

**MINUTES**  
**REGULAR QUARTERLY BOARD MEETING**  
**TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS**  
**12100 Park 35 Circle, Building E, Room 201**  
**Austin, Texas 78753**  
**November 14, 2019—10:30 AM**

**Discuss and Possibly Act on the Following Agenda Items:**

**1. Preliminary Matters:**

**A. Call to Order.**

Daniel Wong, Ph.D., P.E., Presiding Officer, called the Regular Quarterly Board meeting of the Texas Board of Professional Engineers and Land Surveyors to order at 10:40 a.m. at the Texas Commission on Environmental Quality Campus, 12100 Park Circle, Building E, Room 201, Austin, TX. (NOTE: all votes are unanimous unless noted.)

**B. Roll Call.**

Ms. Bodden called the roll. It was noted for the record that a quorum was present.

**The following Board members were present:**

|                                     |               |
|-------------------------------------|---------------|
| Daniel Wong, Ph.D., P.E.            | Chair         |
| Catherine Norwood, P.E.             | Secretary     |
| Albert Cheng                        | Treasurer     |
| Ademola Adejokun, P.E.              | Member        |
| Lamberto Ballí, P.E.                | Member        |
| Sina Nejad, P.E., P.Eng.            | Member        |
| Mark Neugebauer, R.P.L.S., L.S.L.S. | Member        |
| Rolando Rubiano, P.E.               | Member        |
| Kiran Shah                          | Public Member |

**The following Board members were absent:**

|              |            |
|--------------|------------|
| Elvira Reyna | Vice-Chair |
|--------------|------------|

Veena Mohan, Assistant Attorney General, was present to provide legal counsel to the Board. Edmundo Gonzalez, P.E., R.P.L.S. and Govind Nadkarni, P.E., Advisory Members were present.

**The following staff members were present:**

|                           |  |
|---------------------------|--|
| Lance Kinney, Ph.D., P.E. | Executive Director                     |
| Rick Strong, P.E.         | Director of Licensing and Registration |
| Jeff Mutscher             | Chief Financial Officer                |
| Elissa Mazza              | Staff Attorney                         |
| Cristabel Bodden          | Executive Assistant                    |
| Deverett Morrow           | Network Administrator                  |
| Mason Schoolfield         | Technology Team Lead                   |

**C. Excuse absent Board members.**

It was MOVED/SECONDED (Ballí/Norwood) to excuse Ms. Reyna from the Regular Quarterly Board meeting. A vote was taken and the MOTION PASSED.

**D. Welcome Visitors.**

Terry Bilderback, P.E., Texas Society of Professional Engineers (TSPE); Marte Guillen; DJ Kyle, Texas Society of Professional Surveyors (TSPS); Manuel J. Montemayor, R.P.L.S.; Heather Sides, R.P.L.S., TSPS; Patrick Smith; Trish Smith, TSPE; Ricardo Vasquez, R.P.L.S., Precision Land Surveying, Inc.; Dean Woodley, R.P.L.S., Live Oak Surveying; and Chris Young, Texas Department of Transportation, were present.

**E. Public Comment.** None.

**2. Consent Agenda\***

- August 21, 2019 Licensing Committee Minutes (**See agenda item #3**)
- August 22, 2019 Policy Advisory Opinion Committee Minutes (**See agenda item #4**)
- August 22, 2019 Enforcement Committee Minutes (**See agenda item #5**)
- August 22, 2019 Legislative Issues Committee Minutes (**See agenda item #6**)
- August 22, 2019 Nominating Committee Minutes (**See agenda item #7**)
- August 22, 2019 Regular Quarterly Board Minutes (**See agenda item #8**)
- August 30, 2019 Texas Board of Professional Land Surveying Regular Quarterly Board Minutes (**See agenda item #9**)
- September 26, 2019 Interim Board Minutes (**See agenda item #10**)
- Administrative Reports, Outstanding Administrative Penalties, Dismissed Cases, Violation Terminated Cases, Voluntary Compliance Cases (**See agenda item #17**)
- Licensing Applications (**See agenda item #21**)

It was MOVED/SECONDED (Ballí/Norwood) to approve the items listed in the **Consent Agenda** as presented. A vote was taken and the MOTION PASSED.

