

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

Thursday, May 9, 2024

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| Board Members Present: | President Michael Hartley; Vice-President Christina Wong; Fel Amistad; Alireza Asgari; Rossana D’Antonio; Coby King; Guillermo Martinez; Betsy Mathieson; Frank Ruffino; Wilfredo Sanchez; and Fermin Villegas |
| Board Members Absent: | |
| Board Staff Present: | Ric Moore (Executive Officer); Tiffany Criswell (Enforcement Manager); Celina Calderone (Board Liaison); Dawn Hall (Administrative Manager); Larry Kereszt (Examination Manager); Natalie King (Senior Civil Engineer Registrar); Joshua Goodwin (Senior Geologist Registrar); Julie Baker (Enforcement Analyst); Brook Grabowski (Enforcement Analyst); Christopher Pirrone (Legal Counsel) |

I. Roll Call to Establish a Quorum

President Hartley called the meeting to order at 10:00 a.m. and a quorum was established.

II. Pledge of Allegiance

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

President Hartley announced the passing of Assistant Executive Officer Nancy Eissler, and opened the floor to anyone wishing to say some words in her remembrance. Ms. Mathieson shared memories of Nancy and expressed that she will miss her institutional knowledge. Mr. King recommended that the meeting adjourn in her memory and recalled that Nancy knew so much of the Board’s history and was an expert in legislation. He further offered his condolences to everyone who knew her. Stephanie Whitley, Deputy Chief with DCA’s Division of Investigation, has known Nancy for many years and said that Nancy embodied a strong female leader with knowledge and grace and could always be relied upon. Ms. Whitley has been with the Department for 23 years and the familial connection that the Board has is unique and the strongest she has ever seen. Mr. Moore shared lighthearted memories he had working with Nancy and added that she would be very proud of the staff. Bob DeWitt representing ACEC expressed his condolences.

A moment of silence was observed to honor Nancy Eissler.

III. Public Comment for Items Not on the Agenda

There was no public comment.

VIII. 2023-24 Sunset Review of the Board

A. Background Paper Prepared by the Assembly Business and Professions Committee and the Senate Business, Professions and Economic Development Committee and the Board's Response to the Background Paper

1. ISSUE #4 from the Background Paper: Continuing Education. Should the Legislature require licensees to complete continuing education as a condition of license renewal?

Ms. D'Antonio explained that this was part of the strategic plan to explore the feasibility in reference to having a continuing education requirement as part of the renewal process. The workgroup evaluated the results from the recent online questionnaire and explained that the questions were intentionally designed to be broad in scope and to gather initial insight from the licensing community which would be most affected. The results revealed that the licensees were generally not in support of continuing education by a 2 to 1 margin. After its most recent discussion, the workgroup recommends that it continue to research the issue by further exploring the data and possibly follow up with additional online questionnaires in the future. Ms. D'Antonio reported that in addition to the questionnaire, they received written comments. Mr. Moore reported that there were approximately 2,300 responses and of those responses there were approximately 90% with comments. Mr. King thanked the workgroup and was impressed at the interest that was demonstrated by the number and quality of the responses as well as the diversity of opinion of the survey. As a public member who is required to complete continuing education requirements in another profession, he does not enjoy the process, but believes it is worthwhile. There are 42 other states that have these requirements in place and California is in the minority. It appears that the Board's ultimate decision making should rest on is whether this would further the protection of the public and not whether the licensee considers this a hindrance. Given the characteristics of California, we want to ensure that licensees are current on ethics, contract, and technical requirements. He is generally in favor of instituting some sort of educational requirement but does not think that the licensees' beliefs should be a deciding factor. President Hartley believes that the licensees will have an opportunity to help craft the direction. Mr. Sanchez explained that while there are many licensees speaking to the importance of continuing education, there are some who are saying no because it is an additional requirement that will require time and money and they do not believe it will be worthwhile. He is curious how other states are handling the compliance of the completion of the requirements and how it is functioning for them.

