

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

Judge Joseph Rattigan Building  
50 D Street, Conference Room 410  
Santa Rosa, California 95404

August 8, 2019

## August 8, 2019

<b>Board Members Present:</b>	Fel Amistad, President; Steve Wilson, Vice President; Alireza Asgari; Duane Friel; Eric Johnson; Coby King; Betsy Mathieson; Mohammad Qureshi; and Frank Ruffino
<b>Board Members Absent:</b>	Natalie Alavi; Andrew Hamilton; Kathy Jones Irish; Asha Lang; and Robert Stockton
<b>Board Staff Present:</b>	Ric Moore (Executive Officer); Nancy Eissler (Assistant Executive Officer); Tiffany Criswell (Enforcement Manager); Celina Calderone (Board Liaison); and Reza Pejuhesh (Legal Counsel)

### I. Roll Call to Establish a Quorum

President Amistad called the meeting to order at 9:03 a.m., and a quorum was established.

### II. Pledge of Allegiance

Vice-President Wilson led everyone in the recitation of the Pledge of Allegiance.

### III. Public Comment for Items Not on the Agenda

Rob McMillan, representing CLSA, thanked the Board for having the meeting in Santa Rosa.

Bob DeWitt, representing ACEC, expressed his interest in the progress of the legal opinion of SB 2 fees that are imposed on record of survey maps. There may be a legal opinion from the Attorney General.

### IV. Request from Professional Engineers in California Government (PECG) that the Board Remove its Opposition to the Creation of Title Act Licenses

Mr. Moore advised that he received a phone call from PECG asking the Board to defer this topic to the September Meeting. The Board agreed to do so.

### V. Administration

#### A. Fiscal Year 2017/18 Budget Status

Mr. Moore reported that the Board continues to wait for Fiscal Year 17/18 closing reports.

- B. Fiscal Year 2018/19 Budget Report  
Mr. Moore reported that the final report for Fiscal Year 18/19 is not yet available, and he hopes it will be available for the September meeting.
- C. Fiscal Year 2019/20 Budget Report  
Mr. Moore reviewed the Governor’s Budget that included the Budget Change Proposal (BCP) for the IT system.

**II. Legislation**

- A. 2019 Legislative Calendar  
Ms. Eissler reported that fiscal committees have until August 30, 2019, to report bills to the floor. The last day for each house to pass bills is September 13, 2019, and the Governor will have until October 13, 2019, to act on bills.

B. Discussion of Legislation for 2019

**AB 544** Professions and vocations: inactive license fees and accrued and unpaid renewal fees.  
Ms. Eissler reviewed the bill analysis and reported that the Board currently has an oppose position. She reported that the bill did not make it out of the Appropriations Committee and is considered dead for this year. No Board action needed at this time.

**AB 613** Professions and vocations: regulatory fees.  
This bill would have authorized the boards and bureaus to increase their license fees based on the consumer price index. It did not make it out of the Senate Business, Professions and Economic Development Committee. It is currently dead for this year. No Board action needed at this time.

**AB 1522** Board for Professional Engineers, Land Surveyors, and Geologists  
The amendments the Board had approved are now included in the bill, as amended June 25, 2019. Ms. Eissler recommended that the Board take a position of support as amended. She does not anticipate any issues going forward.

<b>MOTION:</b>	Mr. King and Ms. Mathieson moved to support AB 1522 as amended June 25, 2019.
<b>VOTE:</b>	9-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Fel Amistad	X				
Steve Wilson	X				
Natalie Alavi				X	
Alireza Asgari	X				
Duane Friel	X				
Andrew Hamilton				X	

Kathy Jones Irish				X	
Eric Johnson	X				
Coby King	X				
Asha Lang				X	
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				
Robert Stockton				X	

**SB 53** Open meetings.

The Board maintains an oppose position as the wording creates ambiguity and confusion. DCA now has an official opposed position. It is scheduled to be heard in the Assembly Appropriations Committee on August 14, 2019. Ms. Eissler advised that a letter expressing the Board's opposition will be sent. No Board action needed at this time.

