

MINUTES
TEXAS BOARD OF PROFESSIONAL ENGINEERS
REGULAR QUARTERLY BOARD MEETING
1917 IH35 SOUTH, BOARD ROOM,
AUSTIN, TX 78741
November 19, 2015 - 10:30 AM

Call to Order. Daniel O. Wong, Ph.D., P.E., Presiding Officer called the Texas Board of Professional Engineers meeting to order at 10:32 am on November 19, 2015, 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
Elvira Reyna	Vice-Chair-Public Member
Edward Summers, Ph.D.	Treasurer- Public Member
Lamberto "Bobby" Ballí, P.E.	Member
James "Jim" Greer, P.E.	Member
Sina Nejad, D. Eng. P.E., P.Eng.	Member
R. Kyle Womack, P.E.	Member
Sockalingam "Sam" Kannappan, 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., Mr. Jose Guerra, P.E., and Mr. Govind Nadkarni, P.E., Emeritus Board Members, were present.

The following staff members were present:

Lance Kinney, Ph.D., 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
Jeff Mutscher	Director of Finance
Morgen Cuming, JD	Staff Attorney
Dorothy Gonzales	Executive Assistant

Visitors: Terry Bilderback, P.E., Texas Society of Professional Engineers (TSPE); Kent O'Brien, P.E., Texas Department of Transportation (TxDOT); Peyton McKnight, American Council for Engineering Companies (ACEC); Doug Bell, P.E., TSPE; Jennifer Riggs, JD, representing Mr. Tompkins, P.E.

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 26, 2015, Licensing Committee Minutes.
- August 27, 2015, Policy Advisory Opinion Committee Minutes.
- August 27, 2015, Nominating Committee Minutes.
- August 27, 2015, 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/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 August 27, 2015, Regular Quarterly Board Meeting.

Discuss and Possibly Accept Committee Minutes:

- 5. ***(Consent Agenda)** August 26, 2015, Licensing Committee Minutes
- 6. ***(Consent Agenda)** August 27, 2015, Policy Advisory Opinion Committee Minutes
- 7. ***(Consent Agenda)** August 27, 2015, Nominating Committee Minutes

Agenda items 4-7 were approved under Consent Agenda.

Discuss and Possibly Act on the following agenda items (8-23):

8. Board Members’ Activity Reports.

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

9. Emeritus Members’ Activity Reports.

- Gonzalez
- Guerra
- Nadkarni

Agenda items 8 and 9 are for information only. No action was taken.

10. Finance and Budget.

- FY15 4th Quarter Budget
- AFR Report
- Internal Audit

Mr. Mutscher reviewed the quarterly budget report and the Annual Financial Report (AFR) with the Board members. These items were reports only. No action was taken. The Internal Audit Plan was provided for information only.

11. Bi-annual Performance Measures Report

Mr. Howell reviewed the performance measure report with Board members. Reports only, no action taken.

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

12. Nominating Committee.

- Election of New Officers for Fiscal Year 2016

Dr. Wong explained that since Ms. Baker is no longer on the Board, the position of Vice Chair was vacant. It was MOVED/SECONDED (Wong/Summers) to approve the following officer slate:

Lamberto “Bobby” Ballí, P.E.	Vice Chair
Sam Kannappan, P.E.	Secretary
Edward L. Summers, Ph.D.	Treasurer

A vote was taken and the MOTION PASSED.

13. Licensing Committee.

- Personal Appearances from Licensing Applicants:

Mr. Ballí reviewed stated that a number of applicants appeared before the committee. After review and discussion, the Committee made recommendations concerning each applicant.

