

MINUTES
REGULAR QUARTERLY BOARD MEETING
TEXAS BOARD OF PROFESSIONAL ENGINEERS
1917 S. IH 35
Austin, Texas 78741
August 23, 2018—10:30 AM

Call to Order. Daniel O. Wong, Ph.D., P.E., Presiding Officer, called the Regular Quarterly Board meeting of the Texas Board of Professional Engineers to order at 10:30 a.m. at the Texas Board of Professional Engineers at 1917 S. IH 35, Austin, TX. (NOTE: all votes are unanimous unless noted.)

1. Roll Call and welcome visitors.

Ms. Bodden called the roll. It was noted for the record that a quorum was present.

The following Board members were present:

Daniel O. Wong, Ph.D., P.E.	Chair
Sam Kannappan, P.E.	Vice Chair
Sina Nejad, Ph.D., P.E.	Secretary
Edward Summers, Ph.D.	Treasurer
Lamberto Ballí, P.E.	Member
Albert Cheng	Public Member
Catherine Norwood, P.E.	Member
Elvira Reyna	Public Member
Kyle Womack, P.E.	Member

Ms. Veena Mohan, Assistant Attorney General, was present to provide legal counsel to the Board. Mr. Edmundo Gonzalez, P.E., and Mr. Govind Nadkarni, P.E., Advisory Members, were present.

The following staff members were present:

Lance Kinney, Ph.D., P.E.	Executive Director
David Howell, P.E.	Deputy Executive Director
Rick Strong, P.E.	Director of Licensing
Jeff Mutscher	Chief Financial Officer
Michael Sims, P.E.	Director of Compliance and Enforcement
Morgen Cuming, J.D.	Staff Attorney
Cristabel Bodden	Executive Assistant

Visitors: Terry Bilderback, P.E., Texas Society of Professional Engineers (TSPE); Peyton McKnight, American Counsel for Engineering Companies (ACEC); Libby Norwood, Nicholas Consulting Group, Inc.; Kent O'Brien, P.E., Texas Department of Transportation (TXDOT); David Shatte, Office of the Attorney General; Stephanie Stanford, P.E., TSPE.

2. Public comment. There were no public comments at this Board meeting.

3. Consent Agenda.

(The following items may be acted upon under [Consent Agenda](#) and are highlighted in blue on the Regular Quarterly Board Meeting Agenda)

- May 16, 2018 Licensing Committee Minutes (**See agenda item #5**)
- May 16, 2018 Policy Advisory Opinion Committee Minutes (**See agenda item #6**)

- May 17, 2018 Strategic Plan Meeting (**See agenda item #7**)
- May 17, 2018 Regular Quarterly Board Meeting Minutes (**See agenda item #4**)
- Administrative Reports, Outstanding Administrative Penalties, Dismissed Cases, Violation Terminated Cases, Voluntary Compliance Cases (**See agenda item #16**)
- Licensing Applications (**See agenda item #20**)
- Fiscal Year 2019 Informal Conference Schedule (**See agenda item #21**)
- Fiscal Year 2019 Board Meetings (**See agenda item #22**)

It was MOVED/SECONDED (Summers/Norwood) to adopt the **Consent Agenda** as discussed. A vote was taken and the MOTION PASSED.

Agenda items #21-22 were pulled out for discussion and deliberated in the order they appeared in the Agenda.

Discuss and Possibly Approve Board Minutes:

4. (**Consent Agenda**) May 17, 2018 Regular Quarterly Board Minutes

Discuss and Possibly Accept Committee Minutes:

5. (**Consent Agenda**) May 16, 2018 Licensing Committee Minutes
 6. (**Consent Agenda**) May 16, 2018 Policy Advisory Opinion Committee Minutes
 7. (**Consent Agenda**) May 16, 2018 Strategic Plan Meeting Minutes

Agenda items 4-7 were approved under **Consent Agenda**, see above.

Discuss and Possibly Act on the following agenda items (8-24):

8. Board Members' Activity Reports.

- Ballí
- Cheng
- Kannappan
- Nejad
- Norwood
- Reyna
- Summers
- Womack
- Wong

9. Advisory Members' Activity Reports.

- Gonzalez
- Guerra
- Nadkarni

Agenda items 8-9 were included for information only, no action was required.

10. Finance and Budget.

• **FY18 3rd Quarter Budget.**

Mr. Mutscher reviewed the 3rd Quarter Budget report with Board members and commented that the report shows that the Board is on target with revenues and expenses. No action required.

• **FY19 Budget and Fees.**

Mr. Mutscher discussed the 2019 Fiscal Year proposed budget with Board members. He reviewed the revenues and expenditures and estimated ending fund balance. The revenues and expenses for the year have been very close to budgeted amounts.

Mr. Mutscher noted the executive director review and salary increase.

It was MOVED/SECONDED (Ballí/Summers) to approve the FY19 Budget and Fees with the modification to include \$250,00 in capital expenditures as was stated by the Finance Director. A vote was taken and the MOTION PASSED.