**Board and Committee Minutes:**

3. (**Consent Agenda**) August 21, 2019 Licensing Committee Minutes
4. (**Consent Agenda**) August 22, 2019 Policy Advisory Opinion Committee Minutes
5. (**Consent Agenda**) August 22, 2019 Enforcement Committee Minutes
6. (**Consent Agenda**) August 22, 2019 Legislative Issues Committee Minutes
7. (**Consent Agenda**) August 22, 2019 Nominating Committee Minutes
8. (**Consent Agenda**) August 22, 2019 Regular Quarterly Board Minutes
9. (**Consent Agenda**) August 30, 2019 Texas Board of Professional Land Surveying Regular Quarterly Board Minutes
10. (**Consent Agenda**) September 26, 2019 Interim Board Minutes

Agenda items 3-10 were approved under **Consent Agenda**, see above.

**11. Board Members' Quarterly Activity Update.**

- Adejokun

- Ballí
- Cheng
- Nejad
- Norwood
- Reyna
- Rubiano
- Shah
- Wong

## **12. Advisory Members' Quarterly Activity Update.**

- Gonzalez
- Nadkarni

Agenda items 11-12 were included for information only, no action was required.

**Note: Agenda item #19 was presented out of order but is reported in the order shown on the agenda.**

## **13. Finance and Budget.**

- **FY19 4<sup>th</sup> Quarter Budget.**

Mr. Mutscher reviewed the 4th Quarter Budget report with the Board. The report reflected income and expenses for the agency through the end of August 31, 2019, including the ending fund balance for the agency.

- **FY20 Annual Financial Report.**

Mr. Mutscher reviewed the FY20 Annual Financial report with the Board. This report reflects the same information as the 4<sup>th</sup> Quarter Budget report and includes information on the position of the agency and statistical information as required by statute.

This report also includes information for the Texas Board of Professional Land Surveying. The entries for the Land Surveying Board were completed by the Comptroller of Public Accounts.

- **FY20 Internal Audit Plan.**

Mr. Mutscher reviewed the FY20 Internal Audit Plan with the Board. This is an annual item that the agency is required to do. In fiscal year 2020, there will be an internal audit of the Licensing and Registration processes. In fiscal year 2019, we did not do an additional internal audit because an extensive IT security audit had been performed by the Department of Information Resources and that fulfilled the requirement.

Mr. Mutscher relayed that the annual self-directed, semi-independent report was completed and submitted by November 1, 2019, as required by statute.

#### **Issues Relating to Committee Matters:**

##### **14. Licensing Committee Meeting Summary.**

- **Personal Appearances from Licensing Applicants:**
  - **Derden, Taylor Bruce (Did not appear)**
  - **Friede, Erik Donald**
  - **Hix, Cody**
  - **Holst, Stephen Bruce**
  - **Hostetler, Erin Elizabeth**
  - **Iton, Kyle Barclay**
  - **Perkins, Kenneth**
  - **Rankin, Adam Christopher (Did not appear)**
  - **Vetter, Daniel**

Dr. Nejad reported that the Committee had met and discussed and reviewed the personal appearances cases.

It was MOVED/SECONDED (Nejad/Norwood) to allow Mr. Freide licensure in Texas upon successful completion of the 30-hour Basic Level Ethics course from Texas Tech. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Nejad/Norwood) to allow Mr. Hix licensure in Texas upon successful completion of the 60-hour Intermediate Level Ethics course from Texas Tech. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Nejad/Norwood) to allow Mr. Holst licensure in Texas upon successful completion of the 30-hour Basic Level Ethics course from Texas Tech. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Nejad/Norwood) to allow Ms. Hostetler licensure in Texas upon successful completion of the 60-hour Intermediate Level Ethics course from Texas Tech. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Nejad/Norwood) to approve Mr. Iton's Professional Engineer licensure in Texas. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Nejad/Norwood) to allow Mr. Perkins licensure in Texas upon successful completion of the 30-hour Basic Level Ethics course from Texas Tech. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Nejad/Norwood) to allow Mr. Vetter licensure in Texas upon successful completion of the 30-hour Basic Level Ethics course from Texas Tech. A vote was taken and the MOTION PASSED.

- **Possible New Rule Proposal – Recognition of Out-of-State License of Military Spouse.**
  - **Chapter 133**
    - **§133.29 Application for Temporary License for Military Spouses who are Licensed or Registered in Another State**

Dr. Nejad reported that the Committee had discussed the Recognition of Out-of-State License of Military Spouse rule and explained that this would allow a military spouse that has been relocated to be able to gain a temporary license to continue their profession as long as they have a similar license in another state.

It was MOVED/SECONDED (Nejad/Shah) to approve the proposed rule as submitted by Board staff, send to the Office of the Governor for review and publish in the Texas Register for comment. A vote was taken and the MOTION PASSED.

