

MINUTES
REGULAR QUARTERLY BOARD MEETING
TEXAS BOARD OF PROFESSIONAL ENGINEERS
SOUTH INTERSTATE 35
AUSTIN, TX 78741
November 17, 2016 – 10:00 AM

Call to Order. Daniel O. Wong, Ph.D., P.E., Presiding Officer called the Texas Board of Professional Engineers meeting to order at 10:00 am on November 17, 2016, at Texas Board of Professional Engineers, 1917 S. Interstate 35 in Austin, Texas. A quorum was present. (Note: all votes are unanimous unless noted)

1. Roll Call and Welcome Visitors.

Daniel O. Wong, Ph.D., P.E.	Chair
Sam Kannappan, P.E.	Vice-Chair
Sina Nejad, D.Eng. P.E., P.Eng.	Secretary
Edward Summer, Ph.D.	Treasurer
Lamberto “Bobby” Ballí, P.E.	Member
Albert Cheng	Public Member
Catherine Norwood, P.E.	Member
Elvira Reyna	Public 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, P.E., and Mr. Jose I. Guerra, P.E. Advisory Members, were present.

The following staff members were present:

Lance Kinney, Ph.D., P.E.	Executive Director
David Howell, P.E.	Deputy Executive Director
Dave Daigle	Director of Compliance & Enforcement
Jeff Mutscher	Director of Finance
Robert Opiela, P.E.	Director of Licensing
Morgen Cuming, JD	Staff Attorney
Dorothy Gonzales	Executive Assistant

Visitors: Kent O’Brien, P.E., Texas Department of Transportation (TxDOT); Terry Bilderback, P.E., Texas Society of Professional Engineers (TSPE); Rick Guerra, P.E., TSPE President; Sarah Wolfe, Office of the Attorney General; Logan Mims, Office of the Governor.

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)

- August 17, 2016, Licensing Committee Minutes.
- August 18, 2016, Enforcement Committee Minutes.
- August 18, 2016, General Issues Committee Minutes.
- August 18, 2016, Nominating Committee Minutes.
- August 18, 2016, Regular Quarterly Board Meeting Minutes.
- Administrative Reports, Outstanding Administrative Penalties Dismissed Cases, Cease and Desist Order, Agreements, Injunctions/Default Judgments.
- Licensing Applications.

It was MOVED/SECONDED (Ballí/Womack) 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 August 18, 2016, Regular Quarterly Board Meeting.

Discuss and Possibly Accept Committee Minutes:

5. *(Consent Agenda) August 17, 2016, Licensing Committee Minutes
6. *(Consent Agenda) August 18, 2016, Enforcement Committee Minutes
7. *(Consent Agenda) August 18, 2016, General Issues Committee Minutes
8. *(Consent Agenda) August 18, 2016, Nominating Committee Minutes

Agenda Items 4-8 were approved under Consent Agenda, see agenda item number 3.

Discuss and Possibly Act on the following agenda items (9-23):

9. Board Members' Activity Reports.

- Ballí
- Cheng
- Kannappan
- Nejad
- Norwood
- Reyna
- Summers
- Womack
- Wong

Dr. Wong commented that the Board members' activity reports were included for review. This agenda item was not discussed nor any action taken.

10. Advisory Members' Activity Reports.

- Gonzalez
- Guerra
- Nadkarni

Dr. Wong commented that the Advisory Members' activity reports were included for review. Mr. Gonzalez reported on the ABET visit that he was a part of.

11. Finance and Budget.

- **FY16 4th Quarter Budget.** Mr. Mutscher reviewed with Board members the 4th Quarter Budget report that was included as an exhibit. No action taken.
- **Amendment to 2017 Budget.** Mr. Mutscher commented that staff is requesting approval of the proposed amendment to 2017 budget. The amendment is requesting an increase needed to complete the roof repair project. After the engineering company made its evaluation of the roof, it was determined that it will need more work than originally estimated. Dr. Kinney added that the new proposed roof estimate was discussed separately with board members that have experience in this type of work. They agreed that the proposed roof repair estimate was in line with current cost. It was MOVED/SECONDED (Summers/Kannappan) to approve the amendment as requested. A vote was taken and the MOTION PASSED.
- **FY17 Internal Audit Plan.** Mr. Mutscher shared with Board members that every year, the Board conducts an internal audit to ensure policies and procedures are current and line up with state requirements. This year the audit will focus on Compliance & Enforcement division's investigation process.

