

**ADOPTED REGULATION OF THE STATE BOARD OF
PROFESSIONAL ENGINEERS AND LAND SURVEYORS**

LCB File No. R168-01

Effective April 29, 2002

EXPLANATION – Matter in *italics* is new; matter in brackets ~~{omitted material}~~ is material to be omitted.

AUTHORITY: §1, NRS 625.565, §§2-3, NRS 625.140.

Section 1. NAC 625.610 is hereby amended to read as follows:

625.610 1. A stamp authorized by the board must be obtained at the office of the board at the expense of the licensee.

2. A person who is licensed in more than one discipline of engineering shall use a separate stamp for each discipline, except that a person who is licensed in the disciplines of civil engineering and structural engineering may use a single stamp for both disciplines.

3. The impression made by a stamp or seal ~~{must be}~~ :

(a) *Must be* opaque and permanent ~~{ }~~;

(b) *Must state the name of the licensee;*

(c) *Must contain the license number of the licensee;*

(d) *Must state the particular discipline in which the licensee is licensed; and*

(e) *May state the expiration date of the license of the licensee.*

4. Each licensee shall validate a stamp or seal by signing his name legibly in opaque ink across the face of the impression made by the stamp or seal , ~~{and}~~ entering the date of stamping or sealing *and, unless such information is included in a stamp or seal pursuant to subsection 3, entering the date of the expiration of his license* immediately below the impression of the

stamp or seal. The signature must not obliterate the name of the licensee or his discipline or the number of his license. The licensee may not use a stamp or computer to produce his signature.

5. When a licensee signs, stamps or seals a document containing the work of others, the licensee represents that he has prepared or has been in responsible charge of the production of the entire document unless he includes a written statement adjacent to his signature, stamp or seal identifying the portion of the document that he prepared or for which he had responsible charge of the work.

6. For the purposes of NRS 625.565, a professional engineer has “responsible charge of the work” and may sign, stamp or seal plans, specifications, plats or reports which were not prepared by him:

(a) If he personally supervises the work on the plans, specifications, plats or reports to the degree that he is satisfied that the work is completed in a proper and professional manner; or

(b) Where the plans, specifications, plats or reports are not prepared under his personal supervision, if he or persons under his personal supervision review the plans, specifications, plats or reports and make tests, calculations or changes in the work as necessary for the professional engineer to determine that the work has been completed in a proper and professional manner.

7. A licensee who signs, stamps or seals a document which was not prepared by him but for which he had responsible charge of the work is subject to disciplinary proceedings pursuant to chapter 625 of NRS for any errors in that document as if he prepared it himself. This subsection does not exempt any other licensee who prepared the document from disciplinary action for his errors in that document.

8. ~~For the purposes of NRS 625.565, plans, specifications, plats, reports and any other documents which are issued by a professional engineer with the intent that they be considered as~~

~~formal or final documents must be stamped with the seal of the professional engineer before they are delivered to or filed with any public authority~~

~~—9.] Pursuant to NRS 625.565, all surveying maps and records, and all engineering plans, specifications, reports or other documents that are submitted to obtain permits, are released for construction or are issued as formal or final documents to clients, public authorities or third parties must bear:~~

- ~~(a) The signature of the licensee;~~
- ~~(b) The stamp or seal of the licensee;~~
- ~~(c) The date of signing; and~~
- ~~(d) The expiration date of the license of the licensee.~~

~~9. An interim document must be clearly marked in substantially the following manner to show the intended purpose of the document:~~

- ~~(a) “For review only”;~~
- ~~(b) “Not for construction”; or~~
- ~~(c) “Preliminary.”~~

~~10. A licensee is not required to stamp the following documents:~~

- ~~(a) An engineering as-built plan or record plan;~~
- ~~(b) A report which includes observations concerning the progress of the construction of a project;~~
- ~~(c) An estimate of the costs of a project; or~~
- ~~(d) A shop drawing that is not required by the specifications of a project.~~

Sec. 2. NAC 625.647 is hereby amended to read as follows:

625.647 1. If the board establishes an advisory committee for the evaluation and disposition of a complaint, the advisory committee shall:

(a) Review the complaint and the written report submitted pursuant to subsection 2 of NAC 625.640 to determine whether there is probable cause to believe that the respondent violated NRS 625.410;

(b) Hold an informal conference with the respondent and any other person who may assist in resolving the complaint;

(c) Attempt to arrive at a resolution of the complaint with the respondent; and

(d) Within 15 days after the conclusion of the informal conference, submit to the executive director a report containing written recommendations regarding the disposition of the complaint.

