

MINUTES OF THE MEETING OF THE BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS
 2535 Capitol Oaks Drive, Third Floor Conference Room
 Sacramento, CA 95833

July 31- August 1, 2014
Beginning at 9:00 a.m.

Thursday, July 31, 2014

Board Members Present:	Kathy Jones Irish, President; Robert Stockton, Vice President; Asha Brooks; Diane Hamwi; Eric Johnson; Coby King; Mohammad Qureshi; Karen Roberts; Ray Satorre; Jerry Silva; Patrick Tami and Erik Zinn
Board Members Absent:	Natalie Alavi; Philip Quartararo; Hong Beom Rhee
Board Staff Present:	Ric Moore (Executive Officer); Nancy Eissler (Enforcement Manager); Celina Calderone (Board Liaison); Jeff Alameida (Budget Analyst); Larry Kereszt (Examinations Manager); Susan Christ (Registrar); Michael Donelson (Registrar); Ray Mathe (Registrar); and Gary Duke (Legal Counsel).

I. Roll Call to Establish a Quorum

The meeting was called to order by President Jones Irish at 9:03 a.m. Roll call was taken, and a quorum was established.

9:03 a.m. Mr. Satorre arrived.

II. Public Comment

Charles Greenlaw, SE, asked to speak on the rulemaking item when it comes up for discussion.

Thor Mateson, SE, expressed his frustration with the outcome of a case. He said he had considered submitting another complaint but was warned it would further delay the process another year. Mr. Duke noted the Board cannot do anything if a complaint is not submitted. Mr. Duke advised that, even though the case is now closed, it does not preclude the Board from taking additional action based on new complaints, and he strongly encouraged Mr. Mateson to file a complaint. Mr. Mateson stated that, because of his prior experience and the amount of time spent on the previous complaint, he was not interested in going through the process again. President Jones Irish urged Mr. Mateson to follow the formal complaint process.

Craig Rhodes, TE; representing Traffic Management Inc., explained that several employees applied for a civil engineering license but were denied because their work experience does not constitute civil engineering. Mr. Rhodes admitted to

some confusion with the description of work. He would like to provide more information to the Board to help alleviate the situation.

Ms. Christ clarified that the Board does not license companies and only refers to the company's website to clarify the description of work.

Mr. Moore suggested meeting with applicants and references to discuss distinctions and ensure clarity.

Mr. Rhodes explained problems with the narrow definition of traffic engineering. He feels it makes a small defined space and creates a second class engineer.

Mr. Moore recommended discussing the issue in depth with the Civil Technical Advisory Committee (TAC) and with Dr. Qureshi, TE.

III. Legislation

A. Discussion of Legislation for 2014

AB 186 Maienschein. Professions and vocations: military spouses: temporary licenses. This bill would authorize a board within DCA to issue a temporary license for 12 months to an applicant who meets certain requirements.

STATUS: Introduced 1/28/13. Last amended 6/25/14. Passed Assembly on 5/29/13. Passed Senate Business, Professions, and Economic Development Committee on 6/17/14. Passed Senate Appropriations on 6/30/14. Ordered to third reading on 7/1/14.

BOARD POSITION: Watch on 6/6/14.

AB 1702 Maienschein. Professions and vocations: incarceration. This bill would provide an individual who has satisfied the requirements needed to obtain a license while incarcerated, who upon release from incarceration, shall not be subject to a delay in processing the application or a denial of the license solely based on the prior incarceration, except when the incarceration was for a crime substantially related to the qualifications, functions, or duties of the business or profession.

STATUS: Introduced 2/13/14. Last amended 4/23/14. Passed Assembly on 5/15/14. Passed Senate B., P. & E.D. on 5/22/14. Passed Senate APPR. on 6/30/14. Ordered to third reading on 7/1/14.

BOARD POSITION: Watch on 4/24/14.

