

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

**Office of Systems Integration
2525 Natomas Park Drive, Suite 100
Sacramento, California, 95833
(916) 263-4300**

Wednesday July 23, 2009, beginning at 10:00 a.m.

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

Board Members Absent: None

Board Staff Present: David E. Brown (Executive Officer); Joanne Arnold (Assistant Executive Officer); Nancy Eissler (Enforcement Program Manager); Cindy Fernandez (Enforcement Analyst); Debbie Thompson (Budget Analyst); Linda Brown (Administrative Manager); Tiffany Criswell (Enforcement Analyst); Larry Kereszt (Enforcement Analyst); Susan Christ (Staff Civil Engineer); Joyce Hirano (Staff Civil Engineer); Ric Moore (Staff Land Surveyor Consultant); and George Ritter (Legal Counsel)

1. Roll Call to Establish a Quorum

The meeting was called to order by Mr. Tami. Roll was taken, and there was not a quorum. Mr. Tami announced that items would be taken out of order so that the items requiring action would be done once a quorum was present.

2. Public Comment

Joan Al-Kazily, representing the American Society of Civil Engineers Region 9, thanked Mr. Tami for coming to their board meeting and addressing the group on the history of the Board for Professional Engineers and Land Surveyors and discussing some of the current issues. She stated that it was very helpful for all of their board members to learn so much more about the Board; they are interested in continuing a relationship with the Board.

3. Introduction of New Executive Officer

Mr. Tami introduced the new Executive Officer, David Brown. Vice President Modugno gave a brief introduction of Mr. Brown. Mr. Brown has

served the State in various capacities over 35 years; his most recent assignment was as the Executive Officer of the Court Reporters Board of California for seven years. Under Mr. Brown's leadership, the Court Reporters Board moved from a pen/pencil written examination to computer based testing; the enforcement filings to the Department of Justice were increased; and outreach to consumers was provided by an establishment of a newsletter and a best practices issue paper. Mr. Brown was very active in representing the Court Reporters Board at trade association meetings and established joint industry/Board committees to develop recommendations on items of interest. Prior to that position, Mr. Brown worked for our Board and the State Board of Architectural Examiners, the State Board of Cosmetology, and the Board of Occupational Therapy. He also worked for the Department of Transportation with the recruitment and testing of civil engineers and land surveyors to fill job vacancies. Vice President Modugno noted that the Board anticipates multiple opportunities to use Mr. Brown's experience for the many changes planned by the Board in outreach, legislative, testing, licensing, and enforcement arenas.

Bill Hofferber, representing the California Land Surveyors Association, congratulated Mr. Brown and said they look forward to many long years working with him.

Mr. Tami thanked Mr. Brown for jumping right in and working on all the budget change proposals and dealing with all the requests for information from DCA and the Governor's office.

Mr. Tami presented Ms. Arnold with a plaque for serving as the Acting Executive Officer. Ms. Arnold expressed her appreciation to the Board and complimented the staff on working hard and making the job easy for her.

4. Acceptance of Credential Evaluations by the Center for Professional Engineering Education Services (Possible Action)

Mr. Tami explained that the Center for Professional Engineering Education Services is an arm of NCEES. Dr. Brandow reported that the Center evaluates education credentials of people who come from other countries to see if they are equivalent to an ABET-accredited degree. Dr. Brandow advised that this provides an opportunity for someone to get licensed in the United States based on the same criteria as if they have gone to an ABET-accredited school. He reported that most states use this evaluation process now for their candidates; California is one of the few that has not implemented it. Dr. Brandow stated that, since we have a high number of people who come here from other countries, it seems like it would be beneficial to accept evaluations by the Center

Mr. Tami added that there is a significant number of people who come in from places that are very difficult to evaluate their credentials. There are different languages that cause problems to interpret what the type of classes are or whether they meet our equivalent or meet a certain standard and the Center has

people that speak many different languages and a brings a whole pool from across the country.

Mr. Tami explained that the burden is on the candidate to obtain the evaluation from the Center; the candidate pays a fee to the Center, which is supplemented by NCEES. He explained that it costs nothing to the licensing boards to have the Center evaluate candidates' credentials.

Mr. Luzuriaga questioned if there were other organizations that provide the same service. Mr. Tami advised that there are other organizations that do the service, but for mobility and comity reasons the Center would be the best for the candidates.

Ms. Eissler advised that there would most likely have to be changes to statutes and regulations in order for the Board to accept credentials evaluated by the Center. She indicated that staff could work with legal and report back to the Board on what would need to be done; at that time, the Board could decide by vote if it wants to move forward with it.

The Board directed staff to further research this matter and work with Legal to determine what would need to be done to accept credentials evaluation by the Center and to present this to the Board at a future meeting.

5. On-Line Renewals/Credit Card Renewals (Possible Action)

Ms. Arnold reported that Mike Donelson, the Board's Staff Electrical Engineer and IT Manager, has researched this matter and learned that several boards and bureaus are part of a pilot program with DCA for online credit card renewals; these boards will be coming online this fall. Mr. Donelson will continue to work with DCA in trying to determine what steps the Board needs to take so that we can start the process of being able to accept payments by credit cards. Mr. Brown reported that Mr. Donelson is also looking into the possibility of going outside DCA so that we can move this forward on a quicker pace; Mr. Donelson is also looking into tying this into the National Candidate ID requirement so that it all comes together at the same time. Mr. Brown explained that one of the issues that we have to deal with is that the DCA's computer system is so old and requires major programming for any change like this to take place.