2. ISSUE #5 from the Background Paper: Education and Experience Requirements. Should geologist and geophysicist applicants be able to substitute work experience for some of the required education?

Mr. Moore provided some background information and introduced Joshua Goodwin, Senior Geologist Registrar. Mr. Moore indicated that this is a part of the Sunset process and while the Board is confident in its statutory

position, he believes it needs to be monitored. Ms. Mathieson thanked Mr. Goodwin for assisting applicants. Mr. Goodwin reported that he recently provided a virtual outreach presentation to Professional Engineers in California Government (PECG) on educational requirements.

3. ISSUE #8 from the Background Paper: Unlicensed Activity. What can the Board do to combat unlicensed activity?

Mr. Moore reported that there has been open communication with various organizations and correspondence from American Council of Engineering Companies (ACEC-CA) and California & Nevada Civil Engineers and Land Surveyors Association, Inc. (CELSA) that was presented to the Sunset Committees.

During Public Comment Eric Angstadt, Executive Secretary for CELSA, expressed their dissatisfaction with the Board's response to the background paper. He referred the board to a handout provided by CELSA. He does not dispute some of the statutory realities that may exist but the fact that the way they are currently is why there is an issue. They are not criticizing anyone but simply trying to make a push for change and expressed how important this issue is. This is an opportunity to assist the Board to move in the direction to do something about unlicensed practice.

President Hartley thanked Mr. Angstadt and added that he sits on another committee, outside of the Board, and noted that in addition to CELSA, CLSA and ACEC-CA have been involved in the effort to combat unlicensed activity as well.

Mr. DeWitt representing ACEC-CA noted a meeting took place earlier in the week which involved CELSA, CLSA, ACEC and included Mr. Moore and Senior Land Surveyor Registrar Dallas Sweeney.

Mr. King explained that one of the problems is a lack of prioritization within the Department's Division of Investigations and a lack of interest on the part of district attorneys to prosecute these crimes. Unfortunately, the Board does not have control over that aspect. He has been supportive of combatting unlicensed practice as it is a real problem but without cooperation it is difficult to ask the Board's Enforcement Unit to continue their work when they have limited resources. There needs to be specific ideas to present to the legislature.

Mr. DeWitt explained that a large portion of the problem is with the licensed contractor who hires individuals who are not licensed to practice land surveying to perform the work and there is no consequence for these licensed contractors. He believes working with the Contractors State Licensing Board (CSLB) would be beneficial so if this type of issue arises, there would be consequences on their licensee. President Hartley

suggested reviewing an industry bulletin that was previously distributed by CSLB to its members in reference to unlicensed survey practice.

Mr. Moore reported that this topic has been around a long time and will continue to do so regardless of what the organizations and the Board does to help it along. He recalled a meeting with CSLB in which a message was included in their newsletter to their licensees to discourage the practice of anything they were not legally authorized to do so.

Mr. McMillan, representing CLSA indicated that it is understood that often times as a profession we are not seeing unlicensed practice happen unless stumbled upon. however, the Board had a major win in one of its cases. CLSA is willing to help with legislation and they stand with the Board to support its efforts to do what is necessary to aid in the elimination of unlicensed practice and fraud.

Ms. Mathieson explained that in addition to public harm there is a long-term negative effect of unlicensed practice being tolerated. Potential licensees may see less reason to go through the licensing process and may have a disincentive to become licensed if people are getting away with unlicensed practice.

Yeaphana La Marr, Consultant to the Senate Committee on Business, Professions and Economic Development, and Edward Franco, Consultant to the Assembly Committee on Business & Professions, thanked the Board for taking the item out of order so they could attend and listen to the discussion first-hand and also thanked the stakeholders for their participation.

