

MINUTES
TEXAS BOARD OF PROFESSIONAL ENGINEERS
REGULAR QUARTERLY BOARD MEETING
1917 SOUTH INTERSTATE 35
AUSTIN, TX 78741
NOVEMBER 21, 2013 – 10:30 AM

Call to Order. Daniel O. Wong, Ph.D., P.E., Presiding Officer called the Texas Board of Professional Engineers Regular Quarterly Board meeting to order at 10:30 am on November 21, 2013, at the Texas Board of Professional Engineers', 1917 S. Interstate 35, Austin, TX. (Note: All votes are unanimous unless otherwise noted.)

1. Roll Call and Welcome Visitors

Daniel O. Wong, Ph.D., P.E.	Chair
James "Jim" Greer, P.E.	Vice Chair
Elvira Reyna	Secretary - Public Member
Edward Summers, Ph.D.	Treasurer - Public Member
Carry Ann Baker	Public Member
Lamberto "Bobby" Ballí, P.E.	Member
Sina Nejad, P.E., PEng.	Member
R. Kyle Womack, P.E.	Member
Sockalingam "Sam" Kannappan, P.E.	Public Member

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

The following staff members were present:

Lance Kinney, P.E.	Executive Director
David Howell, P.E.	Deputy Executive Director/Director of Licensing
C.W. Clark, P.E.	Director of Compliance & Enforcement
Jeff Mutscher	Director of Finance
Dewey Helmcamp, III JD	Staff Attorney
Dorothy Gonzales	Executive Assistant

Visitors. Tom McDill, P.E., Dass Ragamuth, P.E., Doug Bell, P.E., Texas Society of Professional Engineers (TSPE), Terry Bilderback, P.E., TSPE; Trish Smith, Executive Director, TSPE; Peyton McKnight, American Council of Engineering Companies (ACEC).

2. Public Comment. Mr. McDill addressed the Board members and presented his concern of separate PE and firm renewals and fees, and the possibility of lining up these two fees to better serve the PEs.

3. Consent Agenda

(The following items may be acted upon under Consent Agenda and are marked with an asterisk* on the Regular Quarterly Board Meeting Agenda)

(Motion Required)

- August 28, 2013, Licensing Committee Minutes
- August 29, 2013, Enforcement Committee Minutes
- August 29, 2013, General Issues Committee Minutes
- August 29, 2013, Regular Quarterly Board Meeting Minutes
- Administrative Reports and Outstanding Administrative Penalties and Dismissed Cases, Cease and Desist Order, Agreements, Injunctions/Default Judgments
- Licensing Applications.

It was MOVED/SECONDED (Greer/Summers) to approve the Consent Agenda as submitted. A vote was taken and the MOTION PASSED.

Discuss and Possibly Approve Board Minutes:

4. *(Consent Agenda) Discuss and possibly approve minutes of the August 29, 2013, Regular Quarterly Board Meeting Minutes

Discuss and Possibly Accept Committee Minutes:

5. *(Consent Agenda) August 28, 2013, Licensing Committee Minutes
6. *(Consent Agenda) August 29, 2013, Enforcement Committee Minutes
7. *(Consent Agenda) August 29, 2013, General Issues Committee Minutes

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

Discuss and Possibly Act on the following agenda items (8-21):

8. Board Members' Activity Reports

- Baker
- Ballí
- Greer
- Kannappan
- Nejad
- Reyna
- Summers
- Womack
- Wong

The Board members' activity reports were included as exhibits for the Board members to review. No action required.

9. Emeritus Members

- Gonzalez
- Guerra

The Emeritus Board Members' activity reports were include as exhibits for the Board members to review. No action required.

10. Budget

- FY13 4th Quarter Budget Report
- Annual Financial Report (AFR)

The financial reports were submitted as exhibits, and Mr. Mutscher reviewed with Board members. No action required.

11. Performance Measures

- November 2013 Performance Measures
- 104b Report

Mr. Howell reviewed the reports mentioned above with Board members. These reports were submitted as exhibits. Mr. Howell discussed the revised Performance Measures. No action required.