Mr. Neugebauer asked if this rule would be applicable to Land Surveyors.

Dr. Nejad stated that this rule would also be applicable to Land Surveyors as long as they have similar credentials in another state.

#### **15. Policy Advisory Opinion Committee Meeting Summary.**

- **Policy Advisory Opinion Regarding the Ability of an Owner of a Petrochemical Facility to Waive Sealing Requirements for Engineering Documents (Policy Advisory Request No. 52).**

Mr. Ballí reported that the Committee had met and discussed the Policy Advisory Opinion Regarding the Ability of an Owner of a Petrochemical Facility to Waive Sealing Requirements for Engineering Documents.

It was MOVED/SECONDED (Ballí/Rubiano) to approve staff's recommendation, accept the letter written by staff with revisions and amendments discussed in the Committee meeting, and post on the website. A vote was taken and the MOTION PASSED.

- **Update on Work Group Regarding the Use of and Sealing Procedure for Digital Three-Dimensional Models (Policy Advisory Request No. 50).**

Mr. Ballí reported that the Committee discussed the Policy Advisory Opinion Regarding the Use of and Sealing Procedure for Digital Three-Dimensional Models.

Mr. Ballí relayed that a workgroup had been created and targeted stakeholders would be asked to join the workgroup.

No action was required on this agenda item.

- **Update on Work Group Regarding Sealing Related to Contracting and Procurement.**

Mr. Ballí reported that Dr. Kinney provided a status update on the Sealing Related to Contracting and Procurement.

Mr. Ballí relayed that a workgroup had been created and targeted stakeholders would be asked to join the workgroup.

No action was required on this agenda item.

**Reports or Items reported by the Executive Director:**

**16. Executive Director's Report:**

- **Quarterly Meeting Report.**

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

No action is required.

- **Texas Board of Professional Engineers and Land Surveyors Merger Status Update.**

- **Surveying Advisory Committee Report.**

Dr. Kinney stated that the focus of the last six months had been the merger. The merged agency has been working quite well and moving through legislative and management actions including rule changes. Dr. Kinney stated that the first Surveying Exams were delivered and the team effort was successful. Dr. Kinney relayed that the first Surveying Advisory Committee meeting was held and staff are working on questions and issues stemming from this meeting. An exhibit is provided for Board members to review.

No action is required.

- **Performance Measures reported by Agency 460 as of August 31, 2019.**

Dr. Kinney stated the report is provided as an exhibit and reviewed several measures.

No action is required.

- **Performance Measures reported by Agency 464 as of August 31, 2019.**

Dr. Kinney stated the report is provided as an exhibit and reviewed several measures. After the merger is complete, these items will be reported together.

No action is required.

- **NCEES Resolution of Cooperation.**

Dr. Kinney relayed that NCEES will be celebrating its 100-year anniversary next year. The Resolution of Cooperation is a statement or pledge that state Boards will continue to move forward and work together on licensure issues. The Resolution of Cooperation will be finalized for the Annual NCEES meeting in August 2020 and the first step is to determine if the Board supports this endeavor. Dr. Wong asked Board members to read through the Resolution and determine our support of the Resolution of Cooperation at the next Board meeting.

No action is required.

- **Building Plan Update.**

Dr. Kinney reported that the agency is on target with design plans and is still working with the Texas Facilities Commission on budget and fees.

No action is required.

- **Outreach Report.**

Dr. Kinney reported that staff travel all over the state for Outreach ethics presentations and provide quarterly webinars. Outreach numbers were presented in an exhibit for Board members to review. Dr. Kinney reported that Surveying presentations have been ongoing

and well received.

No action is required.

- **Corpus Christi Regional Advisory Meeting.**

Dr. Kinney stated that the next Regional Advisory meeting will be in Corpus Christi in early spring and details will be forthcoming as the meeting is formalized and events are booked.

No action is required.

- **Kudos Report.**

Dr. Kinney reported that staff continue to receive kudos for the Outreach ethics presentations and quarterly webinars. Dr. Kinney thanked the Outreach team for their hard work, commitment, and travel time.

No action is required.

