorothy Gonzales	Executive Assistant

Visitors. Jennifer McEwan, Ph.D., Texas Society of Professional Engineers (TSPE); Trish Smith, Executive Director, TSPE; Stephanie Stanford, P.E., TSPE; Terry Bilderback, P.E., TSPE; Kent O'Brien, P.E., Texas Department of Transportation

2. Public Comment. None.

3. Consent Agenda.

(The following items may be acted upon under Consent Agenda and are marked with an asterisk* on the Regular Quarterly Board Meeting Agenda)

(Motion Required)

- May 31, 2013, Education Advisory Committee (EAC) Minutes
- May 31, 2013, Industry Advisory Committee (IAC) Minutes
- May 31, 2013, Government Advisory Committee (GAC) Minutes
- May 31, 2013, EAC, IAC, GAC, Joint Committee Minutes
- May 20, 2014, Licensing Committee Minutes
- May 21, 2014, Policy Advisory Opinion Committee Minutes
- May 21, 2014, Regular Quarterly Board Meeting Minutes
- May 21-22, 2014, Board Members' Strategic Plan Retreat Minutes
- Administrative Reports and Outstanding Administrative Penalties and Dismissed Cases, Cease and Desist Order, Agreements, Injunctions/Default Judgments
- Licensing Applications.

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

Discuss and Possibly Approve Board Minutes:

4. ***(Consent Agenda)** Discuss and possibly approve minutes of the May 21, 2014,Regular Quarterly Board Meeting Minutes.

Discuss and Possibly Accept Committee Minutes:

5. ***(Consent Agenda)** May 31, 2013, Education Advisory Committee Minutes.
6. ***(Consent Agenda)** May 31, 2013, Industry Advisory Committee Minutes.
7. ***(Consent Agenda)** May 31, 2013, Government Advisory Committee Minutes.
8. ***(Consent Agenda)** May 31, 2013, EAC, IAC, GAC, Joint Committee Minutes.
9. ***(Consent Agenda)** May 20, 2014, Licensing Committee Minutes.
10. ***(Consent Agenda)** May 21, 2014, Policy Advisory Opinion Committee Minutes.
11. ***(Consent Agenda)** May 21-22, 2014, Board Members' Strategic Plan Retreat Minutes.

Agenda items 4-11 were approved under Consent Agenda.

Discuss and Possibly Act on the following agenda items (12-25):

12. Board Members' Activity Reports.

- Baker
- Ballí
- Greer
- Kannappan
- Nejad
- Reyna
- Summers
- Womack
- Wong

Dr. Wong commented that the Board members' reports are provided for information only, no action required.

13. Emeritus Members.

• **Activity Reports.**

- Gonzalez
- Guerra
- Nadkarni

Dr. Wong commented that Emeritus members' reports are provided for information only, no action required.

• **Emeritus Member Contract Renewals-FY2014.**

Mr. Kinney reported that the Emeritus Members' contracts were up for renewal. After discussion with Dr. Wong, the renewal period has changed from annually to every three years or can be canceled at the Emeritus members' discretion. He added that approval of the Board is required of the renewals.

It was MOVED/SECONDED (Nejad/Baker) to renew the Emeritus Members' contracts with the recommended changes. A vote was taken and the MOTION PASSED.

14. Finance and Budget.

• **FY14 3rd Quarter Budget Report.**

Mr. Mutscher reviewed the 3rd quarter budget report with the Board members.

• **Internal Audit.**

Mr. Mutscher mentioned to the Board members that the Internal Audit report was included as an exhibit for the Board members to review. He would be glad to discuss with them if they had any questions. Dr. Summers mentioned that the Board was required to conduct an annual audit, and to date, the final reports have always been very positive.

• **Software Engineering Update and IEEE Request.**

Mr. Kinney reported that the Board owed an additional year to IEEE in support of developing the Software Engineering PE exam. The payment requires Board approval.

It was MOVED/SECONDED (Ballí/Summers) to approve the final payment to IEEE but not continue additional financial support at this time. A vote was taken and the MOTION PASSED.

- **FY 15 Proposed Budget.**

Mr. Mutscher reviewed the proposed budget with Board members, and added that an annual salary increase given at the time of the annual performance review to the Executive Director is included in the budget. Dr. Summers added that Mr. Mutscher takes extra time and effort to produce the budget, and they meet often to discuss to ensure appropriate funds are in the budget.

It was MOVED/SECONDED (Summers/Ballí) to approve the FY15 Budget as presented. A vote was taken and the MOTION PASSED.

Discuss and Possibly Act on Issues Regarding Committee Reports or Items on the Committee Agendas:

15. Legislative Committee.

Mr. Greer reported that the Committee discussed possibilities of building relationships at the Capitol. He and Lance will discuss via telephone a plan of action, and possibility for the Legislative Committee to meet between February and May.