2. In addition to the report required by paragraph (d) of subsection 1, within 15 days after the conclusion of the informal conference, the chairman of the advisory committee shall submit to the board a report which contains a summary of the informal conference and recommendations regarding the disposition of the complaint.

3. The board is not bound by any recommendation made by an advisory committee regarding the disposition of the complaint.

4. The recommendation of an advisory committee pursuant to this section must be entered into evidence at any disciplinary action subsequently held before the board concerning the complaint reviewed by the advisory committee.

5. The board may give the weight deemed appropriate by the board to the recommendation of an advisory committee pursuant to this section.

6. The board may accept or reject, in whole or in part, the recommendation of an advisory committee pursuant to this section.

Sec. 3. NAC 625.6475 is hereby amended to read as follows:

625.6475 1. At an informal conference held pursuant to NAC 625.647:

(a) The chairman of the advisory committee shall:

(1) Rule on the admissibility of all evidence.

(2) Accept all evidence which is relevant to the complaint.

(b) The advisory committee is not bound by the formal rules of evidence.

(c) The findings of the advisory committee must be supported by substantial evidence.

(d) ~~[Evidence]~~ *All evidence* considered by the advisory committee in its review of a complaint ~~[must remain confidential.~~

~~—2.—] is admissible in a disciplinary action before the board.~~

2. If the board schedules the matter for a disciplinary hearing, the board will conduct a hearing de novo of the charges contained in the complaint. *During the hearing de novo, the board may review the evidence considered by the advisory committee concerning the complaint.*

3. An advisory committee may continue an informal conference for good cause shown.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R068-01

The State Board of Professional Engineers and Land Surveyors adopted regulations assigned LCB File No. R168-01 which pertain to chapter 625 of the Nevada Administrative Code on January 7, 2002.

Notice date: 11/16/2001

Date of adoption by agency: 1/07/2002

Hearing date: 1/4/2002 and 1/7/2002

Filing date: 4/29/2002

INFORMATIONAL STATEMENT

The Nevada State Board of Professional Engineers and Land Surveyors presents this information statement to the Legislative Counsel Bureau in accordance with NRS 233B.066 and presents the required information with respect to the Board's adoption of certain amendments to existing regulations pursuant to NAC 625 as follows:

1. Public comment and comment from affected business were solicited by mailing a Notice of Workshop to Solicit Comments on Proposed Regulation and a Notice of Intent to act Upon Proposed Amendments to Regulations to the individuals and entities identified in the mailing list attached as Exhibit "A". A copy of the Notice of Workshop to Solicit Comments on Proposed Regulation is attached as Exhibit "B". A copy of the Notice of Intent to Act Upon Proposed Amendments to Regulations is attached as Exhibit "C". The two separate Notices were also mailed to specific recipients together with a cover letter requesting those recipients to post the Notices in a public place and to distribute copies of the Notices to persons who may be interested in the proposed amendments to regulations. A copy of the cover letter to those specific recipients is attached as Exhibit "D".

2. The Notice of Workshop to Solicit Comments on Proposed Regulation and Notice of Intent to act Upon Proposed Amendments to Regulations were given on November 16, 2001. The workshop was held at 1755 East Plumb Lane, Suite 135, in Reno, Nevada, on January 4, 2002. The hearing on the proposed amendments to regulations was held on January 7, 2002 at the Alexis Park Resort, 375 E. Harmon, Las Vegas, Nevada 89109.

3. Minutes of the workshop held on January 4, 2002 are attached as Exhibit "E". Minutes of the hearing held on January 7, 2002 are attached as Exhibit "F". The minutes reflect the number of persons who testified at the workshop and the hearing, and the written statements submitted to the State Board.

4. The State Board believes that the amended regulations will have no economic effect on the engineering or land surveying professions or on the public. One of the proposed amendments concerns the manner in which documents are to be stamped, dated, signed and marked prior to their submission to clients, public authorities or third parties. The other proposed amendments concern evidence submitted to an advisory committee and the admissibility of the advisory committee's recommendation and notify licensees that the State Board may consider the evidence submitted to the advisory committee and the advisory committee's recommendation to the State Board.

5. The estimated cost to the State Board for enforcement of the adopted amendments to existing regulations is \$10,000.00 annually.

6. The adopted amendments to existing regulations do not overlap or duplicate any regulations of other state or governmental agencies.

7. The adopted amendment to existing regulations do not provide for a new fee. Nor, do they increase an existing fee.

Pursuant to the provisions of NRS 233B.050(1)(e), the Nevada State Board of Professional Engineers and Land Surveyors reports to the Legislative Counsel Bureau that the State Board has completed its review of its regulations to determine whether it should amend or repeal any of its regulations. The review was completed on November 16, 2001 and the regulations deemed necessary to be amended are those described above; namely NAC 625.610, NAC 625.647 and NAC 625.6475.

