

**MINUTES**  
**REGULAR QUARTERLY BOARD MEETING**  
**TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS**  
**VIA VIDEOCONFERENCE**  
**May 21, 2020—2:00 PM**

**Discuss and Possibly Act on the Following Agenda Items:**

**1. Preliminary Matters:**

**A. Call to Order.**

Dr. Sina K. Nejad, P.E., P.Eng., Presiding Officer, called the Regular Quarterly Board meeting of the Texas Board of Professional Engineers and Land Surveyors to order at 2:00 p.m. via Videoconference. (NOTE: all votes are unanimous unless noted.)

**B. Roll Call.**

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

**The following Board members were present:**

Dr. Sina K. Nejad, P.E., P.Eng.	Chair
Lamberto Ballí, P.E.	Vice-Chair
Catherine Norwood, P.E.	Secretary
Albert Cheng	Treasurer
Ademola Adejokun, P.E.	Member
Coleen Johnson, R.P.L.S.	Member
Mark Neugebauer, R.P.L.S., L.S.L.S.	Member
Rolando Rubiano, P.E.	Member
Kiran Shah	Public Member
Dr. Marguerite McClinton Stoglin	Public Member

Veena Mohan, Assistant Attorney General and General Counsel for the Board, was present via Videoconference to provide legal counsel to the Board. Ms. Melissa Juarez, Supervising Attorney from the Office of the Attorney General, was present via conference call to provide legal counsel for the Board.

**The following staff members were present:**

Lance Kinney, Ph.D., P.E.	Executive Director
Rick Strong, P.E.	Director of Licensing and Registration
Michael Sims, P.E.	Director of Compliance and Enforcement
Elissa Mazza	Staff Attorney
Jeff Mutscher	Chief Financial Officer
Janet Sobieski	Director of Operations
Mason Schoolfield	Lead Systems Developer
Cristabel Bodden	Executive Assistant

**C. Excuse absent Board members.**

All Board members were present.

**D. Welcome Visitors.**

Leonard Dawkin, R.P.L.S.; Hugo Xavier De Lo Santos, Attorney-at-Law & CPA; Dr. William Edwards, R.P.L.S., L.S.L.S., Advisory Member; Jon Hodde, R.P.L.S., Advisory Member; Manuel J. Montemayor, R.P.L.S.; Govind Nadkarni, P.E., Advisory Member; Mike Romans, R.P.L.S.; and R. Kyle Womack, P.E., were present.

**E. Public Comment.**

None.

**2. Consent Agenda**

- February 19, 2020 Licensing Committee Minutes (See agenda item #3).
- February 20, 2020 General Issues Committee Minutes (See agenda item #4).
- February 20, 2020 Enforcement Committee Minutes (See agenda item #5).
- February 20, 2020 Policy Advisory Committee Minutes (See agenda item #6).
- February 20, 2020 Nominating Committee Minutes (See agenda item #7).
- February 20, 2020 Regular Quarterly Board Minutes (See agenda item # 8).
- Administrative Reports, Outstanding Administrative Penalties, Dismissed Cases, Violation Terminated Cases, Voluntary Compliance Cases (See agenda item #12).
- Surveyor Continuing Education Course Approvals (See agenda item #15).
- Licensing Applications (See agenda item #16).

It was MOVED/SECONDED (Ballí/Norwood) to approve the items listed in the [Consent Agenda](#) as presented. A vote was taken and the MOTION PASSED.

**Board and Committee Minutes:**

3. ([Consent Agenda](#)) February 19, 2020 Licensing Committee Minutes.
4. ([Consent Agenda](#)) February 20, 2020 General Issues Committee Minutes.
5. ([Consent Agenda](#)) February 20, 2020 Enforcement Committee Minutes.
6. ([Consent Agenda](#)) February 20, 2020 Policy Advisory Committee Minutes.
7. ([Consent Agenda](#)) February 20, 2020 Nominating Committee Minutes.
8. ([Consent Agenda](#)) February 20, 2020 Regular Quarterly Board Minutes.

Agenda items 3-8 were approved under [Consent Agenda](#), see above.

**9. Finance and Budget.**

- **FY20 2<sup>nd</sup> Quarter Budget Report.**

Mr. Mutscher reviewed the 2nd Quarter Budget report with the Board. The report reflected income and expenses for the agency through the end of February 29, 2020.