**SB 339** Land surveyors.

This bill was sponsored by the California Land Surveyors Association (CLSA). It was signed by the Governor and chaptered on July 30, 2019 and will go into effect January 1, 2020. No Board action needed at this time.

**SB 556** Professional land surveyors and engineers

Ms. Eissler advised that the bill was scheduled for a hearing in the Assembly Business and Professions Committee, but the author pulled it prior to the hearing. Therefore, it did not make it out of the policy committee of the second house and is considered dead for this year. It may be acted upon in January. No Board action needed at this time.

Alex Calder, PLS, expressed dissatisfaction with the enforcement of violations of the Professional Land Surveyors' Act. He believes a large portion of complaints go without penalty. He stated he has extensive documentation in which a complaint was filed, and an investigation was opened, but nothing was done. He received notification that the case had been dismissed. He expressed his frustration with the outcome. He would like to overhaul the Board's enforcement program and enforce the PLS Act.

Mr. King questioned how Mr. Calder's comments related to SB 556, the topic of the agenda item. Mr. King expressed concerns with the way the licensing laws are structured and whether they limit what the Board can do regarding unlicensed activity.

Jim Dickey, PLS, indicated he appreciates the Board coming to Santa Rosa. He has been behind the effort and voiced his support of SB 556. He explained the bill will be converted to a two-year bill to gain support and make changes. The intent was to clarify the language in Business and Professions Code section 8726. Some language was removed from the bill, and he hopes to get that language back in the bill. The other issue is the regulation of companies. The intent is to say that a company that offers to practice surveying needs to meet certain criteria. If a company is practicing surveying, and does not meet this criteria, then they are in violation. He would like to see a certificate of authority that allows a company to offer land surveying services and to allow the Board to go after unlicensed companies, not just individuals.

Mr. King asked if Mr. Dickey has had an opportunity to review the Board's June 20, 2019, letter to Assembly Member Low as it accurately expresses the opinion of the Board. He does not believe regulating companies in the manner that the organization is promoting is a good policy. If there are specific regulatory or legal changes that are believed need to be made to state statute to better regulate the unlicensed practice of land surveying, the Board would be interested in those suggestions, but the Board does not believe adding another layer of regulation on licensees is the correct approach. While he recognizes there is a problem, Mr. King suggested a better approach would be to tighten the unregulated practice of land surveying statutes to actually deal with the problem and not add another layer of regulation.

Chris Snider, political director of Operating Engineers Local 3 from Santa Rosa, stated he supports SB 556. Mr. Snider stated he met with Attorney General Becerra and indicated Mr. Becerra supported the concept and offered assistance.

John Rector, with Local 3, stated that the problem is not going away and is getting worse. He has been receiving calls from industry partners and contractors who are battling against unlicensed practitioners who are on construction sites competing directly with them while beating them out of projects using their own staff to do survey work. He indicated that the Board needs to tighten existing laws. The industry is starting to wane.

Mr. King added that there is no doubt that the Board is very concerned about the unregulated practice of land surveying. However, the Board does not think that adding a company certification is going to solve the problem and will only add a layer of regulation that will not have any positive effect on the issues that are being discussed. His point is to take a new look at the statutes that

are already in place and see if there is a way to tighten them. It is a path that is already consistent with the regulatory structure. He stated that the Board would welcome specific suggestions from the community. However, the Board does not believe that adding another regulation on top of the regulatory structure the Board already has will be effective.

Mr. Rector explained this is a model that is being used across the country that has been proven effective. Increasing fines and penalties will help but addressing it with the Contractors State Licensing Board (CSLB) will help as well. He implores the Board to come forward with another solution.

Mr. Wilson noted that the Board has a great deal of authority but not over the unlicensed practice and that is where it can be strengthened.

Mr. Rector added that SB 556 would allow the Board to go after the company.

