

MINUTES OF THE MEETING OF THE BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

Department of General Services
3737 Main Street, Highgrove Room
Riverside, CA 95404

November 13, 2014
Thursday, November 13, 2014, beginning at 10:00 a.m.

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

I. Roll Call to Establish a Quorum

President Jones Irish called the meeting to order; roll call was taken; and a quorum was established.

II. Public Comment

Mark Norton, representing the American Society of Civil Engineers, (ASCE) Region 9 indicated they are lending support for the Board’s efforts to continue to maintain a high standard of engineering education. He also informed the Board of a policy passed by ASCE known as the Body of Knowledge. Mr. Norton noted they also produce a newsletter that may serve as a voice for the Board. Ms. Jones Irish appreciated his outreach efforts.

Ms. Brooks arrived at 10:08 a.m.

Roger Hanlin, P.L.S. representing CLSA indicated they are in opposition of the Proposed Amendments to Title 16, California Code of Regulations Sections 416 and 3060 (Substantial Relationship Criteria) as brought forward in the agenda.

Mr. Duke explained the 15-day notice process if the Board should decide to accept the new language. This would be the formal time to comment on the new language. The comments would be directed towards the amendments to the language.

III. Legislation

A. Legislative Calendar

Mr. Alameida presented the legislative calendar and introduced important dates for January 2015 when statutes take effect, when the legislature reconvenes, and when the budget bill is submitted to the Governor.

B. Chaptered Legislation:

AB 186 Professions and vocations: military spouses: temporary licenses

STATUS: Changed position to watch. The Board will look into this in the future.

AB 1702 Professions and vocations: incarceration

STATUS: Introduced in February; Chaptered effective January 1.

AB 2396 Convictions: expungement: licenses

STATUS: Chaptered by Secretary of State

SB 1467 Professions and vocations

STATUS: Chaptered. Effective January 1

IV. Consideration of Rulemaking Proposals

Mr. Moore provided an update regarding the proposal to amend Title 16, California Code of Regulations Section 3005, which consisted of establishing a fee for retired status for geologists and geophysicists to mimic those of the engineers and surveyors. It was approved and will become effective January 1, 2015.

A. Request from CalGeo to Amend Title 16, California Code of Regulations Section 461 (Testing Laboratory Reports)

Mr. Moore reported that at the Board's direction, a joint TAC meeting was held October 29, 2014 in San Bernardino. He reported that it was a group consensus that the biggest aspect was education and outreach. Several TAC members agreed to prepare an article for inclusion in the next Board Bulletin to address this in more detail. CalGeo offered assistance.

B. Proposed Amendments to Title 16, California Code of Regulations Sections 416 and 3060 (Substantial Relationship Criteria)

Ms. Eissler reported that this proposal is to amend the substantial relationship criteria that the Board will use to determine if an act or crime is substantially related to the qualifications, functions, and duties of the profession when considering whether to deny issuing a license or to seek disciplinary action against a license based on the crime or act. The Board

discussed this issue in detail at prior meetings and directed staff to develop language to amend the regulations to include more items to give applicants and licensees a better understanding of what would be considered. The language, as previously approved by the Board, was noticed for public comment as required by the rulemaking process. Based on the comments received during the noticed public comment period, staff is recommending a change to the language as originally noticed.

Ms. Eissler noted the change would be to remove the phrase *Crimes and acts* and replace it with *A conviction of a crime* in one of the subdivisions. She further explained that staff recommends that no other changes be made.

Mr. Duke added that if the Board were to make this change, the changes would be noticed for an official 15-day comment period, and any comments directed at the specific changes that are received during that official comment period would be considered as well. He advised that the final language would be presented to the Board, along with any additional comments received. He also explained that the Office of Administrative Law reviews all comments and the Board's official response as part of the overall rulemaking file review process.

MOTION: Mr. Tami and Ms. Alavi moved to approve the modified text on pages 23-24 and direct staff to move forward with the 15-day public comment period.

During public comment, David Woolley expressed his concerns with the overall amendments proposed to be made.

Mr. Satorre moved to amend the motion.

Mr. Satorre withdrew his motion to amend the original motion.

VOTE: 9-0, Motion passed.

Mr. Duke noted that, based on changes to the Bagley-Keene Open Meeting Act that will become effective January 1, 2015, voting will need to be established with a roll call vote.

V. Administration

A. FY 2014/15 Budget Summary

Mr. Alameida reported on the 2014/15 Budget Overview. He indicated that expenditures within the PELS fund have decreased by \$20,000 as a result of decreased contracts for civil exam development. Revenue is down as a result of applications and renewals.