Mr. Ballí asked for a status update on the building renovation project. Mr. Mutscher relayed that currently the project is on hold due to the COVID-19 pandemic.

- **FY21 Budget and Fees Discussion.**

Mr. Mutscher reviewed the FY21 Budget and Fees report with the Board. This report includes information on possible fee changes and adjusting fees to equalize fees between Engineering and Surveying.

Mr. Mutscher stated that a revised proposal will be presented to the Board at the Regular Quarterly Board meeting in August 2020.

Mr. Rubiano inquired about the Deputy Executive Director position and asked if the budget still included this position.

Dr. Kinney replied that a similar position is included in the FY21 Budget presented.

No action was required on this agenda item.

#### **Issues Relating to Committee Matters:**

##### **10. Licensing Committee Meeting Summary.**

- **Personal Appearances from Licensing Applicants:**
  - **Brackett, Joshua Paul.**
  - **Jones, Thomas Adams.**
  - **Liszka, Michael Louis.**
  - **Magleby, Herbert Kent.**
  - **O'Brien, Thomas John.**
  - **Saghebfar, Milad.**
  - **Tucker, Logan Riles.**
  - **Uribe, Marc.**
  - **Moore, Alan DeLynn.**

Ms. Norwood reported that the Committee had met and reviewed the personal appearances cases.

It was MOVED/SECONDED (Norwood/Ballí) to allow Mr. Brackett licensure in Texas upon successful completion of the 30-hour Basic Level Ethics course from Texas Tech Murdough Center for Engineering. A vote was taken and the MOTION FAILED.

It was MOVED/SECONDED (Norwood/Rubiano) to allow Mr. Brackett licensure in Texas upon successful completion of the 90-hour Advanced Level Ethics course from Texas Tech Murdough Center for Engineering and an updated Criminal History background check before the resubmittal of his application and before appearing before the Licensing Committee again. A vote was taken and the MOTION PASSED.

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

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

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

It was MOVED/SECONDED (Norwood/Ballí) to allow Mr. O'Brien licensure in Texas upon successful completion of the 30-hour Basic Level Ethics course from Texas Tech Murdough Center for Engineering. A vote was taken and the MOTION PASSED.

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

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

It was MOVED/SECONDED (Norwood/Ballí) to allow Mr. Uribe licensure in Texas. A vote was taken and the MOTION PASSED.

It was MOVED/SECONDED (Norwood/Ballí) to allow Mr. Moore to sit for the Professional Engineer Exam one year from today's date and the applicant must obtain 2 additional years of documented (SER) qualifying engineering experience and 2 Professional Engineer references before appearing again before the Licensing Committee in 2 years. A vote was taken and the MOTION FAILED.

It was MOVED/SECONDED (Norwood/Johnson) to allow Mr. Moore to sit for the Professional Engineer Exam one year from today's date and the applicant must obtain 2 additional years of documented (SER) qualifying engineering experience, 2 Professional Engineer references, and an updated Criminal History background check before appearing again before the Licensing Committee in 2 years. A vote was taken and the MOTION PASSED.

- **Request for Acceptance of Nettleman Institute for Surveying Engineering and Technology (NISSET) as an Approved Education Provider.**

Ms. Norwood reported to the Board that the Licensing Committee tabled this request.

No action was required on this agenda item.

- **Request by American Society of Plumbing Engineers (ASPE) to Support Plumbing Engineering Option in NCEES Mechanical Professional Engineering Exam.**

Ms. Norwood reported to the Board that the Licensing Committee took no action on this agenda item.

No action was required on this agenda item.

- **Surveying Exam Update.**

No action was required on this agenda item.

- **Licensing Director's Report**

- **Engineer Results and Statistics: Licensing Application and Examination Report.**

- **Surveyor Results and Statistics: Registration Application and Examination Report.**

No action was required on this agenda item.

#### **Reports or Items reported by the Executive Director:**

##### **11. Executive Director's Report:**

- **Quarterly Meeting Report.**

Dr. Kinney stated his report is provided as an exhibit.

No action was required on this agenda item.

- **COVID-19 Pandemic Report.**

Dr. Kinney stated his report is provided as an exhibit.

