

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

City of Calabasas, Founders Hall
200 Civic Center Way
Calabasas, CA 91302

April 11, 2019

Board Members Present: Mohammad Qureshi, President; Fel Amistad, Vice President; Natalie Alavi; Alireza Asgari; Duane Friel; Eric Johnson; Coby King; Betsy Mathieson; Jerry Silva; Robert Stockton; and Steve Wilson

Board Members Absent: Andrew Hamilton; Kathy Jones Irish; Asha Lang; Frank Ruffino

Board Staff Present: Nancy Eissler (Assistant Executive Officer); Tiffany Criswell (Enforcement Manager); Celina Calderone (Board Liaison); Jeff Alameida (Administrative Manager); Dallas Sweeney (Senior Registrar); Reza Pejuhesh (Legal Counsel); and Michael Santiago (Legal Counsel)

I. Roll Call to Establish a Quorum

The meeting was called to order at 9:00 a.m., and a quorum was established.

Mr. Friel arrived at 9:03 a.m.

II. Pledge of Allegiance

Mr. Wilson led everyone in the recitation of the Pledge of Allegiance.

III. Public Comment for Items Not on the Agenda

Mr. King introduced Fred Gaines, Councilman with the City of Calabasas. Mr. Gaines welcomed the Board and provided a brief history of the Civic Center complex which is now ten years old. He noted that the steel rebar used in the Council Chambers came from Project Isaiah which used melted guns confiscated by law enforcement.

Hugh Robertson, representing the Association of Engineering Geologists, appreciates having the Board meetings throughout California as it makes it convenient for the public to attend.

IV. Hearing on the Petition for Reinstatement of the Revoked License of Jeffrey Canfield

This hearing was held on Thursday, April 11, 2019.

- XV. Closed Session – The Board met in Closed Session to discuss, as needed:**
- A. Personnel Matters [Pursuant to Government Code sections 11126(a) and (b)]
 - 1. Executive Officer Performance Evaluation
 - B. Examination Procedures and Results [Pursuant to Government Code section 11126(c)(1)]
 - C. Administrative Adjudication [Pursuant to Government Code section 11126(c)(3)]
 - D. Pending Litigation [Pursuant to Government Code section 11126(e)]
 - 1. Mauricio Jose Lopez v. Board for Professional Engineers, Land Surveyors, and Geologists, Department of Consumer Affairs, San Bernardino County Superior Court Case No. CIVDS1718786

XVI. Open Session to Announce the Results of Closed Session

During Closed Session, the Board directed the Administrative Law Judge to prepare the decision on the petition; took action on a stipulation, a default decision, and two proposed decisions; and discussed litigation as noticed.

V. Sunset Review

- A. Response to the Issues Raised in the Background Paper
President Qureshi, Mr. Hamilton, Mr. Moore, and Ms. Eissler testified at the hearing where they were asked to address issues related to enforcement, unlicensed activity, exams, and licensing.

There were eight issues identified by the Committees, and the Board's written response to address those issues has been submitted.

- B. Discussion of the Impact of the California Supreme Court decision in Dynamex Operations West, Inc. v. Superior Court (4 Cal.5th 903) on the Board's Operations and Licensees in Response to Issue #3 in the Sunset Review Background Paper.

Ms. Eissler reported that one of the issues brought up during Sunset was about the recent California Supreme court ruling, referred to as Dynamex, in connection with how to determine if someone is an employee or an independent contractor. Most boards under Sunset Review were asked to address whether it would affect their operations. The Board's Legal Counsel and staff have reviewed it, and there is no apparent impact to the Board's operations.

X. Executive Officer's Report

- A. Rulemaking Status Report

Ms. Eissler reported that the final geology education rulemaking package has been submitted to Agency for final sign-off. It may need to go to the Department of Finance before it is submitted to the Office of Administrative Law for the final review.

Board staff has been working with the Legal Office on the fee regulation that was approved by the Board in November. There are issues that the Board

needs to review and act on; therefore, a teleconference meeting needs to be scheduled.