Contract expenditures have increased with the national exam within the Geology fund. Revenue has increased as a result of the applications and renewals. The budget allotment is \$1.39 million. Surplus deficit is \$327,000 and revenue to year-end \$1.06 million.

He noted that the proposal in the Sunset Report to potentially merge the two funds will be discussed at the legislative hearings.

Mr. Alameida summarized that there would be an insolvency in Fiscal Year 2016-17 as a result of changes to revenue with the Geology fund.

He reported that regulatory fee changes were discussed at the last meeting to have them become effective in Fiscal Year 2016-17 to prevent any insolvency issues.

VI. Enforcement

A. Enforcement Statistical Reports

Ms. Eissler reported that at the last several meetings, the Board discussed reducing the number of statistical charts that are included in the meeting materials, possibly having the full report once or twice per year and having a reduced amount at the rest of the meetings. For this meeting, she included the charts that she determined were the most pertinent including the number of investigations that are opened and completed each month, the number of open pending cases at the end of the fiscal year and month, the average aging days of open to completion of the investigation, the breakdown of aging of open cases, and the overview of the outcome of the completed investigations.

She removed the statistics that describe the alleged violations when the complaint is opened, the area of practice of the subject, the source of the complaint, and the more specific breakdown of the completed investigations that are closed without referral. She recommended the full report be provided at the first Board meeting after the end of the fiscal year.

Ms. Eissler advised that all of the statistics would continue to be maintained since they are used for other purposes, such as reports to DCA and the Legislature and for internal workload monitoring. She indicated that the reports would be available throughout the year upon request.

The Board agreed with these changes to the reporting of enforcement statistics at Board meetings.

B. Disclosure of Complaints and Enforcement Actions

Ms. Eissler reviewed the Board's disclosure policy and discussed what would be an appropriate time to publicize citations and accusations. She clarified that in consideration of this item, changes in the disclosure policy

relating to how long information is maintained on the Board's website be brought about on the next agenda. Mr. Tami volunteered to work with staff. Mr. Duke would like to be involved as well.

VII. Executive Officer's Report

A. Strategic Plan

Mr. Moore reported that the individual staff units have met to review the new Strategic Plan and have brought forth recommendations. An all-staff meeting is being organized to discuss these recommendations with the plan to present them at the next Board meeting for consideration as priorities for the first year's implementation.

B. Sunset Report

Mr. Moore reported that Board Staff worked very hard on the Sunset Report. He added that they were hand delivered to the legislative committees by Mr. Alameida. He advised that there had been some general concerns expressed by DCA as to whether the boards had specifically approved the reports that were submitted. He reminded the Board that the report covers historical information regarding the Board's operations as well as addressing new issues; the Board discussed and approved the new issues to be included at its July meeting. He also noted that the Board had appointed President Jones Irish and Vice President Stockton to work with staff to review and approve the reports. However, for clarity, he recommended that the Board take formal action to approve the 2014 Sunset Review Report.

MOTION: Mr. Tami and Ms. Brooks moved to approve the 2014 Sunset Review Report.

During public comment, Bob DeWitt, representing ACEC, asked for notification of when the hearing would take place.

Ms. Eissler indicated that the report is available on the Board's website.

VOTE: 9-0, motion passed.

C. Personnel

Mr. Moore reported that the Board is currently interviewing for additional staff to assist in both examinations and licensing. Both Mr. Alameida and Candace Cummins, the Board's Personnel Liaison Analyst, have been working with DCA to hire Permanent Intermittent (PI) employees.

Interviews will take place in the next few weeks to fill the vacant Enforcement Manager position.

Ray Mathe is no longer working for the Board. He is currently working with the Coachella Valley Water District. Mr. Satorre directed staff to compose a letter of commendation for Mr. Mathe.

D. BreEZe Update

Mr. Moore reported that DCA's efforts on BreEZe are focused on the design and implementation dates for Release II boards. There is also an audit currently underway to be completed by February 2015.

VIII. Exams/Licensing

A. Fall 2014 Examination Update

Mr. Moore reported that the national examinations were conducted without incident. The state examinations were also completed, and we are starting to receive preliminary analyses of candidate performance. Comments from candidates are currently being reviewed.

IX. Approval of Delinquent Reinstatements

No report given.

XIII. Approval of Consent Items

A. Approval of the Minutes of the September 25, 2014, Board Meeting

MOTION: Mr. Satorre and Mr. Silva moved to approve minutes.