AB 2396 Bonta. Convictions: Expungement: licenses. This bill would prohibit boards within the Department of Consumer Affairs (DCA) from denying a professional license based solely on a criminal conviction that has been withdrawn, set aside or dismissed by the court.

STATUS: Introduced 2/20/14. Last Amended 5/15/14. Passed Assembly on 5/23/14. Passed Senate B., P. & E.D. on 6/24/14. Referred to Senate APPR. on 6/24/14.

BOARD POSITION: Opposed on 6/6/14. Currently, DCA is reviewing but does not have a formal position yet.

SB 1467 Committee on Business, Professions, and Economic Development. Professions and vocations. This is one of the Committee's omnibus bills. Removes petroleum geology qualifications as the Board does not have regulations to certify petroleum geologists. Adds petition for reinstatement language to mirror PE and LS Act. Incorporates cross-references to Education Code and Health and Safety Code sections. Adds language to specify monument preservation requirements. Requires an authorized land surveyor be designated as the person in responsible charge of professional land surveying work practiced in any public agency. STATUS: Introduced 3/25/14. Last amended 6/16/14. Passed Senate on 5/15/14. Passed Assembly Business, Professions, and Consumer Protection on 6/24/14. Referred to Assembly APPR. on 6/24/14. BOARD POSITION: Support on 4/24/14.

Don Schinske, representing SEAOC, explained the design of hospitals and schools in California is an authority reserved for structural engineers. Mr. Schinske explained that when the language was first brought forward he felt that it should be incorporated into the PE Act for clarity.

Mr. Moore reported there are some issues with a section in the LS Act, specifically 8771, which discusses monument conservation. CLSA amended language into the omnibus bill to clarify 8771 and also included a portion into the PE Act. Mr. Moore recommended that the Board maintain its support position.

B. Legislative Committee Workgroup

Mr. Moore suggested two Board Members serve as liaisons with staff on legislative matters in the form of a workgroup, as defined in Board Operating Procedure 3.1.2. Mr. Stockton and Mr. King volunteered.

Mr. Duke added that SB 1243 was significantly amended to include many provisions affecting all Boards and Bureaus within DCA with how services are provided. It is set for hearing in the Appropriations Committee on August 6, 2014. Ms. Eissler noted that it is considered a Senate Business, Professions and Economic Development Committee bill as it involves the Sunset of the Veterinary Board. Through the Sunset Process, provisions are included that would amend general sections of the Business and Professions Code that affect all boards as well as the specific sections for the board that is under Sunset review.

IV. Consideration of Rulemaking Proposals

- A. Possible Adoption of Proposed Amendments to Title 16, California Code of Regulations sections 416 and 3060 (Substantial Relationship Criteria)

Mr. Moore reported that a hearing was held July 18, 2014. Staff continues to analyze the public comments with Mr. Duke. He anticipates presenting it to the Board for continued action at the September Board meeting.

Mr. Greenlaw, representing himself, provided his concerns with the proposed language. Mr. Satorre requested that Mr. Greenlaw provide examples to illustrate his concerns; Mr. Greenlaw refused to do so. President Jones Irish questioned whether Mr. Greenlaw had presented his comments as part of the rulemaking process; Mr. Greenlaw indicated that he had testified at the hearing and submitted written comments. Mr. Duke clarified that the comments Mr. Greenlaw had submitted during the rulemaking process would be considered and addressed as part of the official rulemaking file but that Mr. Greenlaw's comments at today's meeting are not considered part of the official rulemaking file. Mr. Greenlaw agreed that he understood that.

V. Administration

A. FY 2013/14 Budget Overview

Mr. Alameida provided an update on the Board's funds. He is waiting for the final reports for Fiscal Year 2013-14. This information will be available at the September Board meeting and will include what will be introduced for Fiscal Year 2014-15 in terms of appropriation and revenue.

Mr. Alameida also discussed the general fund loan and repayments.