6. NCEES Candidate ID Requirement (Possible Action)

Ms. Arnold reported that the Board has been working with NCEES on this new requirement now called the Examinee Management System where each candidate will have their own ID number, which will take effect with the October 2010 examination. She reported that Board representatives met with representatives from NCEES in May about this issue; Mr. Donelson is continuing to work with NCEES to develop a plan of the steps that we need to take. Ms. Arnold reported that we had hoped to be able to have ELSEES begin administering our examinations at the same time; however, we are having

difficulty with legislation that is needed to allow us to switch to ELSEES. Ms. Arnold stated that part of the problem is that whenever we make any change, it seems like there is something in our law that stops us from moving forward without making legislative changes; the Legislature right now is not easy to work with, and anything that looks like it might raise fees causes a problem.

Mr. Brown stated that the meeting with NCEES was an eye opener for NCEES because they had no idea how backwards DCA's programming database is; he hopes to arrange a meeting in a few months with NCEES programmers and DCA's programmers to discuss all the constraints there are as part of the plan. He stated that NCEES has offered to do everything they could to help us with the transition.

Ms. Arnold reported that Mr. Donelson does not see any problem with meeting the deadline; the stumbling block will be with DCA's IT Unit; however, this is a non-negotiable deadline, so Mr. Donelson is being relieved of some of his other duties so that we can make the deadline.

7. Submittal of Take Home Examination (Possible Action)

Ms. Brown reported that at a prior meeting the Board discussed requiring submittal of the take-home examination as a prerequisite to take the written examination, rather than the way it is currently as a requirement for licensure. She explained that some applicants will pass the written examination, and would be eligible for licensure, but because they have not submitted their take home examination to the Board, the license cannot be issued. Ms. Brown advised that a statutory change would have to be made, and she has prepared draft language and submitted it to Legal Counsel Gary Duke for review.

8. Amendments to Business and Professions Code sections 6755 and 8741 regarding Exemptions from the Engineer-in-Training (EIT) and Land Surveyor-in-Training (LSIT) Examinations [First Division Examinations] (Possible Action)

Mr. Tami stated that this item was included to start discussions regarding the exemptions provided in the laws to waive the EIT and LSIT examinations. He explained that, currently, a Professional Engineer is exempt from having to take the LSIT examination in order to obtain licensure as a Professional Land Surveyor; however, a Professional Land Surveyor is not exempt from having to take the EIT examination in order to obtain licensure as a Professional Engineer. Mr. Tami stated that, if the EIT and LSIT examinations are considered equivalent, then a PLS should be exempt from having to take the EIT, just as a PE is exempt from having to take the LSIT; however, if the examinations are not equivalent, then neither profession should be exempt.

Annette Lockhart, a Professional Land Surveyor, stated that she agreed with Mr. Tami. She stated that, in the past, civil engineers had land surveying classes as part of the curriculum; however, currently, according to the North American

Surveying and Geomatics Educators Conference held a couple of weeks ago, only one-third of civil engineering degrees require land surveying classes anymore across the U.S.; another one-third offer it as an elective; and one-third do not even offer it at all. Ms. Lockhart stated that to continue the practice of exempting PEs from the LSIT is probably a little bit antiquated.

Mr. Foley stated that it was an issue of equivalency, it seems unfair that it is a one-way street; then the question is whether you make it a two way street or just say that they are not equivalent and each should have to take the other.

Mr. Satorre and Mr. Luzuriaga arrived at 10:30 a.m., and a quorum was established.

Mr. Tami stated that he would like to have input from the professions on this issue. Ms. Eissler advised that it would require legislative changes. Mr. Foley suggested that the CETAC and LSTAC should have a joint meeting to discuss it; they could determine equivalencies of the examinations and make a recommendation to the Board. Ms. Christ and Mr. Moore suggested that staff could review the examinations before having the TACs meet, due to examination security issues. Mr. Foley stated that as part of the review we should look at what other states do.

9. Nomination for and Selection of President and/or Vice President of the Board (Possible Action)

Mr. Tami stated that at the last meeting Kim Blackseth was elected to be the next President of the Board and Vice President Modugno was elected to be the Vice President; however, Mr. Blackseth has not yet been reappointed because the Governor has not been making appointments due to the budget issues. Mr. Tami explained that the Board needs to elect a new President and possibly a Vice President. Mr. Tami opened the floor to nominations from the Board.

MOTION: Mr. Satorre/Mr. Luzuriaga nominated Vice President Modugno to be president.

Mr. Foley suggested that, since Mr. Blackseth may be reappointed, Vice President Modugno could continue as the Vice President and the Board could wait until the September meeting to see if Mr. Blackseth is reappointed and could resume his role as President. Mr. Luzuriaga questioned how long can the Board should wait and what duties the President has. Mr. Foley stated that it would just be until the next meeting. Mr. Tami stated that the main duties for the President now would be approving any expenses, travel, and representing the Board at public outreach, such as the NCEES meeting that will be held in August.