12. Discuss and possibly act on the following rule adoption.

- **§131.63 Self-Directed Semi-Independent Agency Project Act.**

Mr. Howell reported that this rule adoption is to comply with the changes made in statute during the 83rd Legislative session. The rule was posted in the Texas Register, and no comments were received. Staff recommended adoption.

It was MOVED/SECONDED (Greer/Womack) to adopt §131.63 Self-Directed Semi-Independent Agency Project Act as submitted. A vote was taken and the MOTION PASSED.

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

- Discuss and possibly act on the following rule adoption

- §139.31-Enforcement Actions for Violations of the Act
- §139.35-Sanctions and Penalties

Mr. Clark reported that the rule change to §139.31 allows the Board to issue cease and desist orders and emergency suspensions as per the recent statute change. The rule change to §139.35 will reflect in the suggested sanction and penalty tables of the rules. Both rules were posted in the Texas Register, and one comment received and addressed in the preamble.

It was MOVED/SECONDED (Summers/Kannappan) to adopt §§139.31 and 139.35 as presented. A vote was taken and the MOTION PASSED.

- **Criminal History Record Check Policy.**

Mr. Clark reported that this Criminal History Record Check Policy (CHRC) applies to enforcement process against licensed engineers who have an issue on their record. Mr. Womack suggested that staff add a footnote to clarify the meaning of “D” & “H” cases.

It was MOVED/SECONDED (Ballí/Summers) to adopt the Enforcement CHRC Policy with the suggested amendment. A vote was taken and the MOTION PASSED.

- **Staff Attorney Report.**
 - SOAH Cases
 - Suits Against the Board
 - Status of Court Cases (Injunctions)

Mr. Helmcamp reviewed the above reports with Board Members. Reports were included as exhibits. No action required.

14. Licensing Committee.

- **Personal Appearances from Licensing Applicants.**

It was MOVED/SECONDED (Ballí/Summers) to approve Arturo Alvarez, Cleopha Blanton, Ross Johnson, Erika Mancha, Eddie Perez, Jacob Roberts, Justin Sandt, and Mark Zupan to take the P.E. exam; approve Kenneth Gonzalez and Chad Sweet to be licensed in Texas; approve Thomas Rader for re-licensure; approve Shannon Halbot, Jesus Ibarra, Michael Mullone, Demoine Vinson, Taylor Perrine, and Abdul Mohammad to take the P.E. exam upon successful completion of the Level I Ethics course, and providing documentation to staff, no additional appearance required; deny Micol Bratten, Henry Iwu, and Christopher Totin. A vote was taken and the MOTION PASSED.

- **Discuss and possibly act on the following rule adoption:**

- **Application/Professional Fee Split.**
 - §133.81-Receipt and Processing of Applications by the Board
 - §133.87-Final Action on Applications
 - §133.97-Issuance of License
- **Computer Base Testing (CBT) Implementation.**
 - §133.21-Application for Standard License
 - §133.25-Applications from Engineering Educators
 - §133.61-Engineering Examinations Required for a License to Practice as a Professional Engineer
 - §133.65-Examination on the Fundamentals of Engineering
 - §133.69-Waiver of Examinations
 - §133.71-Examination for Record Purposes
 - §133.73-Examination Results and Analysis
 - §133.75-Examination Irregularities
- **Criminal History Record Check.**
 - §133.21-Application for Standard License
 - §133.23-Applications from Former Standard License Holders
 - §133.25-Applications from Engineering Educators

- §133.27-Application for Temporary License for Engineers Currently Licensed Outside the United States
- §133.89-Processing of Administratively Withdrawn Applications
- §137.7-License Expiration and Renewal
- §137.13-Inactive Status
- **Military Spouse Application.**
 - §133.81-Receipt and Processing of Applications by the Board

Mr. Howell reported that these rules are all related to the Criminal History Record Check (CHRC). The three that were not related to Criminal History Record Check did not receive comments. The CHRC rules received 30 comments and were responded to and addressed in the preamble. Comments did not require the rule to change. One non-substantial change was to change rule wording from “Criminal Background Check” to “Criminal History Record Check” to align it with language in the statute. Based on guidance from legal counsels, no reposting was required.

It was MOVED/SECONDED (Ballí/Womack) moved to adopt the listed rules in §§133 and 137 as submitted. A vote was taken and the MOTION PASSED.