IV. Administration

A. Presentation on the current Fee Study Process

Ms. Hall summarized DCA's Budget provided presentation related to fee changes in terms of fees and what the Board would need to do if the Board decides to change fees after the study is completed. Ms. Hall explained that the fees are established in statute and the initial application fee is capped at \$100 for Land Surveyor-in-Training, Engineer-in-Training, and Geologist-in-Training applicants and the initial application and license renewal fees are capped at \$400 for Professional Engineers, Land Surveyors, Professional Geologists, and Professional Geophysicists. Those are the statutory maximums which does not reflect the status of the current fees which are lower and established by the Board in regulation. The Board is entirely funded through revenue collected through application, licensing, and renewal fees and not by the general fund. The fee study is intended to examine historical revenue and expenses and to use educated assumptions based on future trends to determine what changes, if any, to the current fee structure would be necessary to ensure that the Board will remain solvent for at least the foreseeable future.

The presentation included additional government code sections related to the Board's responsibilities in terms of ensuring that the Board does not exceed the delegated fiscal authority which Ms. Hall confirmed that the Board has never exceeded the delegated authority. The ongoing concern is related to the continued increase of expenses outpacing the actual revenue received. The Board previously addressed this with a fee increase that went became effective January 2021 and has continued to monitor the overall fund condition. Ms. Hall reviewed the steps to setting fees through regulations and considerations involved. She hopes to have the fee study process completed for the Board's consideration in August and stated that the regulation process can take 12-18 months with a goal to have any necessary fee changes to become effective as of January 2026.

B. Fiscal Year 2023/24 Budget Report

Ms. Hall presented and reviewed the Budget report. She reported that she is pleased to see that the Board is projecting higher revenues for year-end which reflects some of the inflation in terms of interest rates. The months-in-reserve is slightly higher than what was previously presented at the March 7, 2024 Board meeting.

V. Enforcement

A. Enforcement Statistical Reports

1. Fiscal Year 2023/24 Update

Ms. Criswell presented the Enforcement Statistics and introduced Enforcement Analysts Brook Grabowski and Julie Baker.

VI. Exams/Licensing

A. Examination/Licensing Updates

Mr. Kereszt introduced Examination Analyst Christina Trujillo who specializes in the Traffic program and the Civil Engineering Surveying program. She has been with the Board for over 18 years and with the Examination Unit for 8 years.

B. Adoption of Test Plan Specifications

1. California Professional Land Surveyor Examination

Mr. Kereszt reminded the Board that the Professional Land Surveyor test plan was initially approved by the Board with suggested edits at the March 7 meeting, which required him to subsequently consult with other Board staff and Prometric representatives to determine the proper course of action with the goal to ensure that the occupational analysis process was following industry standards. As a result, the only modification made was the inclusion of the term 'earthquakes' under Domain II, Professional Activities listed as an example for earth movements. Therefore, he is seeking the adoption of the test plan as currently reflecting that change.

Ms. Mathieson noted that every time earth movements is mentioned, it should be consistent and expressed that she would be embarrassed as a

Board member knowing that there is a test plan that exists with the term, “Continental Drift” because it was an early theory that evolved into plate tectonics. Her preference for the next test plan is to simply state, “earth movements”.

Mr. Moore explained that both he and Mr. Kereszt, as the Examinations Manager for the Board, are required to certify annually, through the Section 139 process, that the Board follows industry standard protocols for all of its examinations. And the Board’s role in this process is to discuss the proposed changes and either approve or not approve the new test plan. And that should a test plan not be approved, a series of experts would reconvene and go through the entire process under Prometric’s guidance again so as to ensure the process is defensible. In this specific case, the experts would be land surveyors, not geologists who would view this process from a land surveyor practice point of view, not geology. While he respects Ms. Mathieson’s comments, the use of the term ‘continental drift’ in this context is only listed as an example and in the vernacular which members of the land surveying profession use and understand.