Mr. Satorre and Mr. Luzuriaga withdrew the prior motion.

MOTION: Mr. Silva/Mr. Brandow moved to table this item until the next meeting and reconsider selecting a new President and Vice

President then in the event that reappointments have not taken place.

VOTE: 7-0, motion carried.

Mr. Tami passed the gavel to Vice President Modugno to preside over the remainder of the meeting.

Vice President Modugno presented a plaque and proclamation to Mr. Tami and thanked him for all the work he had done as President of the Board.

10. Consideration of Alternatives to Comply with the Governor's Executive Order S-09-09 relating to Expenditure Contract Reductions, including but not limited to, Cancelling Examinations (Possible Action)

Mr. Brown reported that all the boards and bureaus must prepare a 15% budget reduction plan to meet the requirements of the Governor's Executive Order. DCA is currently evaluating alternatives to accommodate the Executive Order. Mr. Brown requested Board Members provide input regarding the priority of where those cuts be made in the event the full 15% reduction is required. Each DCA board and bureau must first obtain State and Consumer Services Agency approval of their 15% reduction plan in order to spend against their FY 2009-10 budget.

Ms. Thompson indicated that since over \$400,000 in FY 2008-09 budgeted expenses were already cut for ongoing expense increases, more cuts in FY 2009-10 would not be possible unless examinations are cut. Ms. Thompson handed out an Expense Reduction Alternatives for FY 2009-10 in which 11 options were identified to reduce costs; the alternatives include a cut from twice-a-year to once-a-year the number of examination administrations offered, a cut of an examination site, revisions to the California Land Surveyor and Structural examination formats, and a reduction of the total examination population by 15%. The Board's laws require the licensing examinations be held only once every year and many are now offered twice a year.

Vice President Modugno questioned if the examinations included in the Expense Reduction Alternatives were cost-neutral. Ms. Thompson explained that the national Mechanical and Electrical examinations, identified to be cut from twice-a-year to once-a-year, generate \$100 net revenue per applicant after the NCEES fees are paid. However, the national Structural examination is the Board's costliest examination because grading fees are higher.

Vice President Modugno questioned if the Examinations Program produces enough revenue to support the examinations administered. Ms. Thompson responded that the examination revenue does support the direct expenses for examination development and administration contracts. The Licensing fee revenue augments a portion of the Examinations Program's staff and prorate-

related expenses. Vice President Modugno also asked if the Board's staff would be jeopardized if the net-revenue producing examinations were cut. Ms. Thompson explained that the proposed cuts will not significantly impact revenue required to support Board staff or significantly reduce the fund reserve.

Mr. Moore advised that the development of the state-specific examinations begins early this fiscal year. He explained that, because of this, a decision now to cut the April 2010 state Land Surveyor examination could not be changed later and still allow time to adequately develop the April 2010 examination.

Mr. Foley commented that it is better to reduce quasi-revenue producing examinations than to cut the Board's Enforcement Program which is now backlogged with cases. Mr. Tami agreed with Mr. Foley, stating that it is the Board's responsibility to protect the public by processing all enforcement cases quickly.

Ms. Arnold expressed concern that staff may not be able to obtain adequate examination facilities and proctors for an increased examination population in October 2010 in the event applicants from cancelled April 2010 examinations reschedule for the October 2010 examination administration. Ms. Arnold also noted that, even though Board Rule 436 requires a schedule of examinations be published three months before the end of the calendar year for the following year, it also allows the Board to "postpone, advance, or otherwise change without notice the examination schedule previously published."

Other Board suggestions included a limit to repeat test takers as is done by other states and limiting the number of examination seats available for each examination administration. Mr. Ritter advised that a limit of examination seats would be viewed as not uniformly applying the laws to all applicants. He also advised that limiting the number of times a person could take the examination would require statutory change, which could not be done in the timeframe required for the 15% reduction plan.

In response to questions regarding the projected amount of the reduction plan, Ms. Thompson estimated the reduction will be anywhere from \$50,000 to \$100,000 dependent upon expenses that are exempted because they avoid significant net revenue loss and/or provide critical services or functions.

If examination cuts are required, Dr. Brandow suggested that the April National EIT examination should not be eliminated because most of those who apply also graduate in April.

MOTION: Mr. Foley/Mr. Tami moved to direct staff to move ahead and resolve this in the best way possible taking into account items that the Board discussed and emphasis put on those items; if

examinations must be cut, it should be done in a way where the least amount of people are affected.

VOTE: 7-0, motion carried.

11. Reporting of Traffic Engineer Examination and Geotechnical Engineer Examination Results as Pass/Fail (Possible Action)

MOTION: Mr. Foley/Mr. Satorre moved that that the Board report Traffic Engineer and Geotechnical Engineer Examination Results as pass/fail.

VOTE: 7-0, motion carried.