It was MOVED/SECONDED (Ballí/Summers) to approve the recommendation of the Committee to allow Mr. Thomas McVey for licensure in Texas. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Ballí/Womack) to approve the recommendation of the Committee to allow Mr. Raymond Miller for licensure in Texas. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Ballí/Reyna) to approve the recommendation of the Committee to allow Mr. James Cardenas, Andrew Jerome, Fey King, Joseph Lewiston, Alfredo Martinez, Rodolfo Mireles, Jeffrey Navarre, Matthew Panariello, and Michael York to sit for the PE exam. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Ballí/Greer) to approve the recommendation of the Committee to allow Mr. Stuart Matthews, Keith Redmond, and Bryan Weisgerber to sit for the PE exam after successful completion of the Level I Ethics course from Texas Tech to be submitted to staff, they do not have to reappear before the Committee. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Ballí/Summers) to approve the recommendation of the Committee to allow Mr. Jose Bravo to sit for the PE exam after successful completion of the Level I Ethics Course. A vote was taken and the MOTION FAILED 4 to 3 with one abstention. It was MOVED/SECONDED (Ballí/Summers) to hold Mr. Jose Bravo's application until successful completion of the Level II Ethics course, and to require Mr. Bravo to reappear before the Licensing Committee to consider approval of his application. A vote was taken and the MOTION PASSED 7 to 1.

It was MOVED/SECONDED (Ballí/Nejad) to approve the recommendation of the Committee to waive the FE Exam and allow Mr. Michael Porasef and Mr. Sylvester Brown to sit for the PE exam after successful completion of the Level I Ethics Course. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Ballí/Greer) to approve the recommendation of the Committee to deny Mr. Carlos Valenzuela application for licensure, and require him to reapply no sooner than two (2) years. A primary consideration will whether he has any further convictions or judgements against him. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Ballí/Summers) to approve the recommendation of the Committee to deny Mr. Richard Klassan application for licensure, and require him to reapply no sooner than two (2) years. He must have no further convictions or judgements against him, and successfully complete the Level II Ethics Course. A vote was taken and the MOTION PASSED.

- **Discuss and possibly adopt the following rule proposals as posted in Texas Register for comment:**
 - **Military licensing (SB 807 and SB 1307)-**
 - §133.21 Application for Standard License
 - §133.23 Applications from Former Standard License Holders
 - §133.25 Applications from Engineering Educators
 - §133.81 Receipt and Processing of Applications by the Board
 - §137.9 Renewal for Expired License
 - It was MOVED/SECONDED (Ballí/Reyna) to approve the recommendation of the Committee to adopt §§133.21, 133.23, 133.25, 133.81, 137.9 as presented. A vote was taken and the MOTION PASSED.
 - **Discuss and possibly approve the following PE exam Decoupling rule proposals.**
 - **PE Decoupling**
 - §133.3 Engineer-in-Training Application and Certification
 - §133.61 Engineering Examinations Required for a License to Practice as a Professional Engineer

- §133.65 Examination on the Fundamentals of Engineering
- §133.67 Examination on the Principles and Practice of Engineering
- §133.71 Examination for Record Purposes
- §133.87 Final Action on Applications

It was MOVED/SECONDED (Ballí/Womack) to approve §§133.3, 133.61, 133.65, 133.67, 133.71, 133.87 to be posted in the Texas Register for public comment. A vote was taken and the MOTION PASSED.

- **International Licensure**

- Discuss and possibly approve Mutual Agreement

- S. Korea

Dr. Kinney briefly explained the MRA with S. Korea / KPEA and that both sides had negotiated acceptable language for the agreement. It was MOVED/SECONDED (Greer/Ballí) to approve the Mutual Recognition Agreement with S. Korea. A vote was taken and the MOTION PASSED.

14. **Policy Advisory Opinion Committee.**

- Current status and draft proposal regarding EAOR#39 – On-Farm Energy Audits

Mr. Clark provided background and explanation on EAOR#39 and that the draft EAOR had been developed with stakeholder input. It was MOVED/SECONDED (Womack/Ballí) to approve EAOR#39 to be posted in the Texas Register for comment. A vote was taken and the MOTION PASSED.

15. **Enforcement Committee.**

- Staff Attorney Report
 - SOAH Cases
 - Suits Against the Board
 - Status of Court Cases (Injunctions)

Ms. Cuming reviewed the Staff Attorney reports with the Board members. No action was taken.

SOAH Final Order Ms. Cuming reviewed the SOAH Final Order for Rosser B. Melton, Jr. – Case B-35680

It was MOVED/SECONDED (Ballí/Summers) to approve the SOAH Final Order for Mr. Melton as submitted. A vote was taken and the MOTION PASSED.