B. Fund Solvency Proposals

Mr. Alameida reported the Board has been discussing merging the Professional Engineer's and Land Surveyor's Fund with the Geology and Geophysics Account in an effort to become an integrated program in both name and funding. He presented three scenarios that illustrated the combination of the two programs, potential fund balance, and projections.

He pointed out that the Board would need to address fee structures and possibly employ a temporary fee reduction, such as the renewal fees, if the Board received General Fund loan repayment.

C. Outreach Calendar

Mr. Alameida presented the outreach calendar to the Board where he identified new outreach opportunities. He encouraged the Board members to contact the Board's outreach coordinator, Brooke Phayer, if they had any ideas which could be beneficial to licensure.

Mr. Moore noted that in an effort to justify travel, every attempt is made to combine outreach travel.

Mr. Tami would like an additional column to reflect the Board member who would provide outreach to highlight Board member participation.

Mr. Stockton would like a more focused approach with colleges and universities to discuss licensure. He suggested contacting Board members that would be willing to go to schools within their geographical area.

Dr. Qureshi indicated that he is an officer for his local ITE Chapter and believes there is an opportunity to make presentations during one of their meetings. Mr. Zinn and Mr. Moore indicated they have presentations they would be able share. Mr. Zinn noted there is a geological session to add to the calendar for December.

Mr. Moore reminded Board members and staff that all outreach must be approved prior to attending such events.

Mr. Donelson reported that he provided outreach to Camp Pendleton in coordination with the Society of American Military Engineers. During this trip, he also met with deans from San Diego State, UC San Diego, and the University of San Diego to discuss the Fundamentals of Engineering examination and EIT certification process and reminded them to disseminate the information to the professors.

VI. Enforcement

A. Enforcement Statistical Reports

Ms. Eissler reported on the enforcement statistics for the entire fiscal year. A new chart was added per Ms. Alavi's request outlining the number of complaint investigations completed based on the fiscal year in which the investigation was opened.

Several Board members indicated that there are too many graphs and suggested reducing them. Ms. Hamwi indicated that the positive progress related to the reduction of old cases is really showcased. President Jones Irish requested that staff and Board members provide suggestions at the next meeting regarding what graphs should be included and what ones do not need to be included.

VII. Executive Officer's Report

A. Strategic Plan

Mr. Moore reviewed the Strategic Plan with the Board members and discussed amendments.

MOTION: Mr. Silva and Mr. Satorre moved to adopt the Strategic Plan with the amendments as discussed.

VOTE: 12-0, motion passed

Mr. Moore suggested the Board review the Strategic Plan in late fall/early winter and a more detailed report be provided twice a year to show progress. Mr. Stockton suggested having a report included in the agenda materials for every Board meeting. Mr. King agreed with Mr. Stockton but would like a more detailed report twice a year. He explained he would like a report from staff at every Board meeting on the achievements and a report twice a year to provide an opportunity to make changes to the Strategic Plan.

B. Sunset Report

Mr. Moore identified two sections within the Board's Sunset Report that represent opportunities for the Board to identify issues and present them to the Legislature. The first, Section 10, is in reference to the Geophysicist licensure, which is carry over item from the 2010 Sunset Report.

Section 11 provides an opportunity for the Board to inform the Legislature with new issues facing the Board along with suggestions on how to address those issues. Items identified by staff for inclusion within the Sunset Report included:

1. Merge the Geologist and Geophysicist Account with the Professional Engineer's and Land Surveyor's Fund
2. Exam Development –Emphasize what is being done with exam development for computer based testing (CBT).
3. Certificate of Authorization – Research Certifications of Authorization and other methods of registering businesses and public agencies to ensure appropriately licensed individuals are in responsible charge of the professional services provided.
4. Renewal Fee –Ms. Eissler explained this is clean-up. In the PE and PLS Acts, it says the Board shall set the renewal fee at not more than the application fee in effect at the time whereas in the Geologist and Geophysicist Act it says the Board shall set the renewal fee at not more than \$400. The problem exists when changes are made to the application fee, changes to the renewal fee may have to occur as well, which could lead to a situation where the renewal fee would have to be lowered and then the Board could not sustain itself operationally. The language needs to change so that the renewal fee is not dependent on the application fee.
5. Delinquent Reinstatements –Ms. Eissler explained that the language in the Geologist and Geophysicist Act specifies the number of years in which a licensee can just pay renewal and delinquency fees before they must re-test in order to reinstate an expired/delinquent license. It

requires them to re-test rather than going through the process currently in effect for professional engineers and land surveyors to demonstrate that they are still technically competent to practice. There has always been concern by the Board and the staff about whether delinquent professional engineers and land surveyors have sufficiently demonstrated to the Board's satisfaction that they are still competent to practice. She suggested reviewing the language in the Geologist and Geophysicist Act to determine if it should be used to replace the language in the PE and PLS Acts so that the process will be more consistent and so that the Board is assured that the person is currently competent to practice upon reinstatement of the delinquent license.

6. California Laws and Board Rules Exam – Mr. Moore recommended adding a requirement to test geologist and geophysicist applicants' understanding of laws and regulations, as is already done for professional engineer and land surveyor applicants.. In addition, he suggested requiring an examination on the laws and regulations as a condition for renewal to ensure licensees are maintaining and updating their knowledge of the laws and regulations. He indicated that many enforcement cases are caused because changes to the laws are ignored.
7. Arrangements with outside organization to conduct exams – Change language for Geologists and Geophysicists Act to include the language already in the PE and PLS Acts.
8. Out of State Travel (OST)
9. Business and Professions Code Section 27 (Address of Record, email address, etc.)

Mr. Moore indicated that he had briefly discussed the above items with G.V. Ayers, the Consultant to the Senate Business, Professions, and Economic Development Committee, and Mr. Ayers was receptive to considering the issues during the Sunset Review process. Mr. Moore advised that a few additional items had been brought up since that discussion, including researching the possibility of enacting an inactive status, clean-up to Business and Professions Code section 8771, and SEAOC's definition of significant structures.

In addition to Mr. Moore and Ms. Eissler, President Kathy Jones Irish, and Vice-President Robert Stockton will be part of the subcommittee to represent the Board during the Sunset hearings.

C. Personnel

Mr. Moore introduced Linda Liu as the Board's new receptionist. Mr. Kereszt reported Christina Trujillo was promoted to examination analyst. Mr. Moore added that Angela Smith was hired as an enforcement analyst. Mr. Alameida reported that Kara Kellycheek was hired as the new budget/legislative analyst.

Mr. Moore provided an update on the amendments to the Senior Registrar classification specifications. The proposal is scheduled for the State Personnel Board's September meeting.

D. Discussion on Customer/licensee Service Procedures

Mr. Zinn requested feedback from Board members of what they consider a reasonable amount of time to return calls. Mr. Moore indicated that the Board office policy is that calls are to be returned by the next business day. Mr. Tami added that if further research is required in order to respond to the inquiry, a reasonable timeframe should be provided, and follow-up should be done within that timeframe.

E. Electronic Agenda Delivery Discussion

Mr. Moore indicated that he and Mr. Duke discussed the use of electronic tablets for the purpose of providing the agenda. Mr. Duke reported that he does not have a problem with it as long as every measure is taken to avoid external communication, it is noticed on the agenda, and a hard copy is provided for the public.

President Jones Irish would like recommendations at the September meeting on how to proceed.

F. Board Member Travel

Mr. Moore reported that several Board members inquired about using lower airfare rates through Southwest. Christine Lally, Deputy Director of Board & Bureau Relations, indicated that it was fine as a cost savings measure. Mr. Eissler explained that any flight credits earned from cancelled trips on non-refundable fares could not be used for personal travel since the fare had already been paid for by the State.