Mr. J. Allen Bell, PE
City of Mesquite
10 E. Mesquite Boulevard
Mesquite, NV 89027

Mr. Michael Holloway, PE
Poggemeyer Design Group
2601 N. Tenaya Way
Las Vegas, NV 89128

Mr. Shawn Gooch, PE
City of Sparks/Public Works
1675 E. Prater Way, # 107
Sparks, NV 89434

Mr. Bryan Sprague, PE
CFA, Inc.
1150 Corporate Blvd.
Reno, NV 89502

Mr. Eric L. Hearon, PLS
Milestone Surveying, Inc
P.O. Box 2459
Elko, NV 89803

Dr. Pierre Mousset-Jones, PE
Mackay School of Mines
Univ. of NV/Mail Stop 173
Reno, NV 89557

Mr. Erik Beyer, PE
Eric Beyer & Associates
1274 St. Alberts Drive
Reno, NV 89503

Mr. Steve Hinman, PE
1837 Appaloosa Road
Henderson, NV 89015

Mr. Paul Burn, PLS
Horizon Surveys
9911 Covington Cross Dr. #104
Las Vegas, NV 89144

Mr. Robert J. McNutt, PE/PLS
Consulting Civil Engineer
P.O. Box 81258
Las Vegas, NV 89180-1258

Mr. Dave Morlan, PLS
Bureau of Land Management
P.O. Box 12000
Reno, NV 89520-0006

Mr. Byron Johnson, PLS
City of Las Vegas, Survey
3001 Ronemus Drive
Las Vegas, NV 89128

Dr. Ted Batchman, Dean
College of Engineering, UNR
Mail Stop 256
Reno, NV 89557

Dr. Walter Vodrazka, PE
UNLV College of Engrg.
P.O. Box 45015
Las Vegas, NV 89154-4015

Dean Ronald Sack
UNLV College of Engrg.
P.O. Box 454005
Las Vegas, NV 89154-4005

Mr. Scott Smith, PE
Harding ERE
961 Matley Lane, Ste. 110
Reno, NV 89502-2139

Mr. James Duddlesten, PE
G.C. Wallace, Inc.
1555 S. Rainbow Blvd.
Las Vegas, NV 89146

Mr. Tom Stephens, PE
NV Dept. of Transportation
1263 S. Stewart Street
Carson City, NV 89712

Associated General Contractors
P.O. Box 40697
Reno, NY 89504

NV Division of Environ. Protection
333 W. Nye Lane, Ste. 138
Carson City, NV 89706

Nevada State Engineer
1 23 W. Nye Lane, Ste. 246
Carson City, NV 89706

NV Dept. of Conservation
123 W. Nye Lane, Ste. 230
Carson City, NV 89706

NV State Public Works Board
505 E. King St., Rm. 301
Carson City, NV 89701

NV State Fire Marshal
107 Jacobsen Way
Carson City, NV 89711

State Public Utilities Comm.
1150 E. William St.
Carson City, NV 89701

City of Reno
Engineering Division
450 Sinclair, 3rd Floor
Reno, NV 89501

City of Sparks
Engineering Division
431 Prater Way
Sparks, NV 89431

City of Las Vegas
Building & Safety Dept.
400 E. Stewart Street
Las Vegas, NV 89101