12. Approval of Delinquent Reinstatements (Possible Action)

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

CHEMICAL

GARRY MONTIERTH

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

CIVIL

MACIEJ (MICHAEL) DAJNOWICZ

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

BERNARD SLOMOVITZ

Reinstate applicant's civil license once he/she takes and passes the seismic principles examination, the engineering surveying examination, the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

CONTROL SYSTEMS

ALI SHARIAT

Reinstate applicant's control systems license once he/she takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

MANUFACTURING

FREDERICK KOHL

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

MECHANICAL

VICTOR BOISSEREE

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

JERRY CHRISTENSEN

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

SUSHIL DAFTUAR

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Regulations Examination.

ALAN GRANTZ

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

RONALD HORSPOOL

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

CLADIO HOWARD

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

DOUGLAS MOORE

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Regulations Examination.

KERRY SPINKS

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Regulations Examination.

SZE YOUNG

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

VOTE: 7-0, motion carried.

13. Comity and Temporary Authorization Applications (Possible Action)

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

VOTE: 7-0, motion carried.

14. Administration

a. Fund Condition (Possible Action)

Ms. Thompson gave an update on revenue projections included in the fund condition for FY 2008-09 using revenue received up to May 31, 2009. She reported that the examination application revenue projection increased from \$3,629,000 to \$4,002,000, and the license renewal revenue projection decreased from \$5,564,000 to \$5,396,000; the actual reimbursement revenue grew from \$20,000 to \$25,000. She advised that the Board's fund reserve remains consistent projecting a 6-month or higher reserves for the next three fiscal years. She explained that the two-year renewal revenue cycle is projected to generate much higher renewal revenue every other year, consistent with past fiscal years when the Board's laws required a four-year renewal and every fourth year there was a renewal revenue spike.

b. FY 2008-09 & FY 2009-10 Budgets (Possible Action)

Ms. Thompson reported that the expense report through June 30, 2009, was recently completed but the final year-end expense report has not yet been issued. She reported that the expenses through June 30, 2009, show the Board has a surplus after expenses of \$38,551 with expenses totaling \$9,296,972. Ms. Thompson advised that she projects the final expenditure amount to be close to the budgeted level with very little surplus remaining.

c. FY 2010-11 Budget Change Proposals (Possible Action)

Ms. Thompson reported that the DCA Budget Office recommended the Board not move forward with the NCEES examination administration BCP because the Board will still need to contract with NCEES. She explained that the Budget Office advised that a BCP reducing the Board's examination contracts line item need not be done until after the process has successfully been implemented for one examination cycle and all costs involved are known. At that time, the Board will have accurate expense information and statistics to prepare a BCP in the event it is needed.

Mr. Brown advised that when he became Executive Officer of the Board, he recommended that several additional BCPs be submitted, including:

1. Citations Program
2. In-House Investigators
3. Staff Information Systems Analyst
4. Webmaster Analyst
5. Legislative/Regulations Analyst

d. Land Surveyor Position (Possible Action)

Ms. Thompson reported that the proposal to amend the Senior Engineer Registrar State Personnel Board (SPB) classification to Board Registrar was approved by SPB on May 14, 2009. She advised that the Board plans to fill the vacant Land Surveyor Registrar position, which was obtained through a FY 2008-09 BCP, with an individual qualified from a statewide examination hiring list. A new hiring list is required because the classification requirements were changed to include licensed land surveyors. Ms. Hirano reported that the selection criteria for the statewide Board Registrar position examination is now being developed. Ms. Thompson advised that the Land Surveyor Consultant contract was amended to extend the contract from March 31 to December 31, 2009, to continue the Land Surveyor functions until an individual is selected from the new hiring list. Mr. Brown reported the Board is looking into the temporary appointment of Mr. Moore as allowed by an SPB provision for positions vacant for which no hiring list is available.

e. Publication Review (Possible Action)

Mr. Eissler reported that the Local Official's Guide and the Technical Expert Manual have been submitted to DCA's Publications Unit for the layout and design. Ms. Eissler reported that the Publications Unit had also been asked to design a logo for the Board. Mr. Brown noted that the unit has won national awards for their publications and their design of logos. Ms. Eissler explained that the unit will develop several different logo designs and then the Board staff will be able to pick a logo. Ms. Eissler advised that they are waiting on the other publications so that they will be "branded" with our logo. She further advised that the cost of design and layout of logos and publications is paid out of our pro rata, but we will have to pay to have the publications printed.

Mr. Foley spoke about getting lapel pins of the board seal for the board members. They got a bid of \$75 to be paid by board members themselves.

Ms. Eissler stated we are also looking at starting up our newsletters again. She explained that there will be two newsletters per year; one focusing on enforcement with all of the disciplinary and citation summaries and the other focusing on overall Board issues. She explained that Ms. Brown and the Administrative Unit will oversee the general newsletter, and the Enforcement Unit will handle the enforcement newsletter. To keep

expenses of the newsletter to a minimum, Board members suggested the newsletter be made available only on the Board's website, and that an adequate number of copies be printed for the Board's mandated mailing distribution list.

f. NCEES Examination Fee Pass Through and Examination Administration (Possible Action)

Ms. Thompson reported that a June 17, 2009, memorandum from NCEES notified all member boards of the fixed examination administration fee increases. She advised that she has clarified with NCEES that these fees also apply to the California Board even though NCEES provided a \$65 daily sitting fee quote per examinee a few years back. The new NCEES fees are now \$100 for professional examinations and \$70 for in-training examinations per day per examinee. Ms. Thompson reported that the total Board proposed fees for incorporation into regulations with the conversion to NCEES examination administration will change.