- **Criminal History Record Check.**
 - Review Policy. Mr. Howell presented the revised CHRC policy, which addresses the process of reviewing CHRC records for PE applicants and the process for referring applicants to the Licensing Committee. He mentioned the recent change to Occupations Code, Chapter 53. This revised policy will make the internal processes more consistent.

It was MOVED/SECONDED (Ballí/Greer) to approved the revised Criminal History Record Check as submitted. A vote was taken and the MOTION PASSED.

- **Licensing Application-Revised.** Mr. Ballí reported that staff worked on clarifying the question regarding reporting criminal convictions on the PE application form. No action required.
- **International Agreement.**
 - **South Korea.** Mr. Kinney reported that representative from the Korean Professional Engineers Association (KPEA) contacted the Board about a possibility of license mobility between the Texas Board and KPEA. Dr. Wong, Mr. Kinney, and Mr. Howell met with the delegation in San Antonio. No action was taken but TBPE Board representatives agreed to share the KPEA request with the full Board. Mr. Kinney mentioned that the agreement would be similar to the agreement with Canada and Australia. NCEES does give FE and PE exams in Korea. The Korean delegation is willing to meet in December 2013. Dr. Wong added that he would like a work group to work with the delegation face to face. Dr. Wong asked Mr. Ballí and Mr. Nadkarni to join him and staff as part of a Committee to meet with the delegation in December and keep the Board informed.

It was MOVED/SECONDED (Ballí/Womack) to approve the Board move forward with negotiations and discussions with S. Korea. A vote was taken and the MOTION PASSED.

- **Japan.** Mr. Kinney reported that Japan asked for a Memorandum of Understanding (MOU) with the Texas Board. The MOU clarified how Japanese PEs may become licensed in Texas. Kentucky and North Carolina have developed similar MOUs with Japan. Staff is requesting approval from the Board to approve the MOU with Japan. Dr. Wong added that Mr. Kinney will be traveling with NCEES to Japan to sign the MOU.

It was MOVED/SECONDED (Kannappan/Summers) to accept the MOU with Japan, and allow Mr. Kinney to travel to Japan as a representative of the Texas Board. A vote was taken and the MOTION PASSED.

15. Policy Advisory Opinion Committee.

- **Present, for consideration and discussion of, EAOR #34 – Industry Exemption.**
Ms. Baker reported that this process discussion will continue. Mr. Womack is the Board liaison.
- **Present, for consideration and discussion and possibly accept the request for further action, EAOR #36 – Construction Management.**
Ms. Baker reported that the Committee appointed Mr. Nejad as the Board liaison. He will work with staff on discussion of this issue and report back in February.

It was MOVED/SECONDED (Summers/Womack) to accept Policy Advisory Request #36 and continue the research and discussion, and appoint Mr. Sina Nejad, P.E., PEng. as the Board liaison to work with staff on this advisory. A vote was taken and the MOTION PASSED.

- **Present, for consideration and discussion and possibly approve a revised response to EAOR #10 – Professional Engineer (PE) Title Use.**
Ms. Baker reported that this advisory was the use of the PE title by an engineer licensed in another state. The Committee agreed that the current EAOR#10 clarifies the use of PE and will remain as-is with no changes.

It was MOVED/SECONDED (Nejad/Summers) to accept the Committee's recommendation and leave EAOR#10 as written. A vote was taken and the MOTION PASSED.