VIII. Exams/Licensing

A. Spring 2014 Structural Examination Results

Mr. Kereszt reviewed the statistics for the spring 2014 examination results. He reported that the structural results are considerably lower than they have been previously.

B. 2014 EIT/LSIT Exam Results

Mr. Kereszt reported that there was a slow start during the January/February examination window when there were 306 candidates, but during the April/May examination window, there were 1,198 candidates.

Mr. Kereszt will provide updates after each examination window and, in addition, provide National statistics.

The Board recessed at 4:07 p.m.

Friday, August 1, 2014

Board Members Present:	Kathy Jones Irish, President; Robert Stockton, Vice President; Asha Brooks; Diane Hamwi; Eric Johnson; Coby King; Mohammad Qureshi; Karen Roberts; Ray Satorre; Jerry Silva; Patrick Tami and Erik Zinn
Board Members Absent:	Natalie Alavi; Philip Quartararo; Hong Beom Rhee
Board Staff Present:	Ric Moore (Executive Officer); Nancy Eissler (Enforcement Manager); Celina Calderone (Board Liaison); Larry Kereszt (Examinations Manager); Susan Christ (Registrar); Michael Donelson (Registrar); Ray Mathe (Registrar); and Gary Duke (Legal Counsel).

I. Roll Call to Establish a Quorum

The meeting was called to order by President Jones Irish at 9:02 a.m. Roll call was taken, and a quorum was established.

IX. Approval of Delinquent Reinstatements

MOTION: Mr. Satorre and Dr. Qureshi moved to approve the reinstatement.

VOTE: 12-0, Motion Passed.

X. Local Agency Authority Pertaining to PE, PLS, and Geologist Act

Mr. Zinn reported that Santa Cruz County is one of many counties that require licensing that may be contradictory to the Board's laws. Mr. Duke explained that the only legal issue is the supremacy of state law over local law. Mr. Duke's opinion is that, by law, they are not authorized to do so, but it is difficult to enforce. He will have a report at the next meeting.

XI. Technical Advisory Committees (TACs)

A. Board Assignments to TACs

B. Appointment of TAC Members

MOTION: Dr. Qureshi and Mr. Satorre moved to re-appoint Gary Simpson and Hugh Robertson to the Geologist and Geophysicist TAC.

VOTE: 12-0, motion passed.

C. Reports from the TACs

XII. Liaison Reports

A. ASBOG

Mr. Moore reported that he had been in communication with the director of ASBOG to determine if they would be willing to allow candidates, if statutes were revised, to pay ASBOG directly for the examination. They indicated that is something they currently do with other states, but the Board would still have to administer the examinations.

B. ABET

Mr. Moore indicated that requests and assignments for the ABET visits have been made and are awaiting approval from ABET of the observers to attend.

C. NCEES

1. Summary of Upcoming Motions at Annual Meeting

Mr. Moore reported that the Board received approval for travel and advised that several Board members and staff would be attending the Annual Meeting. He outlined what will take place, what to expect, and reported on the motions.

One of the motions made was by the State of Oklahoma that pertained to MLE (Model Law Engineer) 2020. So far, no schools or member boards have enacted the provisions of the Model Law that require additional education credits beyond a baccalaureate degree for licensure. The recommended motion is to remove the provisions from the Model Law and place them in an NCEES policy statement instead.

MOTION: Mr. Tami and Mr. Stockton moved to support the motion made by the Oklahoma Board.

VOTE 12-0, motion passed.

MOTION: Dr. Qureshi and Mr. Stockton moved to support the UPLG (Uniformed Procedures and Legislative Guidelines) substitute motion to un-couple the education/experience requirements and the examination requirements on basis that California is already considered an early admission state.

VOTE: 12-0, motion passed.

MOTION: Mr. Tami and Mr. Stockton moved to take an oppose position on the proposal to amend the Model Law definition of engineering since it would allow all professional engineers to perform incidental surveys.