As for the other rulemaking packages, the Board has approved the language and approved staff to move forward. Documents will be prepared for submittal to DCA.

C. Personnel

Staff member Cheryl Guidi who worked for the Board's Licensing Unit has accepted a promotion with the Board's Examination Unit, and Nicole Beardsley accepted a position with the Licensing Unit to replace Ms. Guidi.

D. ABET

No report given.

E. Association of State Boards of Geology (ASBOG)

Ms. Mathieson reported that she attended the 2-day ASBOG Council of Examiners Workshop to assist with examination development for the Fundamentals of Geology and Practice of Geology examinations.

F. National Council of Examiners for Engineering and Surveying (NCEES)

1. Informational Report related to significant structures and the Structural Engineering Licensing Coalition (SELC)

Carl Josephson provided a presentation that outlined structural engineering licensing models and SELC's recommendation for the definition of significant structures.

2. Vote on Western Zone Secretary/Treasurer

MOTION: Vice-President Amistad moved to direct delegates to vote for Mr. Moore for NCEES Secretary/Treasurer, and Ms. Mathieson seconded the motion.

VOTE: 11-0, Motion Carried.

AYE: Members Mohammad Qureshi; Fel Amistad; Natalie Alavi; Alireza Asgari; Duane Friel; Eric Johnson; Coby King; Betsy Mathieson; Jerry Silva; Robert Stockton; and Steve Wilson voted in favor of the motion.

3. Selection of Funded Delegates to Attend Annual Meeting – August 14-17, 2019

The tentative funded delegates to attend the NCEES Annual Meeting are Fel Amistad, Bob Stockton, and Steve Wilson. Mr. Moore will contact the members who are absent to determine their interest in attending.

4. Louisiana Board Nomination of Southern Zone Vice-President Christopher Knotts, P.E. for NCEES President-Elect

President Qureshi reported that the President-Elect nominee for this year is from the Southern Zone. There will be a vote at the Annual Meeting where there will be an opportunity to support, not support, or offer an alternative. Ms. Eissler noted that the zone meeting is a combined meeting with the Southern Zone, but it will be the Southern Zone members only voting for the nominee for President-Elect.

G. The Saint Francis Dam National Memorial and National Monument (Public Law No. 116-9 (S. 47))

Ms. Eissler discovered there was federal legislation to fund the management of natural resources which helped create the Saint Francis Dam Disaster National Memorial and National Monument. It was because of the collapse of the Saint Francis Dam in 1928 that led to the creation of this Board in 1929. She and Mr. Moore are looking into how the Board can get involved as it includes creating a visitor's center and information about the dam and the disaster. Ms. Mathieson added that there were also geological issues that led to the disaster.

Vice-President Amistad suggested adding this information into the Board Bulletin.

Mr. King has visited the site and offered to provide contact information to people in Santa Clarita that could help in the organization of the event.

President Qureshi suggested writing a letter to express the Board's interest.

VII. Legislation

A. 2019 Legislative Calendar

Ms. Eissler reviewed important dates on the Legislative calendar. She noted that spring recess starts Friday, April 12, through the following week. Any bills listed as fiscal must be out of policy committees by April 26.

B. Discussion of Legislation for 2019

AB 193 Professions and vocations.

This bill would require the Department of Consumer Affairs (DCA), beginning on January 1, 2021, to conduct a comprehensive review of all licensing requirements for each profession regulated by a board within the department and identify unnecessary licensing requirements, as defined by the bill. The bill, beginning February 1, 2021, and every 2 years thereafter, would require each board within the department to submit to the department an assessment on the board's progress in implementing policies to facilitate licensure portability for active duty service members, veterans, and military spouses that includes specified information.

AB 476 Department of Consumer Affairs: task force: foreign trained professionals.