Ms. Arnold reported that in January 2009 she had discussed with the Senate Business and Profession Committee consultants the idea of including in an omnibus legislative bill Board law changes to split the fees into an examination administration fee and an application processing fee. Currently, the Board's laws specify an application fee, and all other fees (temporary authorization, license renewal, etc.) are tied to the application fee, which will create problems for lower fees in regulation. Ms. Arnold explained that the Committee has since decided to not include this language in the omnibus bill because it could be viewed as a fee increase for applicants.

Mr. Tami suggested examination applicants pay all fees to NCEES and the funds required for the Board's operations then be transferred back to the Board from NCEES. Board staff will determine if this suggestion is possible and report at the next Board meeting.

15. 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))**

16. Open Session to Announce the Results of Closed Session

Ms. Eissler advised that Mr. Brown had requested that she report the results of Closed Session.

Ms. Eissler 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. Eissler 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 and approved the cut scores from the April 2009 examinations as follows:

- EIT Pass/Fail Only
- LSIT Pass/Fail Only
- Chemical Pass/Fail Only
- Electrical Pass/Fail Only
- Mechanical Pass/Fail Only
- Civil 8-hour Pass/Fail Only
- Seismic Principles Pass/Fail Only
- Engineering Surveying Pass/Fail Only
- National Structural Pass/Fail Only
- National Land Surveyor Pass/Fail Only
- State Specific Land Surveyor Score of 189 out of 400

Ms. Eissler reported that the Board adopted the Stipulations regarding Setsuo Larry Eto and David Yarrington and adopted the Proposed Decision regarding Ronald Greenwall.

Ms. Eissler reported that the performance appraisal process for the Executive Officer was discussed.

17. 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 January 15 & 16, 2009, Board Meeting**
- b. **Approval of the Minutes of the April 15, 2009, Board Meeting**
- c. **Approval of Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)**

MOTION: Mr. Tami/Mr. Foley moved to approve the January 15 and 16, 2009, Board Meeting Minutes; the April 15, 2009, Board Meeting Minutes; and approve Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)

VOTE: 7-0, motion carried

18. Technical Advisory Committee (TAC) Reports

a. Board Assignments to TACs (Possible Action)

No assignments were made to TACs.

b. Appointment of TAC Members (Possible Action)

MOTION: Mr. Foley/Mr. Luzuriaga moved to re-appoint Michael B. Emmons, P.L.S., and Michael S. Butcher, P.L.S., to the Land Surveying Technical Advisory Committee for a third term expiring June 30, 2010.

VOTE: 7-0, motion carried.

Mr. Brown noted that most of the TACs either do not have any members or have members whose terms are expiring. He suggested that the Board member and staff liaisons to each TAC review the memberships and determine if appointments need to be made.

19. Legislative

a. Discussion of Proposed Legislation for 2009: AB 484, AB 645, SB 275, SB 284, SB 389, SB 502, SB 599, SB 638, SB 819, SB 820, and SB 821 (Possible Action)

Ms. Arnold reported on the status of legislation, as follows:

AB 484: the bill did not make it out of committee.

AB 645: This is ACEC's bill. Originally, the bill proposed to change the renewal period from two years back to four years. After meeting with representatives from the Board, ACEC decided to drop that language from the bill. ACEC agreed to include the language to remove the expiration date requirement, as had been approved by the Board at its April meeting. Therefore, the bill was amended to remove the language changing the renewal period and to add the language to remove the expiration date requirement. The Board currently has an opposed position. Ms. Arnold recommends that the Board change its position to "support" since the bill was amended to include the Board had suggested the language.

MOTION: Mr. Tami/Mr. Foley moved to support AB 645.

VOTE: 7-0, motion carried.

SB 275: This is the bill to change the title acts to practice acts. It is now a two-year bill. There may be an interim hearing on it in the fall.

SB 284: We are no longer following this bill.

SB 389: This bill failed passage out of committee; however, reconsideration was granted.

SB 502: We are no longer following this bill.

SB 599: We are no longer following this bill.

SB 819: This bill is an omnibus bill that contains the language so that the Executive Officer can approve people for licensure, rather than the Board having to meet to approve the cut scores and people for licensure. Mr. Foley stated that with the Board's limited number of members, this may result in marginalizing the Board since one of the main functions or points of leverage for existence is that we license people as a Board. Mr. Tami noted that the Board requested that this amendment be made and to now request that it be removed would not be wise politically. Ms. Arnold advised that it is too late to remove the language. Mr. Ritter noted that no other boards require this. Ms. Arnold noted that this is an urgency bill that will go into effect as soon as the Governor signs it.

MOTION: Mr. Tami/Mr. Foley moved to continue to support SB 819.

VOTE: 6-1, motion carried; Mr. Foley voted nay.