Discuss and Possibly Act on Issues Regarding Committee Reports or Items on the Committee Agendas:

11. Licensing Committee Meeting Summary.

- **Personal Appearances from Licensing Applicants:**
 - Brian Christopher Alexander
 - Mark Justin Berry
 - Joel Capper Rife
 - Sergio Flores Swain

Mr. Ballí reported that the Committee had met and discussed and reviewed the personal appearance cases.

It was MOVED/SECONDED (Ballí/Womack) to approve Mr. Alexander to sit for the PE exam upon the successful completion of the 30-hour Basic Level Ethics course from Texas Tech within 6 months of August 22, 2018. A vote was taken and the MOTION PASSED.

Mr. Berry did not appear before the Committee and is scheduled to appear on November 14, 2018. No action was required.

It was MOVED/SECONDED (Ballí/Summers) to allow Mr. Rife licensure in Texas upon successful completion of the 30-hour Basic Level Ethics course from Texas Tech. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Ballí/Summers) to approve Mr. Swain to sit for the PE exam upon successful completion of the 60-hour Intermediate Level Ethics course from Texas Tech. A vote was taken and the MOTION PASSED.

Mr. Ballí relayed to the Board that the Committee had discussed the License Application Language and the FE Waiver after FE Exam Failure white paper.

12. Policy Advisory Opinion Committee Meeting Summary.

- **Discuss and possibly approve the response for:**
 - **Request for Policy Advisory Opinion Regarding Texas P.E. Sealing Requirements for Offshore Oil and Gas Facilities.**

Mr. Womack reported that the Committee had met and discussed and reviewed the request for a Policy Advisory Opinion regarding Texas P.E. Sealing requirements for Offshore Oil and Gas Facilities.

Mr. Womack reported that Mr. Sims had done a lot of research and studied rules and had relayed that after review of the question posed, it was determined that the question is adequately addressed by existing Board statute and rules and added that if the work is outside of the State of Texas, it does not require a seal of a Texas Professional Engineer.

Mr. Womack relayed that a clarification was made to the draft to include the territorial waters of the State of Texas in the description of the jurisdiction of the Board.

It was MOVED/SECONDED (Womack/Ballí) that the Board decline to take this as a Policy Advisory Opinion

and issue this response letter as appropriate and as amended in the discussion. A vote was taken and the MOTION PASSED. Dr. Summers opposed.

13. Legislative Issues Committee Meeting Summary.

- **Legislative Action Plan for 86th Texas Legislative Session.**

Ms. Reyna relayed that the Committee had met and would be reviewing a possible plan at the next meeting. No action was taken on this Agenda item.

Mr. Howell relayed that dates for the next Legislative Session had been discussed and that bill filing would start on November 12, 2018.

Mr. Howell conveyed that staff would be attending the Legislative Communication Conference for the 86th Texas Legislative Session and information to register for the Conference had been sent to all Board members.

Dr. Kinney relayed that we currently have no issues and that we would provide any information requested by legislators as the session progresses. Dr. Kinney added that Board members contacted should refer legislators to Executive staff for information and questions.

14. Nominating Committee Meeting Summary.

- **Nomination of Board Officers for Fiscal Year 2019.**

- Kyle Womack, P.E. Vice Chair
- Catherine Norwood, P.E. Secretary
- Edward Summers, Ph.D. Treasurer

Dr. Wong relayed that the Committee had met to discuss and recommend Board Officers and renew the Contract of current Advisory members.

It was MOVED/SECONDED (Wong/Ballí) to approve the slate of officers for Fiscal Year 2019 as presented above. A vote was taken and the MOTION PASSED.

- **Renewal Contract of Current Advisory Board Members for Fiscal Year 2019.**

- Edmundo Gonzalez, P.E., R.P.L.S.
- Jose I. Guerra, P.E.
- Govind Nadkarni, P.E.

It was MOVED/SECONDED (Wong/Womack) to approve the Advisory Board members for Fiscal Year 2019 as presented above. A vote was taken and the MOTION PASSED.

Discuss and Possibly Act on Reports or Items reported by the Executive Director:

15. Executive Director's Report.

Dr. Kinney welcomed and presented the new Director of Compliance and Enforcement, Michael Sims, P.E., to the Board.

- **Daily Activity Report.**

Dr. Kinney mentioned his report is provided as an exhibit. No action required.

- **Strategic Plan/Journey Towards Excellence (JTE).**

Dr. Kinney relayed that as part of internal agency strategic action planning, all staff members get to participate in an agency retreat. Staff feedback is critical, and all staff get a chance to provide input

on actions for the coming year Mr. Womack presented a workshop on Emotional Intelligence at the retreat.

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

• **NCEES Annual Meeting – August 15-18, 2018.**

Dr. Kinney thanked the Board and Advisory members that attended the NCEES Annual meeting. Dr. Kinney relayed that the meeting was a great success and that other states look to Texas for guidance and leadership.