VOTE: 12-0, motion passed.

MOTION: Mr. Tami and Mr. Stockton moved to take an oppose position on the EPS (Examinations for Professional Surveyors) motion to reflect the BS degree requirement for surveying and alignment to the content and qualifications of exams and exam preparers with model laws and rules because there are many other degree programs for surveying besides those that award a BS degree and many colleges and universities are no longer offering a BS degree.

VOTE: 12-0, motion passed.

Mr. King would like a report at the next meeting of what took place at the Annual Meeting.

D. Technical and Professional Societies

Mr. Mathe reported that he and Mr. Moore attended several review classes for the land surveyor examination. While they do not provide content, they review the test plan based on the occupational analysis. He reported that the California Land Surveyors Association (CLSA) has asked him to provide an interactive webinar on September 10, 2014, to assist candidates in preparing to acquire the correct education and experience.

10:30 Mr. Silva left the meeting.

XIII. President's Report/Board Member Activities

President Jones Irish thanked all who have offered encouragement and appreciates the support.

Dr. Qureshi reported he was appointed as Secretary Treasurer of the Riverside/San Bernardino ITE Chapter.

Mr. Johnson reported that he is on the Hospital Building Safety Board for OSHPD. He has been tasked as a chairperson of the sub-committee of advanced technologies and the impact it has to healthcare in California.

Dr. Qureshi added that he also serves the ASCE transportation and development group.

Mr. Stockton reported that he is running for Western Municipal Water District in Western Riverside County.

XIV. Approval of Consent Items

(These items are before the Board for consent and will be approved with a single motion. 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 June 5-6, 2014 Board Meeting

MOTION: Mr. King and Dr. Qureshi moved to approve minutes.

VOTE: 11-0, motion passed.

XV. Other Items Not Requiring Board Action

Mr. Zinn requested an explanation of how the Building Standards Commission and the committees are being tracked. Mr. Moore indicated that currently tracking is not done but would like to assign it to the TAC members.

Ms. Eissler announced there may be a petition hearing at next Board meeting.

Mr. Moore indicated that DCA has offered their services to webcast board meetings in their hearing rooms. These webcasts would not be interactive with the public.

Mr. Tami inquired if the Board has ever considered having a regional office in Southern California. Mr. Moore indicated that several Boards and Bureaus have succeeded in opening additional offices, but this Board has not explored it in recent years. He will research and provide information at the next meeting.

XVI. 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. Civil Litigation

1. Dennis William McCreary vs. Board for Professional Engineers, Land Surveyors, and Geologists, Sierra County Superior Court Case No. 7361
2. Thomas Lutge v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, Court of Appeal, Third Appellate District, Case No. C075779 (Sacramento Superior Court Case No. 34-2012-80001329-CU-WM-GDS)
3. Ruvn Grutman v. Board for Professional Engineers, Land Surveyors, and Geologists, Los Angeles Superior Court Case No. BS145675
4. Ruvn Grutman v. Board for Professional Engineers, Land Surveyors, and Geologists, Los Angeles Superior Court Case No. BS145796
5. Sassan Salehipour v. Board for Professional Engineers, Land Surveyors, and Geologists, Los Angeles County Superior Court Case No. BS146185

12:00 p.m. Ms. Karen Roberts left the meeting.

XVII. Open Session to Announce the Results of Closed Session

Ms. Eissler announced that, during closed session, the Board discussed examination procedures and the civil litigation as noticed and took action on a petition for reconsideration, five stipulations, and five default decisions.

XVIII. Adjourn

The meeting adjourned at 12:30 p.m.

PUBLIC PRESENT

Steve Hao, CalTrans
 Roger Hanlin, CLSA
 Kelly Garman, ACEC
 Craig Rhodes, Traffic Management, Inc.
 Don Schinske, SEAOC
 Charles O. Greenlaw, S.E.