### **Enforcement/Disciplinary Matters:**

#### **17. (Consent Agenda) Administrative Reports, Outstanding Administrative Penalties, Dismissed Cases, Violation Terminated Cases, Voluntary Compliance Cases.**

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

#### **18. Consent Orders.**

##### **Engineering**

##### **Informal Reprimands**

1. D-38129
2. D-37977
3. D-37978

##### **Surveying – Agreed Final Orders**

##### **Practice Violations**

4. David Hoskins, RPLS – S-38475 (TBPLS Case No.: 18-04)
5. David Hoskins, RPLS – S-38476 (TBPLS Case No.: 18-05)

##### **Firms Registration/Sole Proprietorship Sanctions**

6. Texas Star Surveying – S-38474 (TBPLS Case No.: 18-02)

It was MOVED/SECONDED (Ballí/Shah) to approve Consent Orders #1-5 as submitted. A vote was taken and the MOTION PASSED.

Consent Order #6 was not considered at staff's request.

#### **19. Request of Manuel Montemayor, P.E., to Reconsider Executed Consent Order for Texas Board of Professional Engineers and Land Surveyors Case No. D-30692.**

Dr. Wong asked staff to provide a summary on this case. Dr. Kinney provided a brief summary on the requirements of this Consent Order and relayed that Mr. Montemayor met the legal

requirements but did not do so by the date specified in the agreed Consent Order and subsequent extension by the board; and based on this, his PE license is currently suspended. Dr. Wong relayed that it is up to the Board to reinstate Mr. Montemayor's license.

Mr. Rubiano asked for clarification of the situation with this case; whether the Board had previously required Mr. Montemayor to complete an ethics course by a set deadline and if Mr. Montemayor had asked for an extension which was granted by the Board with a clear understanding that if it was not met by the new deadline, his license would be suspended. Mr. Rubiano asked if all this had been documented on the official record and if staff could get a copy of this record. The staff replied that this was in fact the case and it was documented in orders and correspondence sent to Mr. Montemayor.

Dr. Wong replied that it was stipulated and the Board has the opportunity now to decide or not make a decision on Mr. Montemayor's request and to consider what Mr. Montemayor had to say.

Mr. Montemayor was granted three minutes to address the Board. Mr. Montemayor came before the Board and asked for the reinstatement of his license and let the Board know that he not only completed the course but had received a high mark. Mr. Montemayor stated that staff had not allowed him to come before the Board in September when he would have asked for a 3-4-week extension that would have allowed him to complete the course before his license was suspended.

Dr. Nejad asked Mr. Montemayor what he had been doing since his license was suspended and if he had another Engineer on board with his company. Mr. Montemayor said he did not and that all engineering work had stopped. He was now only doing surveying under his surveying license.

Mr. Montemayor asked with the Board to reinstate his license so that he could continue with his life and that he had only been three weeks late on completing the course requirement.

Mr. Cheng asked what would happen if the Board took no action today on Mr. Montemayor's request.

Dr. Wong stated that Mr. Montemayor's license would continue to be suspended and the Board Order would still stand.

Dr. Kinney added that the Board Order would stand until an action of the Board reinstates the license.

No motion was made by the Board and no action was taken.

## **20. Surveyor Continuing Education Course Approvals** **Course Approval**

- 1. Halfmoon Education, Inc. #034 – Easements, Rights-of-Way, and Eminent Domain**
- 2. Texas Society of Professional Surveyors – TSPS Chapter 19 – FEMA Elevation Certificate Review**
- 3. Texas Society of Professional Surveyors - #001**
  - **Leadership & Strategy: A Framework for Success**
  - **Water Boundaries**
  - **Some Elements of Texas Boundary Surveying**
  - **Subdivision Plats: Requirements, Best Practices, & Exemptions**
- 4. Conrad Butler Institute/Texas Spatial Reference Center**

### **Individual Course Approval**

- 5. Adam M. Whitfield, RPLS #5786**

It was MOVED/SECONDED (Ballí/Rubiano) to approve the Surveyor Continuing Education Courses #1-5 as submitted. A vote was taken and the MOTION PASSED.

### **Licensing Applications requiring board ruling:**

#### **21. (Consent Agenda) Licensing Applications.**

- Approved for Exams
- Approved for Licensure
- Firms Approved
- Waivers – Fundamentals of Engineering examination
- Waivers – Professional Engineering examination
- Not Approved for Licensure.

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

#### **22. Issues for consideration at the next scheduled board meeting of the Texas Board of Professional Engineers and Land Surveyors. None.**

#### **23. Adjourn.**

It was MOVED/SECONDED (Ballí/Rubiano) to adjourn the meeting at 12:16 p.m. A vote was taken and the MOTION PASSED.

Date the Board approved the minutes as submitted:

February 20, 2020