Clark County Building Dept.
P.O. Box 553530
Las Vegas, NV 89155-3530

Elko County Recorder
571 Idaho Street
Elko, NV 89801

EXHIBIT A

State Library & Archives
100 N. Stewart Street
Carson City, NY 89701

Clark Co. Library
1401 E. Flamingo Road
Las Vegas, NY 89119

Douglas County Library
P.O. Box 337
Minden, NY 89423

Goldfield Public Library
P.O. Box 430
Goldfield, NY 89013

Lincoln County Library
P.O. Box 330
Pioche, NY 89043

Tonopah Public Library
P.O. Box 449
Tonopah, NV 89049

Washoe County Library
P.O. Box 2151
Reno, NY 89505

Carson City Library
900 N. Roop Street
Carson City, NY 89701

Las Vegas Library
833 Las Vegas Blvd., No.
Las Vegas, NY 89101

Elko County Library
720 Court Street
Elko, NY 89801

Eureka Branch Library
P.O. Box 293
Eureka, NV 89316

Lyon County Library
20 Nevin Way
Yerington, NY 89447

Pershing County Library
P.O. Box 781
Lovelock, NY 89419

White Pine County Library
950 Campton Street
Ely, NY 89301

Churchill County Library
553 So. Maine Street
Fallon, NY 89406

N. Las Vegas Library
2300 Civic Center Dr.
N. Las Vegas, NY 89030

Fernley Branch Library
575 Silver Lace Blvd.
Fernley, NY 89408

Humboldt County Library
85 East 5th Street
Winnemucca, NY 89445

Mineral County Library
P.O. Box 1390
Hawthorne, NY 89415

Storey County Library
P.O. Box 14
Virginia City, NV 89440

Battle Mountain Branch Library
P.O. Box 141
Battle Mountain, NV 89820

EXHIBIT A

NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATION

The Nevada State Board of Professional Engineers and Land Surveyors (the "State Board"), 1755 East Plumb Lane, Suite 135, Reno, Nevada 89502, 775-688-1231, is proposing amendments to regulations pertaining to Chapter 625 of the Nevada Administrative Code. A workshop has been set for 9:00 a.m. on Friday, January 4, 2002 at the State Board's offices at 1755 East Plumb Lane, Suite 135, Reno, Nevada. The purpose of the workshop is to solicit comments from interested persons on the following general topics that may be addressed in the proposed amendments to existing regulations:

Copies of the proposed amendments to existing regulations are attached as Exhibit "A" to this Notice. The terms of the proposed amendments may be summarized as follows:

1. It is proposed that NAC 625.610 be amended to require the licensee to place the expiration date of his license on all engineering plans, specifications, reports or other documents that are submitted to obtain permits, are released for construction or are issued as formal or final documents to clients, public authorities or third parties. The licensee is also required to mark interim documents to show the intended purpose of the document, such as "preliminary", "not for construction", "for plan check only" or "for review only".

2. It is proposed that NAC 625.647 be amended to provide that the advisory committee's recommendation shall be entered into evidence at any subsequently held disciplinary action before the State Board based upon the complaint heard by the advisory committee. The proposed amendment clarifies that the State Board shall give whatever weight it deems appropriate to the advisory committee's recommendation and that the State Board may accept or reject, in whole or in part, the advisory committee's recommendation.

3. It is proposed that NAC 625.6475 be amended to provide that all evidence considered by the advisory committee is admissible in a disciplinary action before the State Board and that the State Board may review the recommendation made by the advisory committee at the hearing de novo held before the State Board.

A copy of all materials relating to the proposed amendments to existing regulations may be obtained at the workshop or by contacting Noni Johnson, Executive Director of the State Board at 1755 East Plumb Lane, Suite 135, Reno, Nevada 89502. Telephone number is 775-688-1231. A reasonable fee for copying the proposed regulations may be charged

This Notice of Workshop to Solicit Comments on Proposed Amendments to Regulation has been sent to all persons on the State Board's mailing list for administrative regulations and posted at the following locations:

EXHIBIT B

Nevada State Board of Professional Engineers and Land Surveyors
1755 East Plumb Lane, Suite 135
Reno, Nevada 89502

City of Reno, Engineering Division
450 Sinclair, 3rd Floor
Reno, Nevada 89501

City of Sparks, Engineering Division
431 Prater Way
Sparks, Nevada 89431

Clark County Building Department
500 S. Grand Central Parkway
Las Vegas, Nevada 89155-3530

City of Las Vegas, Building and Safety
400 E. Stewart Street
Las Vegas, Nevada 89101

Elko County Recorder
571 Idaho Street
Elko, Nevada 89801

DATED: This 16th day of November, 2001

State of Nevada Board of Professional
Engineers and Land Surveyors

NONI JOHNSON
Executive Director

EXHIBIT B

**NOTICE OF INTENT TO ACT UPON PROPOSED AMENDMENTS
TO REGULATIONS**

**NOTICE OF HEARING ON PROPOSED AMENDMENTS TO REGULATIONS
OF THE NEVADA STATE BOARD OF PROFESSIONAL ENGINEERS
AND LAND SURVEYORS**

The Nevada State Board of Professional Engineers and Land Surveyors (the "State Board") will hold a public hearing at 9:00 a.m. on January 7, 2002 at the Alexis Park Resort, 375 E. Harmon, Las Vegas, Nevada 89109. The purpose of the hearing is to receive comments from all interested persons regarding proposed amendments to existing regulations that pertain to Chapter 625 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 2338.0603:

1. The need for and the purpose of the proposed amendments to existing regulations are as follows:
 - a. The amendments to NAC 625.610 require a licensee to set forth the expiration date of his license when the licensee stamps or signs engineering plans, specifications, reports or other documents that are submitted to obtain permits, are released for construction or are issued as formal or final documents to clients, public authorities or third parties. Interim documents must be clearly marked to show the intended purpose of the document, such as "preliminary", "not for construction", "for plan check only", or "for review only".
 - b. The amendment to NAC 625.647 clarifies that the State Board may accept or reject, in whole or in part, the advisory committee's recommendation and that the State Board may give whatever weight it deems appropriate to the advisory committee's recommendation. The amendment modifies the existing regulation to provide that the advisory committee's recommendation shall be entered into evidence at any subsequently held disciplinary action before the State Board based upon the complaint heard by the advisory committee.
 - c. The amendment to NAC 625.6475 clarifies that all evidence considered by the advisory committee in its review of a complaint is admissible in a disciplinary action before the State Board. The amendment further provides that the State Board may review the evidence considered and the recommendation made by the advisory committee during the course of the hearing de novo before the State Board.
2. The proposed language of the amended regulations is attached as Exhibit "A" to this Notice.

EXHIBIT C

3. The State Board does not believe that the regulations, if adopted as amended, will have an economic effect on the engineering or land surveying professions or on the public. One of the proposed amendments concerns the manner in which documents are to be stamped, dated, signed and marked prior to their submission to clients, public authorities or third parties. The proposed amendments concerning evidence submitted to an advisory committee and the advisory committee's recommendation notify licensees that the State Board may consider the evidence submitted to the advisory committee and the advisory committee's recommendation to the State Board.

4. The estimated cost to the State Board for enforcement of the proposed amendments to the existing regulations is \$10,000.00 annually.

5. The proposed amendments to the existing regulations do not establish a new fee nor do they increase an existing fee.

Persons wishing to comment upon the proposed action of The State Board may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Nevada State Board of Professional Engineers and Land Surveyors, 1755 East Plumb Lane, Suite 135, Reno, Nevada 89502. Written submissions must be received by The State Board on or before Friday, January 4, 2002. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, The State Board may proceed immediately to act upon any written submissions.

A copy of this Notice and the regulations to be adopted or amended will be on file at The State Library, 1 00 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the Notice and the regulations to be adopted or amended will be available at the State Board's office at 1755 East Plumb Lane, Suite 135, Reno, Nevada 89502, and in all counties in which an office of the State Board is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This Notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.065, and on the internet at <http://www.leg.state.nv.us>. Copies of this Notice and the proposed regulations will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within thirty days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against said adoption.

EXHIBIT C

This Notice of Hearing has been posted at the following locations:

Nevada State Board of Professional Engineers and Land Surveyors
1755 East Plumb Lane, Suite 135
Reno, Nevada 89502

City of Reno, Engineering Division
450 Sinclair, 3rd Floor
Reno, Nevada 89501

City of Sparks, Engineering Division
431 Prater Way
Sparks, Nevada 89431

Clark County Building Department
500 S. Grand Central Parkway
Las Vegas, Nevada 89155-3530

City of Las Vegas, Building and Safety
400 E. Stewart Street
Las Vegas, Nevada 89101

Elko County Recorder
571 Idaho Street
Elko, Nevada 89801

Should you have any questions concerning the proposed amendments to the existing regulations, please write to Noni Johnson, Executive Director of the State Board, at 1755 East Plumb Lane, Suite 135, Reno, Nevada 89502.

DATED: This 16th day of November, 2001.

State of Nevada Board of Professional
Engineers and Land Surveyors

NONI JOHNSON
Executive Director

EXHIBIT C

November 19, 2001

TO WHOM IT MAY CONCERN:

Please post the enclosed Notice of Workshop and Notice of Hearing concerning proposed amendments to regulations that are attached.

Please complete and return the posting notice to us in the enclosed addressed postage-paid envelope.

Thank you for your cooperation,

Sincerely,

Noni Johnson
Executive Director

NJ/kmj

Enclosures

EXHIBIT D

STATE OF NEVADA
BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS
Minutes of the Board Workshop on Proposed Amendments to Regulations
held in Reno, Nevada, Friday, January 4, 2002

Chairman Rita M. Lumos called the workshop to order at 9:00 a.m., Friday, January 4, 2002 in the Ed and Mary Alice Pine Board Room, Suite 130, Reno, Nevada. Board members present were Vice Chairman J. Clark Gribben and Roland D. Westergard. Also present was Noni Johnson, Executive Director; Bruce Robb, Board Legal Counsel; and Kay Jenkins, Administrative Assistant.

Chairman Lumos informed those present that the workshop was being held to receive comments on the Board's proposed regulations in accordance with the requirements of NRS 233B. The regulations being considered for amendment are NAC 625.610, NAC 625.647 and NAC 625.6475. Please refer to Appendix A.

Chairman Lumos said that Thomas J. Greco, CE #7208, and Shawn Gooch, CE #10639, were present to give their comments to the Board.