Dr. Kinney relayed that NCEES has decided to fund each state board Executive Director to attend future NCEES zone and annual meetings. Previously, only 3 Board members were fully funded. This would ensure better participation from Executives of Boards across the nation.

• **Regional Advisory Meetings.**

• **Midland Meeting – October 2, 2018.**

Dr. Kinney relayed that the Midland meeting is set for October 2, 2018, and there would be a lunch and panel discussion with Board members. All Board members were invited to attend.

Dr. Kinney relayed that there would be an opportunity to discuss and present to engineering students at the University of Texas of the Permian Basin.

• **Outreach.**

Dr. Kinney relayed that staff travel all over the state for Outreach ethics presentations and provide quarterly webinars. Outreach numbers were presented in an exhibit for Board members to review.

• **Kudos.**

Dr. Kinney relayed that staff receive kudos for a job well done for the Outreach ethics presentations and quarterly webinars. Dr. Kinney thanked the Outreach team for their hard work, commitment, and travel time.

Discuss and Possibly Act on Enforcement/Disciplinary Matters:

16. (Consent Agenda) Administrative Reports, Outstanding Administrative Penalties, Case Pending Status Report, Dismissed Cases, Violation Terminated Cases, Voluntary Compliance Cases.

This agenda item was approved under the [Consent Agenda](#), see Agenda item #3 above.

17. Agreed Board Orders.

1. Gary W. Jaster, P.E. – D-37034 (Nejad - recused)
2. Douglas Kent Miller, P.E. – D-35068 & D-36628 (Cheng - recused)
3. William “Bill” Wesley Ruth – B-37318 (Summers - recused)

Mr. Howell presented the Agreed Board Orders and relayed which Board members should be recused. He relayed that all the material is available and presented to the Board members for review and Investigators are present to answer questions.

It was MOVED/SECONDED (Norwood/Womack) to approve Agreed Board Order 1 as submitted. A vote was taken and the MOTION PASSED. Dr. Sina Nejad, P.E., recused himself.

It was MOVED/SECONDED (Reyna/Norwood) to approve Agreed Board Order 2 as submitted. A vote was taken and the MOTION PASSED. Mr. Albert Cheng recused himself.

It was MOVED/SECONDED (Womack/Norwood) to approve Agreed Board Order 3 as submitted. A vote was taken and the MOTION PASSED. Dr. Edward Summers recused himself.

18. Consent Orders.

Mr. Howell presented the Consent Orders and relayed that no Board members needed to recuse themselves.

He relayed that all the material is available and presented to the Board members for review and Investigators are present to answer questions.

Informal Reprimands.

1. D-37761
2. D-37763

Non-Practice Violations.

3. Stephen Phillip Maslan – D-37697 (Revocation Order)

Practice Violations.

4. Richard E. Weathers, P.E. – D-37421

Sanctions against Non-License Holders.

5. Miguel Castillo – B-37584
6. William “Billy” James Wilson – B-37429

Firm Registration.

7. Blackaller Engineering, Inc. – B-37821

It was MOVED/SECONDED (Norwood/Summers) to approve Consent Order Cases 1-7 as submitted. A vote was taken and the MOTION PASSED.

19. SOAH Final Board Order.

- Thomas W. Keiss – Case B-37520 [SOAH Docket No. 460-18-4256]

Ms. Cuming reviewed Mr. Keiss’ case and presented the Final Board Order to the Board for their review and consideration.

It was MOVED/SECONDED (Summers/Norwood) to strike the word “actual” from section three of the Order.

It was MOVED/SECONDED (Summers/Norwood) to approve the SOAH Final Board Order as amended and discussed by the Board. A vote was taken and the MOTION PASSED. Mr. Ballí abstained.

Discuss and Possibly Act on Licensing Applications requiring board ruling:

20. (Consent Agenda) Licensing Applications.

- Approved for Exams
- Approved for Licensure
- Firms Approved
- Waivers – FE
- Waivers – PE
- Not Approved for Licensure.

This agenda item was approved under Consent Agenda, see Agenda item #3.

Discuss and Possibly Act on Other Matters.

21. Texas Board of Professional Engineers’ Fiscal Year 2019 Informal Conference Schedule.

Ms. Cuming relayed that dates had been set for 2019 Fiscal Year and that Board members would be polled for their availability and the list will be updated by the next Board meeting.

22. Texas Board of Professional Engineers’ Fiscal Year 2019 Board meetings.

Dr. Kinney relayed that Fiscal Year 2019 Board meeting dates were set and presented for the Board for their review. The next Board meeting is scheduled for November 15, 2018.

23. Issues from the Board member to consider for next scheduled Board Meeting.

No issues were discussed.

24. Adjourn.

It was MOVED/SECONDED (Norwood/Summers) to adjourn the meeting at 11:46 a.m. A vote was taken and the MOTION PASSED.

Date the Board approved the minutes as submitted:

November 15, 2018.