VOTE: 9-0, motion passed

X. Technical Advisory Committees (TACs)

A. Board Assignments to TACs

No report given.

B. Appointment of TAC Members

No report given.

C. Reports from the TACs

Mr. Moore reported on the Joint TAC meeting that took place October 29 in San Bernardino. Topics included the CalGEO request and the Department of Water Resources guidelines on preparation of underground water management plans. These items were reviewed by the TACs. Dr. Qureshi indicated that it was suggested that the Board prepare a letter to send to the State agency that prepares the guidelines recommending that, while the overall document may not be an engineering document, there were portions of it that relied on engineering work and that the guidelines should clarify which sections should be supported by engineering work and should be properly signed and sealed.

Mr. Moore also added that they discussed traffic engineering and how it relates to civil engineering. Dr. Qureshi explained that during the discussion, a consensus was reached by the end that there are elements that are

currently considered traffic engineering experience and work that do overlap with the definition of civil engineering work. Dr. Qureshi indicated that it was suggested by Mr. Moore to prepare regulations similar to land surveying and civil engineering where it is defined where the overlap boundary occurs.

XI. Liaison Reports

A. ASBOG

Mr. Moore reported that Mr. Zinn is currently at the ASBOG meeting. A report will be provided at the next Board meeting.

B. ABET

Mr. Donelson attended a visit as a Board observer for an institution that was recently awarded ABET status for electrical and mechanical courses.

Mr. Silva is concerned with the Board's outreach. He believes there are better methods and more opportunities for outreach efforts. President Jones Irish indicated that she and Mr. Silva will collaborate and come up with new ideas. Ms. Brooks added that she would like to participate.

C. NCEES

Mr. Moore reported that the Board Presidents Assembly is scheduled for February 6-7, 2015 in Atlanta, GA. Both President Jones Irish and Mr. Moore will attend. Mr. Tami added that the Board of Directors may be in attendance. He reported that there has been a decline in the number of individuals taking the Fundamentals of Engineering examination since the change to CBT with four exam windows during the calendar year. NCEES may go to one big window from January 1 through December 31. They believe that most of the closed times are during breaks when students may be more inclined to take the exams. Their motivation is to remove any impediments. He added that exam subversion has dropped dramatically since the examinations have gone computer based.

D. Technical and Professional Societies

Mr. Moore reported that past Board member, Carl Josephson, is still doing outreach. Ms. Roberts also attended and presented to a group of immigrant engineers in San Diego led by an individual who conducts a course to prepare them for the Fundamentals of Engineering examination.

Mr. Moore and Ms. Eissler attended the North County Civil Engineers and Land Surveyors Association in Escondido, CA.

During public comment, Mr. Woolley commended staff for their continued outreach efforts. Mr. Hanlin reported that the Riverside/San Bernardino CLSA Chapter meeting will take place November 13, 2014.

Mr. Woolley added that he wanted to make the Board aware of the Millennium Project in Los Angeles.

XIV. 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. Ruvyn Grutman v. Board for Professional Engineers, Land Surveyors, and Geologists, Los Angeles Superior Court Case No. BS145675
4. Ruvyn 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
6. Paul Christopher Ehe v. Board for Professional Engineers, Land Surveyors, and Geologists, San Bernardino Superior Court, Case No. CIVDS1413253

XVI. Open Session to Announce the Results of Closed Session

Ms. Criswell reported that during Closed Session the Board took action on three stipulations, one default decision, and two proposed decisions. In addition, they discussed pending litigation as noticed.

XII. President's Report/Board Member Activities

President Jones Irish reported that she was involved in a DCA teleconference meeting regarding the BreEZe system and the anticipated rollout. There are a number of issues still being resolved. There is much work that needs to be done.

Mr. Moore reported that in addition to BreEZe, travel requests, BCP's, and legislation that would affect DCA were discussed during the meeting. They also discussed legal issues, the Bagley-Keene Open Meeting Act, and subpoena training. They also announced that the Form 700 will be available electronically.

XIV. Other Items Not Requiring Board Action

A. 2015 Board Meeting Schedule

Ms. Calderone presented the 2015 Board meeting calendar. The Board discussed the proposed Board meeting dates and due to a scheduling conflict, the only amendment was to move up the February 5-6 meeting to January 26-27, 2015.

XV. Adjourn

The meeting adjourned at 3:08

PUBLIC PRESENT

Roger Hanlin, P.L.S., CLSA

Mark Norton, P.E.

Kurt Hogan

Jay Seymour, CLSA

Talia Cortese, CPIL-USD

Bob DeWitt, ACEC