Dr. Kinney stated that when the pandemic hit, the agency successfully transitioned to a telework schedule with staff only going to the office as needed. Board and business meetings have also transitioned to telephone and videoconference meetings. The agency has been able to adapt very well to these virtual meetings.

Dr. Kinney relayed that gloves and hand sanitizer were provided to staff.

The executive staff are now meeting virtually three times a week to ensure the safety and well-being of agency staff.

No action was required on this agenda item.

- **Surveying Advisory Committee Update.**

Dr. Kinney stated his report is provided as an exhibit.

Dr. Kinney stated this Committee also met virtually. The Committee discussed updates to Board rules and laws, the Nettleman request, and Enforcement section of the rules.

No action was required on this agenda item.

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

Dr. Kinney stated NCEES canceled all April exams and they have been rescheduled for October 2020 and are looking for a larger testing center to accommodate the increased number of attendees. The exams will be held over a two-day period.

In addition, NCEES canceled the Interim Zone meeting scheduled for May 2020 in Houston, TX and they plan to reschedule this meeting to 2023.

The NCEES Annual meeting will be held virtually on August 27, 2020, and the meeting will not be held in Chicago as originally planned.

No action was required on this agenda item.

- **Nomination of New Advisory/NCEES Emeritus Member for Fiscal Year 2020.**

- **R. Kyle Womack, P.E.**

During the February 20, 2020, Regular Quarterly Board meeting, staff were asked to add additional Professional Engineer Advisory/NCEES Emeritus members.

Mr. R. Kyle Womack, P.E., past Board member was recommended. Board staff reached out to Mr. Womack and he agreed to volunteer.

It was MOVED/SECONDED (Norwood/Ballí) to appoint and endorse Mr. Womack as an Advisory Board member and Emeritus NCEES member. A vote was taken and the MOTION PASSED.

- **Building Plan Update.**

Dr. Kinney reported that the Building Plan is currently on hold due to the Pandemic.

No action is required on this agenda item.

- **Performance Measure Report.**

Dr. Kinney stated his report is provided as an exhibit.

Dr. Kinney stated that the report only includes performance measure data and trends for engineering and not surveying. Currently, surveying data are being transitioned from VERSA and into our system, TIDE.

No action is required on this agenda item.

- **Outreach Report.**

Dr. Kinney reported that travel for the Outreach program has been put on hold for the immediate future and has also transitioned to virtual presentations very similar to the monthly webinars hosted by the agency.

Dr. Nejad asked that once regular business resumes and we can host onsite meetings, that we invite the Texas Board of Architectural Examiners to the next scheduled Regular Quarterly Board meeting. It would be a good idea to interact more with this agency.

No action is required on this agenda item.

## **Enforcement/Disciplinary Matters:**

### **12. (Consent Agenda) Administrative Reports, Outstanding Administrative Penalties, Dismissed Cases, Violation Terminated Cases, Voluntary Compliance Cases.**

This agenda item was approved under the **Consent Agenda**, see Agenda item #2 above.

### **13. Consent Orders.**

#### **Engineering**

- 1. Zamora Engineering, Inc. – B-38446.**
- 2. John Edward Skwiot, P.E. – D-38247.**
- 3. Samuel Deering Malinowsky, P.E. – D-38304.**
- 4. Michael William McCoy, P.E. – D-38325.**
- 5. James Anthony Clancy, P.E. – D-38581.**

#### **Informal Reprimands**

- 6. D-38363.**
- 7. D-38364.**
- 8. D-38470.**
- 9. D-38472.**
- 10.D-38512.**

Mr. Sims stated his report is provided as an exhibit.

Mr. Rubiano asked staff what a Consent Order means and what it means to the licensee entering a Consent Order. In particular, as it may indicate that the licensee is confirming the allegations against them.

Mr. Sims stated that as Board staff investigates a potential violation, staff will send out a Consent Order to the respondent for their consideration. The party has the option to accept the Consent Order or follow other options available such as an Informal Conference or an Administrative Hearing. In the Consent Order, staff will lay-out what happened in the case, what the violation/s are. As part of signing the Consent Order, they are accepting what the violations are and waive the right to protest the Consent Order moving forward. The signed Orders are brought to the Board for their consideration and once they are adopted, the Board has authorized the Executive Director to sign the Orders on the Board's behalf and the deadlines of the requirements they have to meet are presented to the party at this time.