Mr. Greco said that he fully supported amending NAC 625.610 to require licensees to include their license expiration date with their stamp and signature. He said that whatever could be done to remind engineers that their license is about to expire would benefit everyone.

Mr. Greco said he supported amending NAC 625.647 as proposed; however, he questioned the language contained in subsection 9 (a), (b), and (c). This language would require marking an interim document "For review only", "Not for construction", or "Preliminary". He said this would be ambiguous and recommended just marking documents as "Preliminary". He said this would leave only two designations for plans, final and preliminary, which would be much simpler.

Mr. Greco referred to proposed amendments to NAC 625.6475. He said that he disagreed with the language, as he understood it, and questioned the motivation for the change. He said that most engineers would reject the advisory committee process and the Board would be much busier with disciplinary actions. Mr. Greco said the advisory committee process works well because it is much less formal and the committee members are more likely to be open. He said they know that if a stipulation is not reached, then a subsequent formal hearing with the Board is de novo.

Mr. Robb explained to Mr. Greco that issues had been raised during a recent disciplinary hearing as to whether evidence that was introduced at an advisory committee could be used in the formal hearing before the Board. He said the intent of the proposed language was to make it clear that although the advisory committee reviewed the evidence the Board would necessarily have to review the same evidence.

EXHIBIT E

Mr. Robb said the Board wished to take another step and allow the advisory committee's recommendation to be presented to the Board. He said the Board has considered whether the proposed amendment to the regulation will dissuade persons from going before an advisory committee. The Board is considering whether it should make it clear to the licensee that the recommendation made by the advisory committee may be presented to the Board for its review and consideration.

Mr. Gooch gave his testimony first as a representative of the City of Sparks New Development, an agency that receives plans from engineers. He referred to the language in subsection 9 of NAC 625.610 regarding interim documents. He said the City has had some issues with plans that were stamped "Preliminary", "Not for Construction" and other qualifiers. Mr. Gooch said it is the City's opinion that when plans are submitted they are for construction and it would like to maintain this clarity. He said, however, the City also leaves the door open for engineers to have a pre-application meeting to review their concepts. He said the City does not necessarily receive the plans at that time, but if requested can do a preliminary review on a case-by-case basis.

Mr. Gooch said the language in subsection 9 would promote the "design by review" concept. He said that engineers who are under a deadline with their clients to submit plans would submit substantially incomplete plans that are stamped preliminary. He said the plans would not be able to reviewed and this would compound the City's review process. Mr. Gooch said the City would like to see the regulation remain as it is.

Mr. Robb asked Mr. Gooch if other building officials at various city and county agencies shared his views. Mr. Gooch replied that he had spoken to some people, but they are not quite as black and white as the City of Sparks on this issue. He said he is not sure how the County and City of Reno deal with this matter.

Mr. Robb said that if the proposed regulation was enacted, these changes would not preclude the City of Sparks from refusing to accept incomplete plans or calculations. The City of Sparks could determine that it will accept only submittals that are final and for construction. He said the City of Sparks is its own independent entity and can require more than that which the regulation requires. Mr. Robb assured Mr. Gooch that the Board does not wish to promote design by review.

Mr. Gooch questioned the Board's reason for the proposed language. Chairman Lumos said that the source came from a disciplinary action in which a set of plans was submitted to a state agency that believed they were 100% complete. She said the plans were stamped but not qualified and it was later asserted that the plans were only a 50% submittal. Chairman Lumos said the point of the amendment was to ensure that if plans are submitted as an interim submittal that they be clearly marked as such. Mr. Robb said the Board would like to have good communication between its licensees and public entities.

EXHIBIT E

Mr. Gooch then gave testimony as an individual licensee. He referred to the proposed amendment in subsection 3 (e) of NAC 625.610, which would require a licensee to provide the expiration date of his license upon stamping a document. He said he has always considered it his responsibility to keep track of when his license expires. He said this requirement seemed redundant and added one more thing to stamping that could cause confusion between the date of the document and the license expiration date.

Mr. Gooch expressed his views concerning NAC 625.647 and 625.6475. He supported allowing an advisory committee's recommendation to be submitted for the Board's consideration at a formal hearing. He said that he also supported allowing the advisory committee chairman's report to be included in the evidence for a formal hearing. He recalled an instance when a report was not made available to the Board and it could have assisted in its decision about a case. He said that perhaps the chairman of the advisory committee should be invited to the formal hearing to provide information to the Board.

Chairman Lumos referred to NAC 625.610, subsection 9. She said the three items in (a), (b), and (c) were to be examples and not the only choices as the language implies. She said a regulator might interpret this as such and could cause an issue to arise between a professional and an agency. She said that perhaps the Board could add some language that clearly indicates these three items are examples.