16. **General Issues Committee.**

- Discuss and possibly adopt the following rule proposals as posted in Texas Register
 - Professional Fee Repeal (HB 7)–
 - §133.81 Receipt and Processing of Applications by the Board
 - §133.87 Final Action on Applications
 - §133.97 Issuance of License
 - §137.7 License Expiration and Renewal
 - §137.9 Renewal for Expired License
 - §137.11 Expiration and Licensed in Another Jurisdiction
 - §137.13 Inactive Status
 - Windstorm Roster Removal (HB 2439)–
 - §137.19. Engineers Qualified to be Texas Windstorm Inspectors.
 - Contracting (SB 20)–
 - §131.37 State Contract Guidelines
 - Rulemaking Petitions (HB763)
 - §131.85 Board Rules Procedures

Mr. Howell reported that the rules mentioned above have been posted in the Texas Register and two positive comments were received. No changes have been made to the rules as a result of these comments and staff recommends approval of the rules as presented.

It was MOVED/SECONDED (Greer/Nejad) to adopt §§133.81, 133.87, 133.97, 137.7, 137.9, 137.11, 137.13, 137.19, 131.37, 131.85 as submitted. A vote was taken and the MOTION PASSED.

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

17. Executive Director's Report.

- Activity Report
- Strategic Plan/JTE
- NCEES Awards Nomination
- Outreach
 - TML Booth-September 22-25, 2015, San Antonio
 - Booth-STEAM Day, Waco
 - Kudos

Dr. Kinney reported on all the agenda items listed above. No action was taken.

Discuss and Possibly Act on Enforcement/Disciplinary Matters:

18. *(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

Agenda item #18 was approved under Consent Agenda, see above.

19. Agreed Board Order.

Practice Violations

1. Jay Victor Hamm, P.E. – D-35778

It was MOVED/SECONDED (Summers/Kannappan) to approve the Agreed Board Order as submitted. A vote was taken and the MOTION PASSED. Mr. Womack abstained from voting.

20. Consent Orders.

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

1. D-35887
2. D-36002
3. D-36090
4. D-35963
5. D-36025

Non-Practice Violations

6. Steven W. Crain, P.E. (Inactive) – D-35712

Practice Violations

7. Albert C. Alaniz III, P.E. – D-36015
8. Dr. Donatus I. Anyanwu, P.E. – D-34879 & D-35298
9. Gerald Paul Wilson, P.E. – D-36078

Sanctions Against Non-License Holders

10. Brian D. Gaylord - B-35877
11. Melvin Holloway – E-35918

Firm Registration/Sole Proprietorship

12. H. Carlos Smith Engineers & Surveyors, Inc. – B-35797
13. Michael Sandone Productions, Inc. – B-35876
14. Norville Schroeder Smith and Associates, P.L.L.C. – B-35879
15. Sandwell Engineers Corp. DBA Ausenco – B-35931

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

21. Discuss and possibly act on request for reconsideration of Approved Consent Order.

- Mr. Kent Tompkins, P.E. – D-35103

Ms. Jennifer Riggs, JD, addressed the Board explaining Mr. Tompkins' reason for his late submission of his required ethics course certificate, and requested that the Board reconsider the suspension of Mr. Tompkins license since this was his livelihood and he also had employees that depended on his

practice continuing. After further discussion and consideration the Board made the following motion.

It was MOVED/SECONDED (Summers/Reyna) that Mr. Tompkins' license is to return to probated suspension effective August 24, 2015 extend probated suspension one more year, ending on February 13, 2019; personal appearance during the Regular Quarterly Board meeting on February 11, 2016; successfully complete and provide documentation of successful completion of the Level II Ethics course from Texas Tech by February 11, 2016; and pay an additional \$1,000 fine within 30 days after the Regular Quarterly Board meeting held on November 19, 2015. If he fails to complete the order as approved, his license will be automatically suspended. A vote was taken and the MOTION PASSED.

Discuss and Possibly Act on Licensing Applications requiring board ruling:

22. *(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
- Waivers – FE
- Waivers—PE
- Waivers—Both

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

Discuss and Possibly Act on Other Matters

23. Issues to consider for future meeting.

It was MOVED/SECONDED (Kannappan/Womack) to adjourn the meeting at 12:42pm. A vote was taken and the MOTION PASSED.

Date Board approved the minutes as submitted: February 11, 2016