It was MOVED/SECONDED (Ballí/Norwood) to approve the proposed Internal Audit Plan as submitted. A vote was taken and the MOTION PASSED.

- **Annual Financial Report.** Mr. Mutscher stated that this report is prepared every fiscal year and submitted accordingly to the Comptroller and other oversight agencies. It is included for Board members to review. No action required.
- **SDSI Report.** Mr. Mutscher reported that this SDSI report is also required to be submitted every fiscal year end, and is included for the Board members to review. No action required.
- **Revised Advisory Member Contract.** Dr. Kinney commented that after further discussions with Dr. Wong, the Emeritus Board member title is being changed to Advisory Member to better align with TBPE activities and projects. He is requesting the Board members approve the title and the revised Advisory Member contracts.

It was MOVED/SECONDED (Ballí/Norwood) to approve the title change of Emeritus Board member to Advisory Member and include in the revised contracts. A vote was taken and the MOTION PASSED.

12. Performance Measures.

Mr. Howell reviewed the performance measures with the Board members. No action required.

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

13. Licensing Committee.

- Personal Appearances from Licensing Applicants:
 - Araque Rojas, Santiago
 - Cavallo, Anthony
 - Crowdis, Calvin
 - Fraccaro, Joseph
 - Garcia, Mondel Rodolfo
 - Gitman, Alexander
 - Hackett, Christopher
 - Lott, James
 - McCullough, Richard
 - Peterson, James
 - Valentien, Jacob
 - Wandke, Lewis
 - Bravo, Jose

Dr. Nejad reported that the Committee discussed and reviewed the 12 personal appearance cases.. He reported that the committee made the following recommendations: Mr. Jose Bravo , approval of licensure contingent on him passing the PE Exam; Mr. Lewis Wandke, approval of licensure in Texas; Mr. Anthony Cavallo, approval of licensure in Texas; Mr. Santiago Rojas Araque, Mr. Christopher Hackett, and Mr. Jacob Valentien, approval of licensure contingent on them passing the PE exam; Mr. Richard McCullough, approval of licensure pending successful completion of the 30 hour Ethics course; Mr. Joseph Fraccaro, Mr. Mondel Rodolfo Garcia, and Mr. James Lott, approval of licensure pending passing the PE exam and successful completion of the 30 hour Ethics course; Mr. Alexander Gitman, approval of licensure in Texas pending him passing the PE exam, and successful completion of the 30 hour ethics class, and because of his experience, waiver of the FE exam; and Mr. Calvin Crowdis, approved licensure pending of him passing the PE exam and reappearing before the Licensing Committee in November 2017.

It was MOVED/SECONDED (Nejad/Ballí) to approve the personal appearances Licensing Committee's recommendations as reported. A vote was taken and the MOTION PASSED.

- **Discuss and possibly adopt the following rules.**

- § 133.35 Proof of Education Qualifications—Accredited/Approved Programs
- § 133.67 Examination on the Principles and Practice of Engineer

Dr. Nejad reported that the Committee discussed and approved adoption of §§133.35 and 133.67.

It was MOVED/SECONDED (Nejad/Ballí) to adopt §§133.35 and 133.67 as presented. A vote was taken and the MOTION PASSED.

- **International Licensure.**

- **Status of Memorandum of Understanding (MOU) with Spain.**
- **Status of Memorandum of Understanding (MOU) with Mexico.**

Dr. Kinney reported that the Board has signed an MOU with Spain and is waiting to hear back from them regarding their adoption of the MOU. He added that the Board is still working with Mexico on revising the MOU currently in place.