This bill would require the Department of Consumer Affairs to create a task force, to study and write a report of its findings and recommendations regarding the licensing of foreign-trained professionals with the goal of integrating foreign-trained professionals into the state's workforce, as specified. The bill would authorize the task force to hold hearings and invite testimony from experts and the public to gather information. The bill would require the task force to submit the report to the Legislature no later than January 1, 2021, as specified.

The bill also would require the task force to meet at least once each calendar quarter, as specified, and to hold its meetings in accordance with the Bagley-Keene Open Meeting Act. The bill would require each member of the task force to receive per diem and reimbursement for expenses incurred, as specified, and would require the task force to solicit input from a variety of government agencies, stakeholders, and the public, including, among others, the Little Hoover Commission and the California Workforce Development Board.

AB 544 Professions and vocations: inactive license fees and accrued and unpaid renewal fees.

This bill addresses an inactive status which the Board does not have. It also would change the wording of what the Board could charge someone whose license had expired and is beyond the renewal period without a delinquency fee. Currently, the Board's laws and DCA's laws indicate that in order to renew the license, the person must pay all accrued and unpaid renewal and delinquent fees as a condition of reinstatement of the license, certificate, or permit. The Board's licensees can renew their license up to five years after the expiration date before they can no longer renew. Since the Board has a two year renewal cycle, and if a licensee is delinquent by four years, they must pay all the renewal cycles to bring their license current.

Under current law, the Board's licensees must pay all accrued and unpaid renewal and delinquency fees to bring their expired license current. This bill would change the law so that the licensee would pay only the current renewal fee. Since the Board does not have an inactive status for any of its licenses, those provisions would not apply to the Board.

MOTION: Mr. King moved to take a watch position and to send a letter expressing concerns, and Mr. Silva seconded the motion.

VOTE: 11-0, Motion Carried.

AYE: Members Mohammad Qureshi; Fel Amistad; Natalie Alavi; Alireza Asgari; Duane Friel; Eric Johnson; Coby King; Betsy Mathieson; Jerry Silva; Robert Stockton; and Steve Wilson voted in favor of the motion.

AB 613 Professions and vocations: regulatory fees.

This bill would authorize each board within the department to increase every 4 years any fee authorized to be imposed by that board by an amount not to exceed the increase in the California Consumer Price Index for the preceding 4 years, subject to specified conditions. The bill would require the Director of the Department of Consumer Affairs to approve any fee increase proposed by a board except under specified circumstances. By authorizing an increase in the amount of fees deposited into a continuously appropriated fund, this bill would make an appropriation.

MOTION: Mr. Stockton moved to take a watch position, and Mr. Wilson seconded the motion.

VOTE: 11-0, Motion Carried.

AYE: Members Mohammad Qureshi; Fel Amistad; Natalie Alavi; Alireza Asgari; Duane Friel; Eric Johnson; Coby King; Betsy Mathieson; Jerry Silva; Robert Stockton; and Steve Wilson voted in favor of the motion.

AB 1522 Board for Professional Engineers, Land Surveyors, and Geologists
Ms. Eissler distributed a handout with amendments from the Legislative Counsel's office. These amendments will go into the bill. This is in response to one of the issues in the background paper regarding the Board's Sunset review regarding technical clean-up to the Board's three acts. The Assembly and Senate committees have agreed to all of the sections that the Board has asked them to include.

MOTION: Mr. Stockton moved to support AB 1522 with the understanding that amendments will be added to the bill, and Ms. Alavi seconded the motion.

VOTE: 11-0, Motion Carried.

AYE: Members Mohammad Qureshi; Fel Amistad; Natalie Alavi; Alireza Asgari; Duane Friel; Eric Johnson; Coby King; Betsy Mathieson; Jerry Silva; Robert Stockton; and Steve Wilson voted in favor of the motion.

