

**MEETING OF THE BOARD FOR PROFESSIONAL
ENGINEERS AND LAND SURVEYORS**

**Sheraton San Diego Mission Valley Hotel
1433 Camino Del Rio South
San Diego, California, 92108**

Thursday, September 25, 2008

Board Members Present: Patrick Tami, President; Gregg Brandow; James Foley; David Luzuriaga; Mike Modugno; Ray Satorre; Jerry Silva; and Michael Trujillo

Board Members Absent: Kim Blackseth, Vice President

Board Staff Present: Cindi Christenson (Executive Officer); Nancy Eissler (Enforcement Program Manager); Cindy Fernandez (Executive Analyst); Debbie Thompson (Budget Analyst); Gary Duke (Legal Counsel); and Rita Lane (Liaison Deputy Attorney General).

1. Roll Call to Establish a Quorum

The meeting was called to order by President Tami at 8:30 a.m. Roll call was taken, and there was not a quorum.

Mr. Trujillo arrived at 8:45 a.m., establishing a quorum.

Mr. Luzuriaga arrived at 9:35 a.m.

2. Public Comment

Ms. Borman provided the Board with a handout regarding her current license in Texas and was requesting that the Board grant her licensure in California as a Mechanical Engineer: by eminence. Ms. Borman did not take and pass the NCEES Mechanical Engineering examination and was licensed based on education and experience.

Ms. Christenson gave the Board a brief history of the applicant's history. Ms. Borman applied for licensure by comity as a mechanical engineer based on her license in Texas which was obtained by education and experience alone; no examination was taken. Ms. Borman had been notified by our Staff Engineer that she would need to take and pass the NCEES Mechanical Engineering examination in order to meet California's requirements for licensure despite the fact that she held a license in Texas. Ms. Borman contacted Ms. Christenson prior to the last Board meeting and it was explained that she did not meet

California's requirements and that no regulations were in place to allow licensure by eminence. Thus, if she wanted to obtain licensure she would need to take and pass the NCEES Mechanical Engineering examination. Ms. Borman requested that Ms. Christenson ask the Board if they would consider adopting regulations regarding licensure by eminence. Ms. Christenson did so at the July 2008 Board meeting during Public Comment and no Board member indicated a desire to place the issue of regulation by eminence on a future agenda. A follow-up letter to this effect was sent to Ms. Borman.

Ms. Christenson asked the Board, based on Ms. Borman's letter and appearance before the Board today, whether they would like to consider regulations to license by eminence. Again, no Board member requested this item be placed on a future agenda.

5. Impact of Budget Impasse (Possible Action)

Ms. Christenson reported that Governor signed the budget on Tuesday, September 23, 2008. Contractors will get paid, but we may owe penalty interest because of the lack of prompt payment. Travel expense claims will be paid. Exemptions were approved to allow the Board to administer the October 2008 examinations.

President Tami thanked Ms. Christenson and Ms. Thompson for all their extra work on making sure that the October examinations will take place.

10. Administration

a. Fund Condition

Ms. Thompson reported that the Board's fund condition has been updated to include the final revenue of \$10,542,851 received in FY 2007-08. This was \$572,851 more than the amount projected at the beginning of the FY and \$2,000 more than that projected at the May 2008 Board meeting. Significant changes to the Board's fund condition include:

- The \$2 million General Fund loan repayment was moved to FY 2011-12.
- Revenue projections for FY 2008-09 have been adjusted for future FYs.
- The FY 2009-10 Exam Liability BCP was deleted as it was not approved.

b. Fiscal Year 2007-08 Budget

Ms. Thompson reported that the Board's FY 2007-08 expenditures were \$9,057,306 leaving a balance of \$121,494. Approximately \$50,000 of this was DCA prorata savings related to the IT Licensing Project.