Ms. Mohan added that they are essentially Settlement Agreements.

It was MOVED/SECONDED (Ballí/Norwood) to approve Consent Orders #1-10 as submitted. A vote was taken and the MOTION PASSED.

**14. Request of Manuel J. Montemayor to Reconsider Executed Final Order for Texas Board of Professional Engineers and Land Surveyors Case No. D-30692.**

Mr. De Los Santos addressed the Board on behalf of Mr. Montemayor. The Board discussed the case and considered Mr. De Los Santos' request to terminate the suspension stipulated in the May 23, 2019, Board Order.

Dr. Nejad announced that the Board would go into an Executive Closed Session to discuss agenda item # 14 at 3:19 p.m. and they joined a separate meeting via a conference call.

Ms. Melissa Juarez, Supervising Attorney from the Office of the Attorney General, joined the conference call.

Non-critical staff, Advisory members, and visitors remained in the Regular Quarterly Board videoconference meeting as the Board met in Executive Session.

The Regular Quarterly Board meeting reconvened via Videoconference at 4:17 p.m.

No action was taken during the closed Executive Session.

Mr. Montemayor appeared with his legal counsel, requesting that the board lift the suspension on his license. The Board voted by consent to lift the suspension on Mr. Montemayor, P.E.'s professional engineer license.

**15. ([Consent Agenda](#)) Surveyor Continuing Education Course Approvals.  
Course Approvals**

- 1. Surveying Education Foundation of Texas, Inc. #1047 – Practical Application of Boundary Course Law.**
- 2. Institute of Energy Management, LLC.**
  - **Right-of-Way Route Selection Workshop.**
  - **Right-of-Way Essentials.**
- 3. Texas Society of Professional Surveyors #001.**
  - **Practical Geodesy for Practical Surveyors.**
  - **Rational for and Expectations of the 2022 Datums.**
  - **Analysis of a Boundary Dispute (Harvey V. Furrow).**
  - **Boundary Agreements – Theory, Forms and Use.**
  - **Easements – Identification & Retracement.**
  - **Making your Business Better and Your Surveys More Defendable: Office Practices and Surveyor's Notes for Plats.**

- **Pincushion Effect – The Multiple Dilemma in American Land Surveying.**
- **Practical Forensic Surveying.**
- **Problems Associated with Riparian Boundary Surveys Beginning with the Shifting Sands of the Red River Boundary with Oklahoma, SCOTUS, the Gradient Boundary, Surveys, Resurveys, and an Act of Congress.**
- **Right of Way and Prescriptive Rights.**
- **State Plane Coordinate System of 2022.**
- **Surprising Technology at Minimal Cost.**
- **Survey Documentation.**
- **TBPELS Rules/Surveying Act.**
- **The Evolution of Early American Surveying Equipment.**
- **Water Boundaries.**
- **Boundaries Ethically Determined – Part 1.**
- **Boundaries Ethically Determined – Part 2.**
- **Boundaries Ethically Determined – Part 3.**
- **Boundaries Ethically Determined – Part 4.**

**4. Individual Course Approval – Boris Kanazir.**

- **Practical Geospatial Summit.**

This agenda item was approved under Consent Agenda, see agenda item #2.

**Licensing Applications requiring board ruling:**

**16. ([Consent Agenda](#)) Licensing Applications.**

- **Approved for Exams.**
- **Approved for Licensure.**
- **Firms Approved.**
- **Waivers – Fundamentals of Engineering examination.**
- **Waivers – Professional Engineering examination.**
- **Not Approved for Licensure.**

This agenda item was approved under Consent Agenda, see agenda item #2.

**17. Issues for consideration at the next scheduled board meeting of the Texas Board of Professional Engineers and Land Surveyors.**

None.

**18. Welcome new Board member.**

Dr. Nejad welcomed Dr. Marguerite McClinton Stoglin to the Board and Mr. R. Kyle Womack, P.E. as an Advisory member to the Board and Emeritus member to NCEES.

**19. Adjourn.**

It was MOVED/SECONDED (Ballí/Rubiano) to adjourn the meeting at 4:24 p.m. A vote was taken and the MOTION PASSED.

Date the Board approved the minutes as submitted:

August 20, 2020