Ms. Eissler reported that a request came from the California Land Surveyors Association (CLSA) that the Board consider agreeing to their request to remove the words “to cooperate” from Business and Professions Code section 8780.2. This section in the Professional Land Surveyors’ Act requires a licensee to respond to requests from the Board to cooperate in an investigation against that licensee. Currently, this section does contain a sunset provision that it would only be in effect until January 1, 2020, and then be repealed. The Board has asked the Assembly and Senate Committees, as part of the Sunset review to remove sunset provision so that the section will become permanent, and they have agreed to do so. CLSA has concerns with the words “to cooperate” and have considered taking a position that they will oppose the removal of the Sunset date if the words “to cooperate” are left in. This is not a Board-sponsored bill but is authored and sponsored by the Assembly Business and Professions Committee through the Sunset Review process. CLSA would have the responsibility to go to the committees and ask for this amendment and express their concerns. The Board will also be asked for their thoughts. Ms. Eissler believes there is a misunderstanding of what the section requires of the licensees. It requires them to respond; it does not require them to cooperate. She has discussed this with some of the Deputy Attorneys General who handle cases for the Board, and they indicated there would not be any legal effect to removing the words “to cooperate” since the law would still require the licensees to respond to the Board.

MOTION: Mr. King moved to notify CLSA that the Board will not oppose the removal of the language “to cooperate,” and Mr. Wilson seconded the motion.

VOTE: 11-0, Motion Carried.

AYE: Members Mohammad Qureshi; Fel Amistad; Natalie Alavi; Alireza Asgari; Duane Friel; Eric Johnson; Coby King; Betsy Mathieson; Jerry Silva; Robert Stockton; and Steve Wilson voted in favor of the motion.

SB 53 Open meetings.

This bill changes the wording in the Bagley-Keene Open Meeting Act that requires that all meetings of a state body, as defined, be open and public and that all persons be permitted to attend and participate in a meeting of a state body, subject to certain conditions and exceptions.

Ms. Eissler indicated that this is the same wording that was proposed in previous legislative sessions that the Board felt was not clear and that it created confusion between subdivisions (c) and (d) as to what

constitutes a state body that would require notice. She advised that the Board had opposed the prior legislation, which was vetoed by then-Governor Jerry Brown.

MOTION: Mr. King moved to oppose, and Mr. Johnson seconded the motion.

VOTE: 11-0, Motion Carried.

AYE: Members Mohammad Qureshi; Fel Amistad; Natalie Alavi; Alireza Asgari; Duane Friel; Eric Johnson; Coby King; Betsy Mathieson; Jerry Silva; Robert Stockton; and Steve Wilson voted in favor of the motion.

SB 339 Land surveyors.

Ms. Eissler reported that this bill is sponsored by the California Land Surveyors Association (CLSA) and that Board staff met with their lobbyist. CLSA has indicated that licensees who serve as experts in civil matters must sign nondisclosure agreements that prohibit them from notifying the Board of suspected violations of the law by other licensees. CLSA indicates that the intent of this proposal is to allow licensees to report suspected violations to the Board, which they cannot do if they have entered into a nondisclosure agreement. CLSA would like to amend the Professional Land Surveyors' Act so that they may disclose information to the Board. Ms. Eissler indicated that staff has advised the lobbyist that the current wording is confusing and does not appear to accomplish their stated intent.

MOTION: Mr. King moved to oppose the bill, as written, but support concept that a licensee should never be prohibited by terms of a contract or agreement from reporting suspected violations of the licensing law to the Board, and Mr. Silva seconded the motion.

VOTE: 11-0, Motion Carried

AYE: Members Mohammad Qureshi; Fel Amistad; Natalie Alavi; Alireza Asgari; Duane Friel; Eric Johnson; Coby King; Betsy Mathieson; Jerry Silva; Robert Stockton; and Steve Wilson voted in favor of the motion.

SB 556 Professional land surveyors.

Mr. Friel recused himself and left room during the discussion of this item.