Projected expenses for FY 2008-09 recently left the Board with a projected deficit balance of \$13,890 prior to this Board meeting. Because the Board experienced a higher savings than expected for FY 2007-08, Board staff was able to redirect a critical contract encumbered in FY 2008-

09 for \$52,700 to FY 2007-08. This adjustment eliminated the \$13,890 deficit leaving a balance of \$28,810.

c. F 2008-09 & 2009-10 Budget Change Proposals

The FY 2008-09 BCP to redirect contract funding into a civil service registrar position for the Land Surveyor Program will become effective January 1, 2009 when the 2008 Budget Act is signed into law by the Governor.

The FY 2009-10 Exam Liability BCP to contract with NCEES for exam administration was not approved by the State and Consumer Services Agency (SCSA). Of the three BCP options provided to eliminate the Board's national exam liability, SCSA requested the Board to choose application direct payment of applicant fees to the national association rather than the Board contracting with the national association for administration of all of its exams. Ms. Christenson informed DCA that this alternative would require a few years lead time before such an option could be implemented.

d. Land Surveyor Position

DCA staff contacted the Board September 17, 2008 to obtain information for preparation of the examination bulletin for the SER classification. The proposed amendments are needed before a bulletin can be circulated for hiring purposes to fill the land surveyor registrar requested in the FY 2008-09 BCP. The Board is waiting for the proposal to be included on the State Personnel Board agenda and approved before such a hire can take place.

e. Publication Review

Ms. Eissler reported that staff is working to update the Technical Expert Manual and the Guide for Local Officials, and that the Board's Law Publication will be prepared and updated by an outside company; the contract for this is in the process of being approved.

f. NCEES Exam Application Fee Increase

Updates to the Board's projected revenue for future Fiscal Years show the fund reserve will not reduce as significantly as projected earlier. For this reason, a fee increase will not be required needed.

3. Review and Approval of 2008-2010 Strategic Plan (Possible Action)

Ms. Christenson advised that the notes compiled by DCA during the Strategic Planning Session in May were included in the agenda packet, as directed by the Board at the last meeting.

Mr. Silva questioned how the goals and objectives would be implemented and monitored throughout the year. Ms. Christenson explained that staff prepares action plans, and she provides updates at the Board meetings. Mr. Silva offered

to work with staff to provide information regarding milestones for achieving the objectives.

Mr. Foley expressed concern with Objective 5 under Goal 1. He indicated that he did not remember discussing this item at the Strategic Planning Session and stated that he was concerned with the Board's ability to "mandate" that local building departments verify licensure. Mr. Modugno suggested that educating building departments on the need for them to verify licensure could be accomplished through outreach meetings.

MOTION: Mr. Modugno/Mr. Foley moved to adopt the 2008-2010 Strategic Plan with the removal of Objective 5 under Goal 1.

VOTE: 7-0, motion carried.

4. Governor's Executive Order to Increase the Number of Engineers by 20,000, including but not limited to, Early Admission Process to the PE and PLS Examinations (Possible Action)

Ms. Christenson clarified that this was a press release, not an Executive Order.

Ms. Christenson reported that the Board started discussing this matter in the January/February timeframe and that there is going to be a workforce shortage of professional engineers and land surveyors.

Ms. Christenson also reported that following the press release issued by DCA on behalf of the Board after the March Board meeting regarding the Early Admission Process, we have received feedback from individuals saying that they think this is a good idea.

Ms. Christenson stated that PECG has no concerns with this proposal. Mr. Modugno stated that ACEC has concerns regarding how the experience is going to be verified.

6. Feasibility of Using NCEES Structural Examination Instead of California State Specific Structural Examination (Possible Action)

Dr. Brandow reported that this process is just beginning, and he will provide additional information at a future meeting.

7. Reporting of Scores for Special Civil Examination (Possible Action)

Ms. Christenson reported that our new examination development vendor is ProMetric. She explained that ProMetric recommends that the Board report the results of the Special Civil examinations (Seismic Principles and Engineering Surveying) as pass/fail since the examinations are multiple choice and not appealable; diagnostic information would be provided to failing candidates.