Joe Thompson, PLS, expressed support for SB 556 and indicated that he is seeing chaos in the industry. He provided examples of contractors practicing surveying. By supporting SB 556, the companies would be cited for practicing unlicensed surveying, not the individuals. He stated that all professional surveyors are being affected and asked for the Board's support. He stated that there is a need to further define surveying so contractors can clearly comprehend the law.

Mr. Wilson indicated he would like to hear about specific issues that have risen as a result.

Mr. Calder stated that this is big business in a small community. He requested the Board not hinge on the specifics.

Mr. King suggested the various parties consider joining together to provide a written response as to why they disagree with the Board's June 20, 2019, letter. Mr. King indicated he had reviewed the Board's Sunset Report and, while there are a number of items related to unlicensed practice, he believes the Board needs to prioritize how the Board can effectively respond to trends in unlicensed practice.

Mr. Calder stated he would provide a summary letter and data based on their own research.

Dr. Asgari requested that Mr. Calder provide data from other boards and the effect on unlicensed practice.

### III. Enforcement

#### A. Enforcement Statistical Reports

##### 1. Fiscal Year 2018/19 Update

Ms. Criswell reviewed the enforcement statistics. Ms. Mathieson requested color graphs be included in the report.

### IV. Exams/Licensing

#### A. Update on 2019 Examinations – First and Second Quarter Examination Results

Mr. Moore reported on the examination results. He noted that the civil engineering exams are working very well in terms of passing percentages, and the land surveying exams had the highest pass rate since the introduction of Computer Based Testing (CBT).

The Board issued approximately 2,500 licenses during FY 2018-19, which is about average. The civil engineer licenses continue to be the most popular license issued.

### V. Executive Officer's Report

#### A. Rulemaking Status Report

**Geology education** - The Office of Administrative Law approved the rulemaking file on July 11, 2019, and it will become effective October 1, 2019.

**Fees and Certificates** – The rulemaking package was submitted to DCA for the pre-notice review process on May 30, 2019. Mr. Moore explained there is a chance that the Board will be able to adopt the final rulemaking proposal at the November meeting, but it is more likely that there will be a need to schedule a teleconference meeting between the November meeting and the end of the year. The Board must adopt the final rulemaking file after the close of the public comment period and prior to submittal of the final rulemaking file to the Office of Administrative Law (OAL) for review and approval. However, the rulemaking cannot be noticed for public comment until the pre-notice review process has been completed.

**Assembly Bill 2138 Conformance** - Ms. Eissler reported that the changes in the regulations need to go into effect July 1, 2020, to coincide with the new laws. DCA is aware of this deadline since all boards and bureaus are required to make changes to their regulations to address the changes in statute.

Ms. Eissler explained that staff has elected not to submit the other rulemaking proposals to DCA for the pre-notice review process at this time because it is imperative that the fees and certificates proposal be reviewed expeditiously by DCA to avoid any delays in its implementation, which would be a detriment to the Board's fund condition.

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

Mr. Moore reported that the Board along with three other programs are collectively moving through the PAL Stage 3 and 4 process. The Board has

submitted Stage 3 to the California Department of Technology (CDT) and agency. This is the stage in the process in which the package is assembled to go out for bid. It is anticipated that this stage will be completed by the end of the month. Stage 4 will end with a contract with the vendor being executed.

Mr. King requested to add a status to the existing chart to notate where the Board currently is in the PAL Process.

C. Personnel

No report given.

D. ABET

1. Status of Board Observer Assignments for Fall 2019

Brooke Phayer, Outreach Coordinator, will be contacting Board members who expressed interest in attending ABET visits.

E. Association of State Boards of Geology (ASBOG)

The ASBOG Selection Committee did not choose Laurie Racca for the Secretary position. Mr. Moore explained that member boards of ASBOG do not vote on who serves on the Board of Directors; the Board of Directors are selected by the Selection Committee.

The ASBOG annual meeting will take place in early November in Minneapolis and travel was approved for Board representatives to attend.