Staff has met with representatives of the sponsors of the bill, the California & Nevada Civil Engineers and Land Surveyors Association Inc. (CELSA) and the International Union of Operating Engineers,

and advised them of some of the concerns, while also advising that the Board has not yet considered the bill or taken a position on it. The sponsors have indicated they are interested and willing to work to clarify the language of the bill of what constitutes the practice of land surveying and to provide better enforcement tools by creating a certification regulation program for land surveying businesses. Ms. Eissler sees a lot of problems in the bill with the way it is worded. Staff has spoken with the Senate Business, Professions and Economic Development Committee consultant who is working on the bill and expressed concerns and made it clear to all of them that the Board had not seen the bill and taken a position. Board staff also reminded the sponsors that the Board has to take a position on the language that is in print and not what they may amend or request amendments for. The sponsors indicated amendments should be in print in the next week. This hearing was scheduled for April 8, 2019 but was postponed at the author's request and is now scheduled for April 22, 2019.

MOTION: Mr. King moved to oppose and accept the staff analysis as the reasons for the Board's opposition, and Ms. Mathieson seconded the motion.

VOTE: 11-0, Motion Carried.

AYE: Members Mohammad Qureshi; Fel Amistad; Natalie Alavi; Alireza Asgari; Eric Johnson; Coby King; Betsy Mathieson; Jerry Silva; Robert Stockton; and Steve Wilson voted in favor of the motion.

VI. Administration

A. Fiscal Year 2017/18 Budget Status

Mr. Alameida reported that the Board received notice from DCA advising that the financial reports would not be available for Fiscal Year 2017/18 as a result of Fi\$Cal issues. It also affects approximately 156 programs in addition to DCA. The steering committee comprised of members of the Department of Finance, the State Controller's Office, and the Department of General Services are spearheading the activities of what needs to be done to update the system to be able to create consistent reports and deliver those to the various agencies. DCA is working on a memo that is intended to be distributed to boards and bureaus to present the to-be determined date for when documents can be reported to us. The Board receives activity logs from the DCA Budget Office that outline current expenses and revenue. The difficulty is in closing out Fiscal Year 2017/18.

B. Fiscal Year 2018/19 Budget Report

Mr. Alameida reviewed the Board budget report and clarified an issue regarding an equation error from the last report.

He reported on revenue collected in association with applications, licensing fees, and fines and provided an analysis of staff salaries and wages and reviewed C&P services both interdepartmental and external.

Mr. Alameida explained the interagency services fee from the California Department of Technology (CDT). This fee is for oversight of the PAL project and will appear next year as well until the oversight is complete, and CDT agrees that the Board can manage the project. It is a monthly charge of approximately \$4,500.

X. Executive Officer's Report (cont.)

B. Update on Board's Business Modernization/PAL Process

Ms. Eissler reported that PAL Stage II has been approved, and DCA and CDT are scheduling a kick-off meeting for Stage III with the goal of completing it by June 30, 2019.

Mr. Alameida added that Stage III is solicitation development. This involves potential vendors to come in and identify the services they can perform. A cost methodology would also be developed for what we project this project to cost, not only for the Board but for other programs involved in the PAL process. Staffing allocation breakdown in terms of maintenance needs and IT support from the Department of Technology and/or DCA and externally with contracted experts will also be considered. This will require a lot of staff time regarding requirements, but the goal is to work with DCA and create solicitation packages that will be publically advertised.

Mr. King congratulated staff for all the work they have put into this process.

VIII. Enforcement

A. Enforcement Statistical Reports

1. Fiscal Year 2018/19 Update

Ms. Criswell provided an updated handout which highlighted a decrease in numbers during the month of March. Most significantly, there are currently 14 cases over a year old and 8 of those cases are with the Division of Investigation. A number of cases were closed related to long ongoing investigations (DOI). The larger number of cases over 9 months to a year decreased to 48 cases. She has reached out to supervising investigators at DOI and has had discussions about prioritizing and public safety in an effort to move cases along. In addition, Ms. Criswell is planning to meet with Stephanie Whitley with the Division of Investigations to discuss the possibility of training and expectations.