MOTION: Mr. Foley/Mr. Silva moved to report scores for the Seismic Principles and Engineering Surveying Examinations as pass/fail only.

VOTE: 7-0, motion carried.

8. Approval of Delinquent Reinstatements (Possible Action)

MOTION: Mr. Foley/Mr. Silva moved to approve the Delinquent Reinstatements in the agenda and the handout provided at the Board meeting as follows:

CIVIL

Steven Fenner

Reinstate applicant's civil license once he takes and passes the seismic principles examination, the engineering surveying examination, and the Board's Laws and Regulations Examination.

ELECTRICAL

Hen-Geul Yeh

Reinstate applicant's electrical license once he takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

Samir Takla

Reinstate applicant's electrical license once he takes and passes the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

VOTE: 7-0, motion carried.

9. Comity and Temporary Authorization Applications (Possible Action)

MOTION: Mr. Modugno/Mr. Foley moved to approve the Handout Comity List.

VOTE: 7-0, motion carried.

11. Enforcement (Possible Action)

Ms. Eissler provided an update to the statistics included in the agenda packet. She advised that, to date, in September, 55 complaint cases have been closed, for a total of 140 for the fiscal year; and 32 have been opened, for a total of 83 for the fiscal year. She also advised that approximately 20 cases have been referred to the Office of the Attorney General for possible disciplinary action.

Ms. Eissler explained that the Enforcement Unit was not able to use Technical Experts during the month of August due to the Governor's Executive Order; not being able to use the Technical Experts has created a slow-down in the

processing of complaint cases; however, the Technical Experts can be used now.

Ms. Eissler pointed out that the Reporting of Legal Actions Program statistics are now included in the Enforcement Program statistics.

12. Legislative

a. Discussion of Proposed Legislation for 2008, including, but not limited to, AB 1925, AB 2423, AB 2427, AB 2603, AB 2793, SB 963, SB 1312, SB 1494, and SB 1779 (Possible Action)

Ms. Eissler reported on the items contained in the agenda. All bills listed as "to enrollment" have gone to the Governor for review; however, no action has been taken yet. Ms. Eissler pointed out that the Board's language that had been in SB 1780 had been amended into SB 1779.

b. Regulation Status Report

Ms. Eissler reported that Larry Kereszt will now be working on the regulations regarding the Engineering Curricula/ABET Masters and PhD/EIT Waiver.

13. Technical Advisory Committee TAC Reports

a. Board Assignments to TACs (Possible Action)

Ms. Eissler reported that Mr. Kereszt will be working with Mr. Moore on the Log Book for Professional Land Surveyor applicants.

b. Appointment of TAC Members (Possible Action)

MOTION: Dr. Brandow/Mr. Foley moved to appoint Hussain Bhatia, SE; Kevin Dong, SE; Carl Josephson, SE; and Richard Niewiarowski, SE, to the SETAC.

VOTE: 7-0, motion carried.

14. Liaison Reports (Possible Action)

a. ABET

President Tami will be going to Cal Poly for an ABET visit.

Mr. Luzuriaga attended Fullerton and reported that overall it was a good experience.

b. NCEES

Mr. Foley reported on the Annual Meeting held in Minneapolis. He stated that NCEES is in a very good position financially, so it will now be paying for one member from each Member Board to attend the Annual Meetings. He also advised that NCEES is setting aside money each year to go towards a fund to cover the costs of lost examinations.

Mr. Foley further advised that NCEES is moving forward with the BS Plus 30 proposal. Mr. Foley stated that a motion was passed at the Annual meeting requesting clarification as to why this proposal is needed.

Julianne D'Angelo-Fellmeth, representing CPIL, commended the Board for being cautious regarding the BS Plus 30 proposal. She advised that, in recent years, the Legislature has questioned other professions regarding proposals for additional or continuing education.

c. Technical and Professional Societies

No report given.