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| MOTION: | Dr. Amistad and Mr. Martinez moved to adopt the Professional Land Surveyor examination test plan. |
| VOTE: | 9-1-1, Motion Carried |

| Member Name | Yes | No | Abstain | Absent | Recusal |
|---------------------|-----|----|---------|--------|---------|
| President Hartley | X | | | | |
| Vice-President Wong | X | | | | |
| Fel Amistad | X | | | | |
| Alireza Asgari | X | | | | |
| Rossana D’Antonio | | X | | | |
| Coby King | X | | | | |
| Guillermo Martinez | X | | | | |
| Betsy Mathieson | | | X | | |
| Frank Ruffino | X | | | | |
| Wilfredo Sanchez | X | | | | |
| Fermin Villegas | X | | | | |

2. Traffic Engineer Examination

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| MOTION: | Mr. King and Mr. Ruffino moved to approve the Traffic Engineer examination test plan. |
| VOTE: | 11-0, Motion Carried |

| Member Name | Yes | No | Abstain | Absent | Recusal |
|---------------------|-----|----|---------|--------|---------|
| President Hartley | X | | | | |
| Vice-President Wong | X | | | | |

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|--------------------|---|--|--|--|--|
| Fel Amistad | X | | | | |
| Alireza Asgari | X | | | | |
| Rossana D'Antonio | X | | | | |
| Coby King | X | | | | |
| Guillermo Martinez | X | | | | |
| Betsy Mathieson | X | | | | |
| Frank Ruffino | X | | | | |
| Wilfredo Sanchez | X | | | | |
| Fermin Villegas | X | | | | |

VII. Legislation

A. 2024 Legislative Calendar

Mr. Moore presented the legislative calendar.

B. Discussion of Legislation for 2024

1. **AB 1862** - Engineering, land surveying, and architecture: limited liability partnerships.
No action taken.

2. **AB 2862** - Licenses: African American applicants.

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| MOTION: | Mr. King and Ms. Mathieson moved to take a position of “Watch” on AB 2862, as introduced February 16, 2024. |
| VOTE: | 11-0, Motion Carried |

| Member Name | Yes | No | Abstain | Absent | Recusal |
|---------------------|-----|----|---------|--------|---------|
| President Hartley | X | | | | |
| Vice-President Wong | X | | | | |
| Fel Amistad | X | | | | |
| Alireza Asgari | X | | | | |
| Rossana D'Antonio | X | | | | |
| Coby King | X | | | | |
| Guillermo Martinez | X | | | | |
| Betsy Mathieson | X | | | | |
| Frank Ruffino | X | | | | |
| Wilfredo Sanchez | X | | | | |
| Fermin Villegas | X | | | | |

3. **AB 3176** - Professional land surveyors: surveying practices: monuments and corner accessories.

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| MOTION: | Mr. King and Vice-President Wong moved to take a position of “Support” on AB 3176, as revised April 17, 2024. |
| VOTE: | 11-0, Motion Carried |

| Member Name | Yes | No | Abstain | Absent | Recusal |
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|---------------------|---|--|--|--|--|
| President Hartley | X | | | | |
| Vice-President Wong | X | | | | |
| Fel Amistad | X | | | | |
| Alireza Asgari | X | | | | |
| Rossana D'Antonio | X | | | | |
| Coby King | X | | | | |
| Guillermo Martinez | X | | | | |
| Betsy Mathieson | X | | | | |
| Frank Ruffino | X | | | | |
| Wilfredo Sanchez | X | | | | |
| Fermin Villegas | X | | | | |

4. **AB 3253** - Board for Professional Engineers, Land Surveyors, and Geologists: licensees

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| MOTION: | Vice-President Wong and Ms. Mathieson moved to take a position of "Support" on AB 3253, as revised April 18, 2024. |
| VOTE: | 11-0, Motion Carried |

| Member Name | Yes | No | Abstain | Absent | Recusal |
|---------------------|-----|----|---------|--------|---------|
| President Hartley | X | | | | |
| Vice-President Wong | X | | | | |
| Fel Amistad | X | | | | |
| Alireza Asgari | X | | | | |
| Rossana D'Antonio | X | | | | |
| Coby King | X | | | | |
| Guillermo Martinez | X | | | | |
| Betsy Mathieson | X | | | | |
| Frank Ruffino | X | | | | |
| Wilfredo Sanchez | X | | | | |
| Fermin Villegas | X | | | | |

IX. Executive Officer's Report

A. Rulemaking Status Report

Mr. Moore reported that he will present an update on the status of the traffic engineering rulemaking package at the June Board meeting with a request for the Board to reconsider moving forward with this rulemaking.