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

16. Executive Director's Report.

- **Activity Report.** Mr. Kinney mentioned that his activity report is included as an exhibit and will discuss as needed.
- **NCEES.**
 - **CBT.** The FE exam is being offered via CBT beginning January 2014 and the first registration for this exam began in early November. Texas was contacted to be part of the test group, and the system worked fine. The Board has communicated with the Texas Deans and universities regarding the new process for the FE exam.
 - **2013 Engineering Award Winners-UTEP.** Mr. Kinney reported that University of Texas - El Paso received the NCEES 2013 Engineering award again this year. Mr. Womack represented NCEES and TBPE at the award presentation. Mr. Womack added that he was very impressed with the work the group did to receive this award, and was honored to have attended. Mr. Womack added that he would like to recommend the Board to look at encouraging faculty licensure.
 - **2014 NCEES Award Nominations.** Mr. Kinney mentioned that NCEES is accepting nominations for the 2014 NCEES Awards.
- **Journey Toward Excellence.** Mr. Kinney reported on the next process for improvement process. The Board will be completing the next application for moving forward toward the next recommendation.
- **Criminal History Record Check (CHRC) Communication.** Mr. Kinney reviewed the communication scheduled included as an exhibit.
- **Outreach.** Mr. Kinney reported that outreach is growing and thanked staff, Board members, and Emeritus members for their participation regarding outreach presentations.
 - **Upcoming Webinar December 2, 2013.** Mr. Kinney added the September webinar was very successful. The next webinar is schedule in March 2014.
 - **Kudos.** Kudos regarding staffs' presentations included as an exhibit.

Discuss and Possibly Act on Enforcement/Disciplinary Matters:

17. *([Consent Agenda](#)) Administrative Reports, Outstanding Administrative Penalties Dismissed Cases, Cease and Desist Order, Agreements, Injunctions/Default Judgments

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

18. Agreed Board Order.

(None)

19. Consent Orders.

SOAH Result

(None)

Informal Reprimands (In accordance with Board Rule 139.31(b) individual names are not listed)

1. D-34589

Non-Practice Violations

(None)

Practice Violations

2. William J. Harris, Jr., P.E. – D-33361

Sanctions Against Non-License Holders

(None)

Firm Registrations/Sole Proprietorship Sanctions

3. Apex Consulting Group, Inc. – B-34244

4. Bellot Engineering, L.L.C. – B-34204

5. Corridor Development Consultants, Inc. – B-34114

6. E.R. Consultants Engineers & Land Surveyors – B-33952

7. Ilseng Engineering & Consulting, Inc. – B-34455

8. Long Consultants, Inc. – B-34011

9. Martin & Wallin, L.L.C. – B-34646

10. The Gore Group – B-34219

11. Verde Engineering, Inc. – B-34602

Mr. Clark reviewed the above Consent Orders with the Board members and asked for approval.

It was MOVED/SECONDED (Summers/Baker) to approve the Consent Orders as submitted. A vote was taken and the MOTION PASSED.

20. Discuss, possibly act on request to reconsider approved Board Orders

(Motion Required)

- Raghunath Dass, P.E., D-31480 (from SOAH Result)

Mr. Helmcamp provided the Board members with background information regarding Mr. Dass' case. He added that Ms. Veena Mohan, General Counsel, will provide any legal counsel as needed. Mr. Dass addressed the Board and provided his view of his case. He asked for the Board to reconsider the final Board Order issued to him.

It was MOVED/SECONDED (Greer/Summers) to adopt the amended final Board Order issued to Mr. Dass as presented. Motion withdrawn.

It was MOVED/SECONDED (Nejad/Summers) to deny Mr. Dass's request and adopt the final Board Order issued to Mr. Dass as presented. A vote was taken, and the MOTION PASSED.

- Seyed Masoud (Sam) Khoshnoudi, P.E., D-33510

Mr. Helmcamp provided the Board members with the background information regarding Mr. Khoshnoudi's case file. Mr. Khoshnoudi requested an extension to the date for completing his Ethic course listed in the original Consent Order. Mr. Helmcamp informed the Board that he received a fax from Mr. Khoshnoudi the day of the Board meeting stating that he would complete the Ethics course as required, and did not need an extension. No action required.

Discuss and Possibly Act on Licensing Applications requiring board ruling:

21. *(Consent Agenda) Licensing Applications

Vote or Reconfirm Votes Pursuant to Board Rule §133.87:

Approved for Exams

Approved for Licensure

Firms Approved
Not Approved for Licensure
Auto Not Approved for Licensure
Waivers – Both
Waivers – FE
Waivers—PE

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

Discuss and Possibly Act on Other Matters

22. Schedule of Board meetings for 2014.

Dr. Wong mentioned that the 2014 Board meeting schedule was included as an exhibit.

Adjourn.

It was MOVED/SECONDED (Nejad/Summers) to adjourn the meeting at 12:57pm. A vote was taken and the MOTION PASSED.

Date Board approved minutes as submitted:

February 13, 2014