SB 820: This was the omnibus bill that included the language that would allow the Board to administer the NCEES 16-hour structural examination and allow the Board to separate the examination and application fees. However, this language was removed from this bill and added to SB 821. This bill no longer affects us; therefore, we are no longer following it.

SB 821: The language from SB 820 regarding the NCEES 16-hour structural examination is included in this bill. However, ACEC and PECG are now concerned that the amendment would remove the requirement that the Board give a structural engineering examination. Gary Duke disagrees with this interpretation because the section of law we are removing was added to the law in 2000 when we had to go to a national structural examination as well as a state-specific structural examination; removing this language would simply return the law to the way it was prior to 2000, when the Board administered a 16-hour structural examination. Because this is an omnibus bill, any language with any opposition will be

removed from the bill. Ms. Arnold, Mr. Tami, and Dr. Brandow met with representatives from ACEC and PECG about this issue. ACEC's and PECG's representatives claimed they knew nothing about the Board switching to the NCEES 16-hour Structural Engineer examination. However, there were representatives from both ACEC and PECG present at the April Board meeting when the Board discussed this issue in depth and voted to move forward with it. Even though ACEC is having a meeting this week, they said they could not meet until November to discuss this issue. Without this amendment, the current law requiring both a national and a state-specific examination will remain in effect. Since the national examination will be a 16-hour examination, this could result in a 24-hour examination if the Board has to continue giving its 8-hour state-specific examination. Ms. Arnold will continue to work on this issue and keep the Board apprised of the status.

Mr. Silva left at 1:00 p.m.; therefore, there was no longer a quorum.

b. Regulation Status Report

Ms. Eissler reported the public hearings were held on three rulemaking proposals regarding Approved Curricula; Waiver of Fundamentals Examination; and Reference Forms; however, no public comments were presented during the hearings. She advised that a few written comments were received; staff will review those and present recommendations to the Board at the September meeting.

Ms. Thompson reported that the examination fees regulations is no longer necessary at this time.

20. Requirements for References for Applicants for Licensure (Possible Action)

Ms. Hirano reported that she is looking into what other states require of references for applicants; she will present information at a future meeting.

Mr. Luzuriaga stated some colleagues were not aware that they could be a reference if they had not been a direct supervisor. Ms. Hirano explained that only one reference has to be in responsible charge if that reference covers the entire time period, the other three references could be colleagues. She stated there is information regarding references on the FAQs on the website.

Mr. Tami suggested that outreach presentations could be done to explain how to complete the references forms.

Ms. Eissler noted that one of the current rulemaking proposals is to amend the reference forms to make them more understandable for the applicants and references.

21. California State Water Resources Control Board NPDES General Permit for Construction Activities (Possible Action)

Ms. Christ reported that the California State Water Resources Control Board (SWRCB) is in the process of adopting a new National Pollutant Discharge Elimination System (NPDES) General Permit for Construction Activities, which includes language for state water pollution prevention plan practitioners and developers; the language implies that work which constitutes the practice of civil engineering may be done by other professions. Ms. Christ advised that a letter has been sent to SWRCB recommending that language be included to state that nothing in the NPDES General Permit is to be interpreted to allow anyone other than a civil engineer to practice civil engineering.

22. Update on the Examination Development Processes and Procedures (Possible Action)

Ms. Christ reported that in January the Board approved changing the geotechnical engineer examination to be all multiple choice. She reported that this change will take effect with the October 2009 examination and has saved the Board about \$100,000 in examination development costs. She reported that the Subject Matter Experts (SMEs) who have worked on the examination over the years have had no concerns or issues about switching it to a multiple choice format.

Ms. Christ reported that the results of the Special Civil examinations will now be reported as Pass/Fail and will include a modified diagnostic report so that the candidates will know in what areas they were proficient, marginal, and deficient.

Ms. Christ reported that two occupational analyses are going to be conducted in the near future; one for the traffic engineer examination, and the other for the geotechnical engineer examination.

Ms. Christ further reported that the Board is implementing a new process to review applications. She explained that the ineligible applicants are very time consuming; therefore, we will be bringing in SMEs to help review applications in August. She explained that the applications must be processed through the mail desk, cashiering, and then the evaluators before getting to engineers and land surveyor for review. She advised that postcards saying their application was received go out on a continual basis as long as the applicant includes a postcard with the application, as instructed; however, the official notice to sit for the examination does not go to the applicants until two weeks before the examination. Ms. Christ stated that the main problem is getting the information to the ineligible applicants in a format they understand.

Mr. Tami expressed concern with the delay in notifying candidates that they are not eligible to sit for the examination. Mr. Brown stated that staff is working to speed up the process so that applicants can be notified earlier of their

eligibility/ineligibility, including having additional staff work on cashiering the applications and bringing in SMEs to assist with reviewing the applications.

Mr. Moore reported that the land surveyor examination SMEs are reviewing the examination format and development process to see where it can be more efficient. He advised that they are considering a multiple choice format and researching how our examination compares to other states. He advised that, over the last year, there has been a drop by about one-third in LSIT applications, and he and Mr. Tami are talking to the industry to find out why. Mr. Moore advised that an LSTAC member will be assisting with the review of the PLS applications.