Mr. Robb noted that this was stated in the original draft regulation, but that the language was changed by the Legislative Counsel Bureau. He suggested that the Board indicate to LCB that it is the Board's preference that these be examples and that it wishes to foster communication between an agency and a licensee.

Chairman Lumos referred to subsection 4 of NAC 625.647, which states "The recommendation of an advisory committee pursuant to this section must be entered into evidence at any disciplinary action subsequently held before the board concerning the complaint reviewed by the advisory committee". She questioned whether this should be permissive rather than required. Vice Chairman Gribben said that the word "must" should be changed to "may" to be consistent with subparagraph 2 (d) contained in 626.6475, which states all evidence "is admissible". Chairman Lumos said the intent was to make it clear that the evidence is admissible and that if it is pertinent and appropriate the Board will review it. Mr. Robb agreed that these two references were in conflict and should be consistent. Vice Chairman Gribben said he thought the Board's intention was to make this permissive and not mandatory. Chairman Lumos agreed.

Ms. Johnson stated for the record that the Board office had not received any written comments to date concerning the proposed regulations. Chairman Lumos added that she had received two phone calls regarding the addition of the license expiration date with the seal and signature. She said one person agreed with the requirement and one opposed it.

EXHIBIT E

Adjournment

There being no further discussion, Chairman Lumos adjourned the workshop at 9:50 a.m. on Friday, January 4, 2002.

Respectfully,

Noni Johnson
Executive Director

EXHIBIT E

STATE OF NEVADA
BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Minutes of the Regular Board Meeting
held in Las Vegas, Nevada, Monday, January 7, 2002

Chairman Rita M. Lumos, declaring a quorum present, called the meeting to order at 8:00 a.m., Monday, January 7, 2002, in the Parthenon 5 Room, Alexis Park Resort, 375 East Harmon Avenue, Las Vegas, Nevada. Board members present were Vice Chairman J. Clark Gribben, Roland D. Westergard, Todd J. Kenner, James N. Gardner, Dennis Anderson, and Thomas J. Krob. Also present were Noni Johnson, Executive Director; Bejay Castle, Compliance Officer; Bruce Robb, Board Legal Counsel; and Kay Jenkins, Administrative Assistant. The following people attended as guests of the Board:

	<u>AM</u>	<u>PM</u>
Gregory P. DeSart, CE #9543 Geotechnical & Environmental Services, Las Vegas	X	X
Adriana B. Gonorazky, CE/SE #11201 Martin & Peltyn, Inc., Las Vegas	X	X
Peter J. Mulvihill, ME #12511 Fire Protection Management, Las Vegas	X	X
Arthur W. Davoren, EE #13654 Nevada Power Co., Las Vegas	X	X
William T. Avery, PLS #5571 Wesco Surveys, Inc., Las Vegas	X	X

Introductions

Chairman Lumos asked those present to introduce themselves. She noted that new Board member Thomas J. Krob, electrical engineer, was present at his first meeting. She said that Roland Westergard, civil engineer, was reappointed for his fourth term and that the Board is glad to have him back.

1. Approval of Minutes

a) Regular Board Meeting of November 15, 2001

The Board considered the Minutes and there were no corrections or comments

02-1 Motion was made by Mr. Gardner, seconded by Mr. Anderson, for approval of the Minutes. The motion passed unanimously.

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2. Financial Statements

b) Designated Unreserved Balance

Ms. Johnson said that at the November 2001 Board meeting there was question if the auditor had an opinion as to how much the Board should keep as a designated unreserved balance and if there is a limit on the amount. She said the auditor has since informed her there is no recommended balance or limit; however, the auditor did recommend keeping the amount at a reasonable level.

c) Approval of October, 2001

b) Approval of November, 2001

Ms. Jenkins reviewed both reports and she and Ms. Johnson answered questions by the Board. Ms. Jenkins noted that over 2,500 renewal notices for the last names of "L - R" had been mailed in the middle of November. This mailing reflects the renewal period from January 1, 2002 through December 31, 2003.

02-2 Motion was made by Mr. Kenner, seconded by Mr. Westergard, for approval of both financial reports. The motion passed unanimously.

3. Compliance Report - Board Counsel and Compliance Officer

e) Compliance Report

Ms. Castle recommended closing the following cases:

Richard R. Striegel- CE #12553 - Clark County Department of Building and Safety, filed a complaint against Mr. Striegel, alleging that he certified a drainage report that was not to code or plans. Ms. Castle said that a subsequent letter from the County stated that much of the conflict related to the site drainage was outside of those elements Mr. Striegel's office would normally have had control over. She said the County recommended that the Board consider closing this case, as Mr. Striegel had worked closely with the County to complete the drainage study and ensure satisfaction. Mr. Kenner noted that issues like this are not untypical with lot drainage and it is a difficult issue to manage.