15. President's Report

President Tami reported that he attended the NCEES Annual Meeting in Minneapolis as the Vice President of the Western Zone.

President Tami reported that he, Ms. Eissler, and Mr. Moore attended a meeting with the Channel Island Chapter of CLSA.

16. Executive Officer's Report

1. Administration Report

a. College Outreach

Ms. Christenson reported that, due to the budget, we have not been doing much College Outreach.

2. Personnel

a. New Hires

Ms. Christenson reported that we have been given an exemption to hire behind the vacancy that Julie Campbell-Warnock left.

b. Vacancies

No additional report given.

3. Enforcement/Examination/Licensing

a. College Outreach

No report given.

b. Report on Enforcement Activities

No additional report given.

c. Report on Examination Activities

Ms. Christenson reported that the examinations will be given October 24 & 25, 2008. She also asked the Board members to let her know if they are interested in attending any site.

4. Publications/Website

a. **Website Activity Statistics**

No further report given.

5. **Other –**

Ms. Christenson thanked staff for all their hard work with all the Budget issues we have been faced with.

DCA Update

Ms. Christenson reported that DCA is very excited about the Department of Consumer Affairs' Professional Achieving Consumer Trust Summit that will be held in November 2008. One item that DCA is very much interested in is looking into ways of increasing the number of licensed engineers and surveyors in California.

17. **Other Items Not Requiring Board Action**

Date of Next Board Meeting: November 20, 2008, Westin Los Angeles Airport, Los Angeles, California, as part of the Department of Consumer Affairs' Professional Achieving Consumer Trust Summit.

18. **Closed Session – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), 11126 (e)(1), and 11126(e)(2)(B)(i)]**

- a. **Michael William Foster v. Board for Professional Engineers and Land Surveyors, Court of Appeal Third Appellate District Case No. C050630 (El Dorado Superior Court Case No. PC 20030492)**
- b. **Discrimination Complaint (Authority for Closed Session Discussion pursuant to Government Code section 11126(e)(2)(B)(i))**

19. **Open Session to Announce the Results of Closed Session**

Ms. Christenson reported that the Board discussed pending litigation as noticed, specifically: Michael William Foster v. Board for Professional Engineers and Land Surveyors, Court of Appeal Third Appellate District Case No. C050630 (El Dorado Superior Court Case No. PC 20030492); and the Discrimination Complaint (Authority for Closed Session Discussion pursuant to Government Code section 11126(e)(2)(B)(i))

Ms. Christenson reported that the Board adopted the results of the take-home examination for the candidates who had previously passed the 8-hour portion of the examinations.

Ms. Christenson reported that the Board approved an Electrical Engineer candidate for licensure through Comity.

Ms. Christenson reported that the Board adopted the Stipulation regarding Zeyad Mohammed Faqih.

- 20. Approval of Consent Items (Possible Action)**
(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)
- a. **Approval of the Minutes of the July 31, 2008, Board Meeting**
 - b. **Approval of Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)**

MOTION: Mr. Silva/Mr. Foley moved to approve the consent items.

VOTE: 8-0, motion carried.

2. Public Comment

Ms. Martinez, representing PECG, stated that PECG has concerns that the Professional Members of the Board do not meet the criteria stated in law.

Ms. Christenson reported that the Board has three vacant positions. Mr. Foley stated that he is from a local agency.

21. Adjourn

The Board adjourned at 10:45 a.m.

PUBLIC PRESENT

Roya Elizabeth Borman

Vern Klassen, L.S., CalTrans

William Hofferber, CLSA

Ned Salman, L.S., CalTrans

Greg Hopkins, L.S., City of San Diego

Julie D'Angelo Fellmeth, Center for Public Interest Law

Kelley Martinez, PECG

Mehrdad Nabizadeh, CalTrans/PECG

Andrew Karydes, CLSA, San Diego