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

1. Annual Meeting Motions

a. Advisory Committee on Council Activities (ACCA) Motion 2 – Relating to Proxy Voting

Ms. Eissler reported that the proposal is to add language to the NCEES bylaws that would specifically prohibit proxy voting.

<b>MOTION:</b>	Mr. King and Mr. Friel moved to direct the Board's delegates to support any motions that prohibit proxy voting.
<b>VOTE:</b>	9-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Fel Amistad	X				
Steve Wilson	X				
Natalie Alavi				X	
Alireza Asgari	X				
Duane Friel	X				
Andrew Hamilton				X	
Kathy Jones Irish				X	
Eric Johnson	X				
Coby King	X				

Asha Lang				X	
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				
Robert Stockton				X	

b. Education Committee Motion 1 – Relating to Engineering Technology Degrees

Ms. Eissler reported that there are engineering degrees and engineering technology degrees; ABET accredits both degrees. She explained that applicants for engineering licensure in California are not required to have a degree at all but be awarded credit towards the number of years of experience required for having an engineering degree. If an applicant has an ABET accredited engineering degree, the applicant is awarded four years of credit towards the required six years, assuming the applicant has an EIT certificate. If the applicant has an ABET accredited engineering technology degree, the applicant is awarded two years of credit. The proposal is to add language into the NCEES model law and model rules that would say an ABET accredited engineering technology degree can be accepted to satisfy the education requirements as long as the ABET accredited engineering technology degree has been vetted against the NCEES engineering education standard. She explained that this motion is coming from the Education Committee, which was tasked to research this issue; however, the Member Board Administrators Committee has indicated it has concerns with the motion and feels that ABET accredited engineering technology degrees should be accepted without further vetting against the NCEES engineering education standard. It is likely that alternate motions will be proposed on the floor.

Ms. Eissler recommended the Board should direct its delegates to vote on any motions in a way that is consistent with the Board's laws, which allowed for the acceptance of an ABET accredited engineering technology degree without further vetting against the NCEES engineering education standard.

<b>MOTION:</b>	Mr. King and Ms. Mathieson moved to direct delegates to support concepts and motions that are consistent with the Board's laws to accept ABET accredited engineering technology degrees without further evaluations.
<b>VOTE:</b>	9-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Fel Amistad	X				
Steve Wilson	X				
Natalie Alavi				X	

Alireza Asgari	X				
Duane Friel	X				
Andrew Hamilton				X	
Kathy Jones Irish				X	
Eric Johnson	X				
Coby King	X				
Asha Lang				X	
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				
Robert Stockton				X	

- c. Committee on Examination Policy and Procedures (EPP) Motion 1 – Relating to Exam Irregularity Procedures  
Ms. Eissler noted that the proposed wording is consistent with the procedures the Board and NCEES currently follow.
- d. EPP Motion 2 – Relating to the Naming of Examinations in the *Manual of Policy and Position Statements*  
Ms. Eissler noted that this motion renames the examinations but does not make any changes to the exam content.
- e. EPP Motion 3 – Relating to the Procedures for Reinstatement of Examinations in the *Manual of Policy and Position Statements*  
Ms. Eissler explained that this motion addresses how a previously-discontinued examination can be reinstated.
- f. Finance Committee Motions 4 and 5 and Board of Directors Motion 1 – Relating to Funding Delegates to Meetings and Zone Meeting Budgeting and Finances  
  
Mr. Moore reported that many of the changes that are proposed are due to NCEES changing their financial system. For each of the zone secretary/treasurers, it would alleviate some of the budget reporting. Ms. Eissler explained there are two Finance Committee motions and a Board of Directors motion. All three motions are on consent. It is possible that these will be pulled from consent due to the manner in which they are worded. Once it is explained, it does make sense and is just a change in the manner of record keeping.
- g. Surveying Exam Module Task Force Motion 1 – Relating to the Restructuring of the Professional Surveyor Exam into Separately-Scored Divisions

Ms. Eissler reported that this motion has been placed on consent, but it is possible that it will be pulled from consent. This originated with the California Board’s request to evaluate the national professional surveyor exam. The task force has studied the issue, and they are recommending that the exam be separated into five separate divisions. It would go to Examinations for Professional Surveyors (EPS) Committee to work on the development of these five separate divisions and the implementation. This is in line with what the Board proposed.