16. Licensing Committee.

- Personal Appearances from Licensing Applicants.

Mr. Ballí reported on the following regarding the personal appearances for action:

It was MOVED/SECONDED (Ballí/Greer) to approve Jason Lee and Derek Major to sit for the PE exam. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Ballí/Greer) to approve Imelda Diaz to sit for the PE exam after documentation of successful completion of the Texas Tech Level I ethics course is submitted to staff. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Ballí/Baker) to hold the application of Brian Shane Everette; ask the applicant to submit a current reference after one year of employment with current employer; reference statements from past employers; and reappear before the Licensing Committee. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Ballí/Greer) to deny Jaime Ozuna's application to take the PE exam, ask that he reapply after two additional years of experience, and submit six favorable references. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Ballí/Baker) to approve Jaime Rodriguez to be licensed in Texas. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Ballí/Baker) to approve Gregory King to be licensed in Texas after documentation of successful completion of the Texas Tech Level I Ethics course has been submitted to staff. A vote was taken and the MOTION PASSED (5/1).

It was MOVED/SECONDED (Ballí/Summers) to hold Benjamin King's application until he successfully completes the Level I Ethics course and provides documentation to staff; provides acceptable proof of notice to other Boards in which he is licensed in regarding his incidents; and reappears before the Licensing Committee. A vote was taken and the MOTION PASSED (5/1).

It was MOVED/SECONDED (Ballí/Greer) to deny Michael Maurer's request for licensure; but allow him to reapply after he successfully completes the Texas Tech Level II Ethics course; and provides one positive PE reference from current employer showing knowledge of the incident. He will be required to reappear before the Licensing Committee. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Ballí/Baker) to deny Wilson Dwayne Preston's application to be licensed in Texas. A vote was taken and the MOTION PASSED.

- **Licensure Advisory Task Force Meeting.**

Mr. Kinney reported that the Faculty Licensure Task Force met in July 2014 in College Station. The Board attended the meeting as a resource for the Task Force. The Task Force developed language regarding faculty licensure to be possibly considered during the 84th Legislative Session. Dr. Jim Nelson, P.E., leads the Task Force, and will be communicating with TSPE & ACEC.

- **International Agreement.**

- South Korea.
- Mexico.
- Engineers Australia.

Mr. Kinney reported that discussions with South Korea are still in progress. He added that contact has been made with representatives from Mexico to possibly open communications regarding the NAFTA agreement between the Board and Mexico. Mr. Kinney commented that the Mutual Recognition Agreement (MRA) with Engineers Australia has been revised and included as an exhibit for Board approval.

It was MOVED/SECONDED (Ballí/Nejad) to reauthorize the MRA with Engineers Australia. A vote was taken and the MOTION PASSED.

17. **Nominating Committee.**

Nomination of Officers FY15.

Dr. Wong reported that the Nominating Committee met and makes the following nominations for Fiscal Year (FY) 2015.

It was MOVED/SECONDED (Wong/Ballí) to recommend the following slate of officers for FY15: Elvira Reyna-Vice Chair; Carry Baker-Secretary; Edward L. Summers, Ph.D.-Treasurer. A vote was taken and the MOTION PASSED.

18. **Policy Advisory Opinion Committee.**

- **Discussion of stakeholder meeting and possible draft of EAOR #37 – Public Rights of Way and Private Utility Companies (Request from City of Austin).**

Ms. Baker reported that staff will continue to work on EAOR #37 and possibly provide a draft at the November 2014 meeting. She added the Mr. Ballí is the Board member assigned as the liaison to work with staff.

Discuss and Possibly Act on Reports or Items reported by the Executive Director:

19. **Executive Director's Report.**

- **Activity Report.**

Mr. Kinney mentioned that his activity report is included as an exhibit.

- **NCEES Annual Meeting-August 19-23, 2014-Seattle, Washington.**

Mr. Kinney reported on the action taken regarding the proposed NCEES MOTIONS that are included as an exhibit.

--BS+30 has moved from Model Law to a Policy Statement

--Decoupling of the experience requirement to take the PE exam The revised Model Law allows applicants to take the PE exam after successful completion of the FE exam. There could be effects on comity licensure on Boards that don't adopt the Model Law. If Texas considers adopting, there are potential rule changes that could be proposed during the November Board meeting.

- **Strategic Plan.**

- **Visibility and Outreach Strategic Plan.**

Mr. Kinney reported that the Visibility and Outreach Strategic Plan which was developed as an action item from the Board's strategic plan meeting was included to be approved by the Board. This document is the Board's direction and guidance to staff.