14. Enforcement Committee Meeting.

- **Discuss a review of the Sanction Table and Worksheet.**

Mr. Ballí reported that the Committee reviewed and discussed the proposed changes submitted by Mr. Daigle regarding the Sanction Table and Worksheet. There was detailed discussion among staff and board members to clarify some of the questions. Although the Committee voted to recommend approval of the Sanction Table, staff has been directed to make suggested modifications and discuss fully at the next scheduled meeting. Mr. Ballí would like the Board to table this agenda item at this time.

It was MOVED/SECONDED (Ballí/Nejad) to table modification to the Sanction Table and Worksheet, until the next scheduled meeting. A vote was taken and the MOTION PASSED.

- **Informal Conference Scheduling.**

Ms. Cuming shared with the Board members the suggested informal conference schedule with different options regarding schedules with Board members. She added that the Committee voted to recommend approval of option 1:

Reserve **one** day each month to hold informal conferences *excluding* Board meeting months, preferably a similar day each month (such as the second Wednesday).

Dr. Nejad asked the Chair to consider having informal conferences on the same months and in conjunction with board meetings. He is not opposed to staying longer while he is in Austin.

It was MOVED/SECONDED (Ballí/Womack) to approve option 1 of the scheduling options. A vote was taken and the MOTION PASSED 8 to 1 (Nejad voted against).

- **Discuss and possibly adopt the following rules.**

Mr. Howell reported that Chapter 137 and 139 rules were posted in the Texas register for public comment and no comments were received. The rules are ready for adoption.

- Chapter 137 Compliance and Professionalism

- §137.5 Notification of Name Change, Address Change, Employer Change, and Criminal Convictions
- §137.17 Continuing Education Program
- §137.31 Seal Specifications
- §137.33 Sealing Procedures
- §137.37 Sealing Misconduct
- §137.63 Engineers' Responsibility to the Profession

- Chapter 139 Enforcement

- §139.13 Filing a Complaint
- §139.15 Processing a Complaint
- §139.17 Investigating a Complaint
- §139.19 Final Resolution of Complaint
- §139.31 Enforcement Actions for Violations of the Act
- §139.35 Sanctions and Penalties
- §139.47 Probation

It was MOVED/SECONDED (Ballí/Summers) to adopt Chapter 137 and 139 rules as submitted. A vote was taken and the MOTION PASSED.

15. General Issues Committee Meeting.

- **Discuss and possibly adopt the following rules.**

Mr. Howell reported that Chapter 131 rules were posted in the Texas Register for public comment and no comments were received. The rules are ready for adoption.

- Chapter 131

- §131.1 Purpose and Duties
- §131.3 Headquarters of the Board
- §131.7 Organization of the Board
- § 131.81 Definitions
- § 131.85 Board Rules and Procedures

It was MOVED/SECONDED (Kannappan/Summers) to adopt the Chapter 131 rules as submitted. A vote was taken and the MOTION PASSED.

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

16. Executive Director's Report.

- **Activity Report.** Dr. Kinney mentioned that his activity report is included and he will answer any questions if needed.
- **Strategic Plan/Journey Towards Excellence (JTE).** Dr. Kinney commented that we are implementing ideas from the Strategic workshops as discussed.
- **Legislative Update.** Dr. Kinney reported that the filing of Bills started November 14th. He added that Mr. Howell is keeping track of all the Bills being filed and their impact on the engineering profession and employees. Dr. Wong added he would like the Legislative Committee to start being involved and having the first meeting in February 2017.
- **National Council of Examiners for Engineering and Surveying (NCEES) Annual Meeting.**
 - **NCEES Motion Summary.**

Dr. Kinney reviewed the NCEES motions that were voted on by NCEES State Boards at the annual meeting in August 2016. He added that if anyone wished to discuss further, he would be available to do so.

- **Nominations for Southern Zone (SZ) officers.**

- **Nomination of Lamberto "Bobby" Ballí, P.E. for Southern Zone Assistant Vice-President.**

Dr. Kinney commented that the Texas Board has been very involved with NCEES activities in the past years. He added that the Southern Zone (SZ) Assistant Vice-President position is vacant, and Mr. Ballí has shown interest in being part of the NCEES SZ Board. With this being said, he asked for the Board's support in nominating Mr. Ballí for this position.