<b>MOTION:</b>	Dr. Qureshi and Mr. King moved direct the Board’s delegates to support separating the Professional Surveyor exam into divisions as proposed.
<b>VOTE:</b>	9-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Fel Amistad	X				
Steve Wilson	X				
Natalie Alavi				X	
Alireza Asgari	X				
Duane Friel	X				
Andrew Hamilton				X	
Kathy Jones Irish				X	
Eric Johnson	X				
Coby King	X				
Asha Lang				X	
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				
Robert Stockton				X	

Ms. Eissler noted that for the delegates attending the meeting, for motions that the Board did not specifically discuss, the delegates are expected to vote in line with the Board’s previously stated and acted upon policies and procedures.

Dr. Qureshi recommended that the delegates discuss any issues that come up and how the Board as a whole would vote.

- G. Update on Outreach Efforts  
Mr. Moore reviewed the outreach report.

**VI. Technical Advisory Committees (TACs)**

- A. Assignment of Items to TACs  
No report given.

- B. Appointment of TAC Members

Ms. Mathieson expressed some difficulties in recruiting TAC members because of the required completion of the Conflict of Interest Form 700 despite not having any meetings.

<b>MOTION:</b>	Ms. Mathieson and Mr. Johnson moved to appoint William Owen, Mark Riches, and Christopher Watt to the Geologist and Geophysicist TAC.
<b>VOTE:</b>	9-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Fel Amistad	X				
Steve Wilson	X				
Natalie Alavi				X	
Alireza Asgari	X				
Duane Friel	X				
Andrew Hamilton				X	
Kathy Jones Irish				X	
Eric Johnson	X				
Coby King	X				
Asha Lang				X	
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				
Robert Stockton				X	

C. Reports from the TACs  
No report given

**VII. President’s Report/Board Member Activities**

President Amistad reported that on July 12, 2019, he attended a meeting at DCA regarding the Executive Officer salary study. He will have more comments at the next meeting. He is grateful for the staff.

Dr. Qureshi will be an ABET program evaluator in Pennsylvania, which is not associated with his duties as a Board Member.

**VIII. Approval of Meeting Minutes**

A. Approval of the Minutes of the June 13, 2019, Board Meeting

<b>MOTION:</b>	Ms. Mathieson and Mr. King moved to approve the June 13, 2019, Board meeting minutes as amended.
<b>VOTE:</b>	8-0-1, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Fel Amistad	X				

Steve Wilson	X				
Natalie Alavi				X	
Alireza Asgari	X				
Duane Friel			X		
Andrew Hamilton				X	
Kathy Jones Irish				X	
Eric Johnson	X				
Coby King	X				
Asha Lang				X	
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				
Robert Stockton				X	

**IX. Discussion Regarding Proposed Agenda Items for Next Board Meeting**

A. September 26-27, 2019, Board Meeting will be held in San Diego at CalTrans District 11.

Mr. Moore noted that the meeting will most likely last two days. Mr. King indicated that he will not be able to attend.

**X. Closed Session – The Board will meet in Closed Session to discuss, as needed:**

- A. Personnel Matters [Pursuant to Government Code sections 11126(a) and (b)]
- 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

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

During Closed Session, the Board took action on five stipulations, two default decisions, and two proposed decisions and discussed litigation as noticed.

**XII. Adjourn**

The meeting adjourned at 3:00 p.m.

**PUBLIC PRESENT**

Rob McMillan, CLSA  
 Bob DeWitt, ACEC  
 Karen Nelson, DCA  
 Aaron Smith  
 Alan Escarda, PECG

Jim Dickey, CELSA and Cinquini & Passarino, Inc.  
Alex Calder  
Joe Thompson  
Jerry Hammond  
Gene Feickert, F3 & Associates, Inc.