It was MOVED/SECONDED (Ballí/Greer) to approve the Visibility and Outreach Strategic Plan as submitted. A vote was taken and the MOTION PASSED.

- **Criminal History Record Check (CHRC) Update.**

Mr. Howell reviewed the exhibit included in the Board materials.

- **Outreach.**

- **Upcoming Webinars.**

- September 11, 2014-Ethics.
- September 23, 2014-FE Exam.
- October 17, 2014-PE Application.
- Kudos.

Mr. Kinney reported on the upcoming webinars and kudos received from attendees. He added that this year the Board will host a PE Application webinar for the first time.

- **Staff Attorney Report.**

- SOAH Cases.
- Suits Against the Board.
- Status of Court Cases (Injunctions).

Mr. Helmcamp discussed the staff attorney report which is included as an exhibit in the Board materials.

Discuss and Possibly Act on Enforcement/Disciplinary Matters:

20. ***(Consent Agenda) Administrative Reports, Outstanding Administrative Penalties Dismissed Cases, Cease and Desist Order, Agreements, Injunctions/Default Judgments.**

Approved under consent agenda.

21. **Consent Orders.**

Informal Reprimands (In accordance with Board Rule 139.31(b) individual names are not listed)

1. D-34798
2. D-35141
3. D-34875
4. D-35208 & D-35259
5. D-35215
6. D-35204
7. D-34876

Non-Practice Violations

8. Jameel Z. Hattab, P.E. – D-35282
9. Ricky D. Herring, P.E. – D-35268
10. Andrew J. Osborne, Jr., P.E. – D-34697
11. Jason M. Seaverson – D-35069 (Order of the Board)
12. Victorio B. Tan, P.E. – D-34694

Practice Violations

13. Paul Adeyeoluwa, P.E. – D-34906
14. Sam C. Joe, P.E., - D-35076

Sanctions Against Non-License Holders

15. Mark Adas – B 35257
16. Joel Boado – B-35096
17. Stephen L. Butler, AIA – B-34815
18. Adam Jones – B-34834
19. David Kizer – B-34944
20. Dr. Curtis L. Lewis, Ph.D. – E-35262
21. Pro Select Foundation Repairs, Inc. – B-35150
22. Serve-Pro Fabricators – B-33720
23. Time Marine, Inc. – B-35211

Firm Registrations/Sole Proprietorship Sanctions

24. Absolute Engineering and Consulting, L.L.C. – B-34990

25. A-Tec Engineers and Contractors, LP – B-34984
26. Berg-Oliver Associates, Inc. – B-35188
27. Kastel Consulting, Inc. – B-34945
28. Bruno J. Maciejewski, P.E., dba Big M. Constructors, Inc. – B-34983
29. Specpro, Inc. – B-34824
30. Spectrum Engineering, Co., Inc. – B-34759
31. The Brandt Companies, LLC – B-34918

It was MOVED/SECONDED (Summers/Ballf) to approve the Consent Orders mentioned above as submitted. A vote was taken and the MOTION PASSED.

22. SOAH Final Order.

- **Robert Lynn Spaw, Jr. P.E. – Case D-34673.**

Mr. Helmcamp reviewed the above final order with Board members. After further discussion and no questions, the following motion was made.

It was MOVED/SECONDED (Summers/Baker) to approve the above final SOAH Final Order regarding Mr. Robert Lynn Spaw, Jr. P.E.- Case D-34673 as submitted. A vote was taken and the MOTION PASSED.

Agenda item # 25 taken out of order, see below.

23. Discuss and possibly act on the agency’s IT Security Report.

This agenda item will be considered and discussed under closed session under Tex. Gov’t Code section 551.076 (Deliberation regarding security devices or security audits).

The Chair called the meeting into Executive Session at 12:19pm under Tex. Gov’t Code Section 551.076 to discuss the Board’s security system in place.

The Chair reconvened from Executive Session at 12:59pm. No action was taken during executive session.

Discuss and Possibly Act on Licensing Applications requiring board ruling:

24. *(Consent Agenda) Licensing Applications.

Vote or Reconfirm Votes Pursuant to Board Rule §133.87:

- Approved for Exams
- Approved for Licensure
- Firms Approved
- Not Approved for Licensure
- Exams Not Approved
- Waivers – Both
- Waivers – FE
- Waivers—PE

Approved under consent agenda.

Discuss and Possibly Act on Other Matters

25. Issues to consider for future meeting.

Update on Visibility Plan.

Returned to agenda item #23.

Adjourn.

It was MOVED/SECONDED (Greer/Ballf) to adjourn the meeting at 1pm. A vote was taken and the MOTION PASSED.

Date approved by Board as submitted: November 20, 2014