B. Update on Board's Business Modernization Project

Mr. Moore reported that the Board launched the Geotechnical Engineer, Structural Engineer, and Traffic Engineer applications in Connect. The Board immediately started receiving applications. Currently working on some refinements and fixes with the priority being given to the Enforcement Unit for monitoring case load and investigations for the next release.

C. Personnel

Mr. Moore reported that the Board continues to maintain the three vacancies as a cost savings measure, however, staff has been able to identify a use for one of the vacancies for the Licensing Unit and is currently recruiting for the Senior Engineer Registrar vacancy.

D. ABET

No report given.

E. Association of State Boards of Geology (ASBOG)

1. Nomination for Secretary

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| MOTION: | Mr. Ruffino and Ms. D'Antonio moved to nominate Joshua Goodwin as ASBOG Secretary. |
| VOTE: | 11-0, Motion Carried |

| Member Name | Yes | No | Abstain | Absent | Recusal |
|---------------------|-----|----|---------|--------|---------|
| President Hartley | X | | | | |
| Vice-President Wong | X | | | | |
| Fel Amistad | X | | | | |
| Alireza Asgari | X | | | | |
| Rossana D'Antonio | X | | | | |
| Coby King | X | | | | |
| Guillermo Martinez | X | | | | |
| Betsy Mathieson | X | | | | |
| Frank Ruffino | X | | | | |
| Wilfredo Sanchez | X | | | | |
| Fermin Villegas | X | | | | |

Ms. Mathieson noted that the ASBOG Annual Meeting will take place November 2024 and inquired if it is possible to request support for two funded delegates. Mr. Moore reported that the travel request has already been submitted with the purpose of including two board representatives.

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

1. May 16-18, 2024 Western Zone Interim Meeting, Bozeman, MT

Mr. Moore reported that he will be attending the NCEES Western Zone meeting and noted that Mr. Ruffino and Vice-President Wong have both been approved to travel.

Vice-President Wong announced that she will be taking part in the Nominations Committee.

Mr. Ruffino will be taking part in the Awards Committee.

2. Engineering Council of UK – Update on Mutual Recognition Agreement (MRA)

Mr. Moore presented a copy of the Mutual Recognition Agreement as executed by both NCEES and Engineering Council of UK. Ms. D’Antonio reported that it was her understanding that California was the first state to elect to be a participating member.

3. Annual Meeting August 14-17, 2024 – Funded Delegates

Mr. Moore reported that the Annual Meeting will take place August 14-17, 2024, in Chicago. A travel request for the funded delegates has been submitted to DCA for this purpose. Mr. Martinez and Mr. Villegas are currently eligible to attend as a first-time attendee. Mr. Ruffino, Mr. King, Ms. D’Antonio, and Vice-President Wong expressed interest. Mr. King agreed to be a backup attendee, if necessary. Mr. Martinez stated that he would be interested in attending as a First-Time attendee if authorized to attend.

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| MOTION: | Dr. Amistad and Vice-President Wong moved to recommend Mr. Ruffino, Ms. D’Antonio, Vice-President Wong, and Mr. Martinez as funded delegates |
| VOTE: | 11-0, Motion Carried |

| Member Name | Yes | No | Abstain | Absent | Recusal |
|---------------------|-----|----|---------|--------|---------|
| President Hartley | X | | | | |
| Vice-President Wong | X | | | | |
| Fel Amistad | X | | | | |
| Alireza Asgari | X | | | | |
| Rossana D’Antonio | X | | | | |
| Coby King | X | | | | |
| Guillermo Martinez | X | | | | |
| Betsy Mathieson | X | | | | |
| Frank Ruffino | X | | | | |
| Wilfredo Sanchez | X | | | | |
| Fermin Villegas | X | | | | |

G. Update on Outreach Efforts

Mr. Moore reported that outreach requests, both virtual and in-person, have been approved by the Department. The in-person outreach events have primarily been approved due to their close proximity to Sacramento.