Ms. Christ noted that PE applications appear to be down about 25% and PLS applications are down 20%.

23. Enforcement (Possible Action)

Ms. Eissler reported on enforcement statistics for the fiscal year July 1, 2008 to June 30, 2009. She noted that 458 cases were opened and 558 were closed and that the Enforcement Unit reduced the number of cases over one year old from 197 to 151. Ms. Eissler stated that she currently has 27 cases to review and close this month; 45 cases were opened in July, with 34 of those being examination collusion cases. Ms. Eissler advised that the staff engineers and land surveyor will be involved in the review of the examination collusion cases this time.

Ms. Eissler reported that the Enforcement Unit has been stepping up efforts to issue citations and hold informal conferences on the appeals of the citations; six informal conferences were held in the last two days. She also reported that Ms. Criswell has been trained to prepare cases to submit to the Attorney General's Office for formal disciplinary action; Ms. Criswell is doing an excellent job and is working to get the backlog of cases waiting to be submitted reduced.

Ms. Eissler further reported that Mr. Brown, Ms. Arnold, and the Enforcement Unit met with Alfredo Terrazas, the Senior Assistant Attorney General over the Licensing Section, and with Karen Chappell, a Supervising Deputy Attorney General from the Los Angeles office. She advised that they discussed various issues, such as how to process complaint investigation cases to make for better cases for the AG's Office and what they can do to help our Board; we will be working with them and Rita Lane, the Board's Liaison Deputy Attorney General, on training for the Enforcement Unit staff and for the Board's Technical Experts.

Vice President Modugno asked what issues were most responsible for the aging of the complaint investigation cases. Ms. Eissler advised that part of it is the backlog that was created several years ago when the Enforcement Unit lost positions, but part of it is caused by delays in investigation by the Division of Investigation (DOI). She explained that DOI handled investigations for other

boards and programs and have been understaffed for several years; they must prioritize by their investigations based on an immediate threat to public health and safety, which most of our cases do not include. Mr. Brown reported that we are moving forward with BCPs to get staff positions to conduct investigations ourselves. He reported that he and Ms. Eissler have met with retired investigators to see if we could build our own investigative staff. He reported that we are also working on using a personnel classification that is currently specific to the Contractors State License Board, which would allow staff to do more investigative work.

Ms. Eissler reported that complaints can come from various sources, such as consumers, local officials, county surveyors, building officials, professional associations, other licensees, and anonymous sources. She reported that the complaints must be in writing and must include supporting documentation.

24. Liaison Reports (Possible Action)

a. ABET

No report given.

b. NCEES

1. Report from the Western Zone Meeting

A. Recognition of NCEES Model Law Engineer Standard by American National Standards Institute (ANSI)

Mr. Tami and Mr. Foley reported on the Western Zone meeting that was held in Banff in May.

2. Annual Meeting

Mr. Tami reported that the Annual Meeting is coming up in August and that he, Vice President Modugno, Mr. Foley, and Mr. Brown are going to attend. Dr. Brandow will also be attending as the ASCE representative. Mr. Tami advised that computer based testing will be discussed. Mr. Foley reported that NCEES's finances are doing well. Mr. Tami reported that NCEES is now implementing a minimum of a master's degree to sit for the PE examination per the NCEES Model Law; this used to be the BS+30 proposal. He noted that the opportunity for California licensees to qualify for comity will be reduced. He reported that Model Law surveyor standard will also be coming up.

c. Technical and Professional Societies

No report given.

25. President's Report

No report given.

26. Executive Officer's Report

Mr. Brown reported that he has been spending time on BCPs and learning how everything works. He has been to a number of meetings, such as PLS grading sessions and Special Civil, Geotechnical, and Structural examination development meetings.

**1. Administration Report
Executive Summary Report**

No further report given.

2. Personnel

Mr. Brown reported that we have promoted three staff in the office in the last month and that all managers have been updating duty statements. He has also been reviewing and updating office policies and procedures.

3. Enforcement/Examination/Licensing

a. College Outreach

No report given.

b. Report on Examination Activities – April Exam

Ms. Christ reported that at the April examination at the Cow Palace, there were approximately 10 complaints from candidates that they believed they were shorted 6 minutes on the Seismic Principles examination; these candidates were all in the same room at the examination site. She advised that those people were offered the opportunity to re-take the examination in October for free and have their April examinations not scored or have their April examinations scored. Ms. Christ explained that, as a precaution, Prometrics did a detailed analysis of the Cow Palace site; the overall pass rate statewide for the Seismic Principles examination was 39.5%; the pass rate for the one room at the Cow Palace was 54%. Ms. Arnold advised that there were various reports as to what happened at the examination; it appears that the candidates were not actually shorted any time, but that the time warnings in the last 15 minutes of the examination were not given at the correct times.

4. Publications/Website

No further report given.

5. Other –

a. DCA Update

Mr. Brown reported that we received a notice today that the new budget act is proposing to consolidate the Board for Geologists and Geophysicists under our Board; however, we have no further information at this time.