It was MOVED/SECONDED (Summers/Norwood) to nominate Mr. Ballí for the NCEES SZ Assistant Vice President vacancy. A vote was taken and the MOTION PASSED.

Dr. Kinney mentioned that a nomination letter on behalf of the Board will be sent to the NCEES Nominating Committee.

- **Outreach.**
 - **Kudos.**

Dr. Kinney mentioned to the Board the great success with the Outreach program, especially the webinars. He added that through the webinars, the Board reaches out to over 3,000 professional engineers per quarter, and Board staff still go out to make face-to-face outreach presentations as requested. Dr. Kinney thanked all the outreach presenters for their great work and support.

Discuss and Possibly Act on Enforcement/Disciplinary Matters:

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

Report to full Board pursuant to Board rule §139.21

This Board agenda was approved under the Consent Agenda, see agenda item #3 above.

18. Agreed Board Order.

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

1. D-36302 (Balli - recused)
2. D-36407 (Nejad - recused)

Practice Violations

3. Dicamni Consulting – B-36014 (Nejad - recused)
4. George A. Gonzalez, P.E. – D-36309 (Balli-recused)
5. Kevin L. Pegues, P.E. – D-35654 (Nejad-recused)
6. Krishna Prasad, P.E. – D-36210 (Balli-recused)
7. Rebecca Ann Watt, P.E. – D-36369 (Norwood-recused)

Mr. Daigle mentioned to the Board members that investigators are ready to answer any questions as needed.

It was MOVED/SECONDED (Norwood/Womack) to approve Agreed Board Orders 1, 4, and 6 as submitted. A vote was taken and the MOTION PASSED. Mr. Ballí abstained from voting.

It was MOVED/SECONDED (Ballí/Summers) to approve Agreed Board Orders, 2, 3, and 5 as submitted. A vote was taken and the MOTION PASSED, Dr. Nejad abstained from voting.

It was MOVED/SECONDED (Ballí/Reyna) to approve Agreed Board Order 7 as submitted. A vote was taken and the MOTION PASSED; Ms. Norwood abstained from voting.

19. **Consent Orders.**

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

1. D-36448
2. D-36687
3. D-36747
4. D-36633
5. D-36639

Non-Practice Violations

6. James Edward Boisvenue, Jr. – D-36704 (Revocation Order)
7. Frank Michael Murray, P.E. – D-36752
8. William K. Swearingen – D-36481 (Revocation Order)

Sanctions Against Non-License Holders

9. Larry Williams – B-36101
10. RGM Engineering, L.L.C. – B-36692

Firm Registration/Sole Proprietorship

11. Alegro Engineering, LP – B-36662
12. Walker Structural Engineering – B-36645

Mr. Daigle reported that the investigators were present to answer questions.

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

Discuss and Possibly Act on Licensing Applications requiring board ruling:

20. ***(Consent Agenda) Licensing Applications.**

Vote or Reconfirm Votes Pursuant to Board Rule §133.87:

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

This agenda item was approved under Consent Agenda, see agenda item #3 above.

Discuss and Possibly Act on Other Matters

21. **Texas Board of Professional Engineers meeting dates for Calendar Year 2017.**

Dr. Kinney mentioned that the dates for the included for the Board members.

22. **Thank Licensing Director, Robert Opiela, P.E. for his service to the Board, and congratulations on his retirement.**

Dr. Wong shared that Mr. Opiela, Director of Licensing will be retiring at the end of December 2016. He asked Mr. Opiela to come up and receive his awards. Mr. Opiela thanked the Board for their support during his tenure here with the Board.

23. **Issues from the Board member to consider for next scheduled Board Meeting.**

Dr. Wong asked the Board members if they had any items they wished to discuss at the next Board meeting to please email them to Dr. Kinney.

Adjourn.

It was MOVED/SECONDED (Ballí/Nejad) to adjourn the meeting at 11:28am. A vote was taken and the MOTION PASSED.

Date Board approved the minutes as submitted: February 16, 2017