X. President’s Report/Board Member Activities

President Hartley participated in the Sunset hearing along with Vice-President Wong and Mr. Moore. Ms. Mathieson added that she participated in examination development with ASBOG. Vice-President Wong participated in the leadership meeting organized by DCA back in March.

Mr. Ruffino reported that Stanford engineering is establishing a fellowship to train institutional investors. They have partnered with CalPERS and noted if there was any interest to contact him directly.

XI. Nomination and Election of President and Vice President for Fiscal Year 2024/25

President Hartley selected Ms. Mathieson and Ms. D’Antonio to serve as the nominating committee and to provide a nomination slate at the June 27-28, 2024 Board meeting for discussion and possible action.

XII. Approval of Meeting Minutes

A. Approval of March 7, 2024, Board Meeting Minutes

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| MOTION: | Dr. Amistad and Vice-President Wong moved to approve the March 7, 2024 Board meeting minutes. |
| VOTE: | 11-0, Motion Carried |

| Member Name | Yes | No | Abstain | Absent | Recusal |
|---------------------|-----|----|---------|--------|---------|
| President Hartley | X | | | | |
| Vice-President Wong | X | | | | |
| Fel Amistad | X | | | | |
| Alireza Asgari | X | | | | |
| Rossana D’Antonio | X | | | | |
| Coby King | X | | | | |
| Guillermo Martinez | X | | | | |
| Betsy Mathieson | X | | | | |
| Frank Ruffino | | | X | | |
| Wilfredo Sanchez | X | | | | |
| Fermin Villegas | | | X | | |

Mr. Moore extended his appreciation to Board staff for coming together during a difficult time.

Mr. Ruffino took a moment to thank Board staff and the Department of Consumer Affairs for their support as part of Public Service Recognition Week.

XIII. Closed Session – The Board met in Closed Session to discuss, as needed:

- A. Deliberate on a Decision(s) to be Reached in a Proceeding(s) Required to be Conducted Pursuant to Chapter 5 (commencing with Section 11500), as Authorized by Government Code Section 11126(c)(3).
- B. Confer with, or Receive Advice from, Its Legal Counsel Regarding Pending Litigation Pursuant to Government Code Section 11126(e)(1) and (2)(A), on the following matters:
 - 1. Ryan Crownholm, et al. vs. Richard B. Moore, et al., United States District Court, Eastern District of California, Case No. 2:22-cv-01720-DAD-CKD

2. Roy Allen Olsen, et al. v. California Board of Professional Engineers, Land Surveyors and Geologists, et al., Sacramento County Superior Court. Case No. 34-2022-00328379
3. Victor Rodriguez-Fernandez vs. California Board for Professional Engineers, Land Surveyors, and Geologists, San Diego County Superior Court, Case No. 37-2023-00053465-CU-WM-CTL

XIV. Adjourn

The meeting adjourned at 3:15 p.m. in honor and memory of Nancy Eissler, Assistant Executive Officer.

PUBLIC PRESENT

Carl Josephson, SEAOC

Rob McMillan, CLSA

Eric Angstadt, CELSA

Bob DeWitt, ACEC-CA

Krista Looza, SEAOC

Jeanne Marie Tokunaga, NSPE-CA

Sergio Vazquez, Caltrans

Stephanie Whitley, Division of Investigations

Edward Franco, Assembly Business and Professions Committee

Yeaphana La Marr, Senate Committee on Business, Professions, and Economic Development