27. Other Items Not Requiring Board Action

Mr. Brown advised that the next Board meeting is scheduled for Wednesday and Thursday, September 16 and 17, 2009, in San Diego, California. Ms. Eissler advised that there will definitely be a hearing held on a Petition for Reinstatement of Revoked License since it has been postponed twice already.

28. Adjourn

The meeting was adjourned at 2:35 p.m.

PUBLIC PRESENT

Joan Al-Kazily, P.E., ASCE-Region 9

Brian Clifford, DCA

Steve Hao, CalTrans

Bill Hofferber, P.L.S., CLSA

Anne Lockhart, P.L.S.

Kenneth Luttrell, SEAOC

Richard Markuson, ASCE-Region 9

MOTIONS – JULY 23, 2009, BOARD MEETING

MOTION: Mr. Silva/Mr. Brandow moved to table this item until the next meeting and reconsider selecting a new President and Vice President then in the event that reappointments have not taken place.

VOTE: 7-0, motion carried.

MOTION: Mr. Foley/Mr. Tami moved to direct staff to move ahead and resolve this in the best way possible taking into account items that the Board discussed and emphasis put on those items; if examinations must be cut, it should be done in a way where the least amount of people are affected.

VOTE: 7-0, motion carried.

MOTION: Mr. Foley/Mr. Satorre moved that that the Board report Traffic Engineer and Geotechnical Engineer Examination Results as pass/fail.

VOTE: 7-0, motion carried.

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

CHEMICAL

GARRY MONTIERTH

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

CIVIL

MACIEJ (MICHAEL) DAJNOWICZ

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

BERNARD SLOMOVITZ

Reinstate applicant's civil license once he/she takes and passes the seismic principles examination, the engineering surveying examination, the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

CONTROL SYSTEMS

ALI SHARIAT

Reinstate applicant's control systems license once he/she takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

MANUFACTURING

FREDERICK KOHL

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

MECHANICAL

VICTOR BOISSEREE

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

JERRY CHRISTENSEN

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

SUSHIL DAFTUAR

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Regulations Examination.

ALAN GRANTZ

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

RONALD HORSPOOL

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

CLADIO HOWARD

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

DOUGLAS MOORE

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Regulations Examination.

KERRY SPINKS

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Regulations Examination.

SIZE YOUNG

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

VOTE: 7-0, motion carried.

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

VOTE: 7-0, motion carried.

MOTION: Mr. Tami/Mr. Foley moved to approve the January 15 and 16, 2009, Board Meeting Minutes; the April 15, 2009, Board Meeting Minutes; and approve Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)

VOTE: 7-0, motion carried.

MOTION: Mr. Foley/Mr. Luzuriaga moved to re-appoint Michael B. Emmons, P.L.S., and Michael S. Butcher, P.L.S., to the Land Surveying Technical Advisory Committee for a third term expiring June 30, 2010.

VOTE: 7-0, motion carried.

MOTION: Mr. Tami/Mr. Foley moved to support AB 645.

VOTE: 7-0, motion carried.

MOTION: Mr. Tami/Mr. Foley moved to support AB 645.

VOTE: 6-1, motion carried; Mr. Foley voted nay.

ACTION ITEMS – JULY 23, 2009, BOARD MEETING

Acceptance of Credential Evaluations by the Center for Professional Engineering Education Services:

The Board directed staff to further research this matter and work with Legal to determine what would need to be done to accept credentials evaluation by the Center and to present this to the Board at a future meeting.

National Candidate ID:

Mr. Donelson will continue working with NCEES and DCA to ensure that the computer programming that must be done to accomplish this is completed by the October 2010 deadline.

On-Line Renewals/Credit Card Renewals:

Mr. Donelson will continue to work with DCA in trying to determine what steps the Board needs to take so that we can start the process of being able to accept payments by credit cards.

Submittal of Take Home Examination:

Ms. Brown will provide a report, including possible statutory language, at a future Board meeting.

Legislation:

Ms. Arnold will continue to work on the issues relating to legislation to allow the Board to administer the 16-hour NCEES Structural Engineer examination and to separate the examination and application fees.

Rulemaking Proposals:

Staff will review the comments received on the three rulemaking proposals (Approved Curricula, Waiver of Fundamentals, and References) and present recommendations to the Board at the September meeting.

Requirements for References for Applicants for Licensure:

Ms. Hirano is looking into what other states require of references for applicants and will present the information at a future meeting.

Amendments to Business and Professions Code sections 6755 and 8741 regarding Exemptions from the Engineer-in-Training (EIT) and Land Surveyor-in-Training (LSIT) Examinations [First Division Examinations]:

Mr. Tami will obtain input from the professions regarding this issue. Ms. Christ and Mr. Moore will review the LSIT and EIT examinations and look at what other states do require. Reports will be provided at future meetings.

TAC Appointments:

The Board member and staff liaisons to each TAC will review the memberships and determine if appointments need to be made.

NCEES Examination Fee Pass Through and Examination Administration

Mr. Tami suggested exam applicants pay all fees to NCEES and the funds required for the Board's operations then be transferred back to the Board from NCEES. Board staff will determine if this suggestion is possible and report at the next Board meeting.