IX. Exams/Licensing

The geologist and geophysicist examinations were administered in early March. The NCEES professional engineering and structural engineering examinations

were administered last weekend. It is anticipated that we will have some results to report in June.

XI. Technical Advisory Committees (TACs)

A. Assignment of Items to TACs

No report given.

B. Appointment of TAC Members

MOTION: Mr. Wilson moved to reappoint David Ryan and Scott Tikalsky to the Land Surveying TAC, and Ms. Alavi seconded the motion.

VOTE: 11-0, Motion Carried.

AYE: Members Mohammad Qureshi; Fel Amistad; Natalie Alavi; Alireza Asgari; Duane Friel; Eric Johnson; Coby King; Betsy Mathieson; Jerry Silva; Robert Stockton; and Steve Wilson voted in favor of the motion.

C. Reports from the TACs

No report given.

XII. President's Report/Board Member Activities

President Qureshi reported that he, Mr. Hamilton, Mr. Moore, and Ms. Eissler appeared before the legislative committees regarding Sunset Review.

President Qureshi will also be making a presentation to the American Society of Civil Engineers (ASCE) Shasta branch.

Mr. Wilson attended the Assembly Resolution for Land Surveyor's Week.

President Qureshi asked Mr. Johnson and Mr. King to be on the Nominating Committee for Board President and Vice-President. He indicated if any member is interested in nominating someone or if they would like to self-nominate, to please contact either Mr. Johnson or Mr. King and inform them of their interest. The election for President and Vice-President will take place at the June meeting.

XIII. Approval of Meeting Minutes

A. Approval of the Minutes of the December 13, 2018 and February 21, 2019 Board Meetings.

MOTION: Ms. Mathieson moved to approve the December 13, 2018, Board Meeting Minutes, and Mr. Amistad seconded the motion.

VOTE: 9-0-2, Motion Carried.

AYE: Members Mohammad Qureshi; Fel Amistad; Alireza Asgari, Eric Johnson, Coby King, Betsy Mathieson, Jerry Silva, Robert Stockton, and Steve Wilson voted in favor of the motion.

ABSTENTIONS: Ms. Alavi and Mr. Friel

MOTION: Mr. King moved to approve the February 21, 2019, Board Meeting Minutes, as amended, and Mr. Johnson seconded the motion.

VOTE: 10-0-1, Motion Carried.

AYE: Members Mohammad Qureshi; Fel Amistad; Alireza Asgari, Duane Friel, Eric Johnson, Coby King, Betsy Mathieson, Jerry Silva, Robert Stockton, and Steve Wilson voted in favor of the motion.

ABSTENTIONS: Ms. Alavi

XIV. Discussion Regarding Proposed Agenda Items for Next Board Meeting

Ms. Eissler reminded the Board Members that at the November Board meeting, the Board approved and directed staff to move forward with the regulatory process to amend regulations relating to fees. At the time, it was thought that the Board could direct staff to begin the pre-notice review process through DCA and Agency based on the Board's understanding that changes would be made to the language to make it consistent between both sets of regulations. Through this process, the language would come back to the Board prior to the notice for public comment. However, this is not the process. The Board needs to approve the actual language in order to start the pre-notice review, even though through the process the language could be changed and would have to come back to the Board. There is also an issue with how the motion in the November minutes was worded, and it was not clear what the Board's intent was. Those minutes need to be amended and brought back for approval. Since this needs to be done sooner than the June meeting, a teleconference needs to be scheduled before then. Monday, May 13, 2019 after 11 a.m. was selected as the date to hold the teleconference meeting.

XVII. Adjourn

The meeting adjourned at 3:55 p.m.

PUBLIC PRESENT

Daniel Burillo, SD Managed

Jeff Canfield, Association of Engineering Geologists

Hugh Robertson, Association of Engineering Geologists

Matt Summers, Los Angeles Department of Water and Power

Rob McMillan, California Land Surveyors Association

Steve Hao, CalTrans

Carl Josephson, SEAOC