Allen Gray, CE #7141- A person filed a complaint against Mr. Gray, alleging that he failed to supervise his employees and properly advise his clients. Ms. Castle said the case became quite complicated due in part to a personality clash between Mr. Gray and the complainant and a subsequent change of engineering firms by the complainant. She said, however, that all parties had worked together during the transition.

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Ms. Castle said that a representative from the City of Reno Community Development Department had recommended that no disciplinary action be taken against Mr. Gray. She said, however, that in her opinion Mr. Gray could have been more diligent in getting the issues resolved. She recommended that the Board close the case with a letter of caution.

Discussion ensued. Mr. Kenner said it appeared that Mr. Gray had been very open with the agency and cordial with the next engineer who took over the project. He said that given the set of circumstances Mr. Gray did his best and exercised care in dealing with a difficult situation. He recommended closing the case without sending a letter of caution to Mr. Gray.

02-3 Motion was made by Mr. Kenner, seconded by Mr. Anderson, to close the case against Richard Striegel and to close the case against Alan Gray without a letter of caution.

Mr. Westergard noted that the Board did not have a copy of the complaint against Mr. Gray or his response, and as such the Board was acting on the City of Reno's response. He asked Ms. Castle if there was anything in the complaint which warranted a letter of caution to Mr. Gray. Ms. Castle recalled that in the past letters of caution have been sent to respondents who have had trouble communicating with difficult clients. She said the letters have indicated that it is the engineer's professional responsibility to act as a faithful agent to his client. Ms. Castle said that Mr. Gray does understand his relationship with his clients.

Mr. Gardner disclosed that was he is a friend of both the complainant and the respondent and he recused himself from voting on the motion. He noted that the City of Reno's letter did not address what his knowledge of the problem was. He said that he had not read the complaint.

Vice Chairman Gribben suggested having the complaint and the response faxed from the Reno office so the Board could act on the case later. The Board agreed and Mr. Kenner withdrew his motion, with Mr. Anderson agreeing as the second.

02-4 Motion was made by Mr. Kenner, seconded by Mr. Anderson, to close the case against Richard Striegel. The motion passed unanimously.

Later on the Board agreed to hold the case involving Mr. Gray over to the March Board meeting. Mr. Kenner and Mr. Westergard will review the complaint and responses in the meantime and report back to the Board in March.

Ms. Castle said that a formal hearing for Michael Z. Yevtovich, CE/SE #12008, was still scheduled for the next morning. She said that advisory committee reviews will be held for Edward D. Collins, CE #14533, and Frank C. Hulse, PLS #6498, in Las Vegas. She said there were no probationary reports for review this time as they are due on January 15.

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f) Case #20010608 - Hugh L. Ezzell. CE #10310 - Advisory Committee Report

A complaint was filed against Mr. Ezzell which alleged that he filed incomplete plans. An advisory committee review with Mr. Ezzell was held on December 21, 2001, in Reno. Ms. Castle said that she had just received the chairman's report from Jeff Turnipseed, CE/SE #12041, the previous Friday. She said that the advisory committee recommended offering Mr. Ezzell a stipulated agreement and that he indicated that he is very willing to accept it. After some discussion the Board agreed to offer Mr. Ezzell a stipulated agreement and to review it at the March 2002 Board meeting.

g) Case #20011227 - David A. Crane. SE #5330 - Stipulated Agreement

An internal complaint was filed against Mr. Crane for performing engineering services after his license had lapsed in December 1998. Ms. Castle said that a stipulated agreement had been prepared according to the Board's disciplinary matrix. The stipulated agreement would impose a \$1,000 administrative fine, require Mr. Crane to notify his clients that he was not licensed at the time the work was performed, require him to notify those clients with projects under construction or not yet constructed that the plans need to be restamped by a licensed engineer at Mr. Crane's expense, and issue a public reprimand. Ms. Castle said that Mr. Crane had already paid the fine amount, but she still needed to receive proof of notification of his clients.

Ms. Castle said that Mr. Crane had also reapplied for reinstatement of his license in Nevada. She said that if the Board accepted the stipulated agreement Mr. Crane's license would be reinstated. The Board considered the stipulated agreement.

02-5 Motion was made by Vice Chairman Gribben, seconded by Mr. Westergard, to accept the stipulated agreement with Mr. Crane and to reinstate his license upon completion of the terms of the stipulated agreement. The motion passed unanimously.

h) Case #2001020 - James J. Owens. PLS #2884 - Stipulated Agreement

A complaint was filed against Mr. Owens by a person who alleged that Mr. Owens entered onto his property without first obtaining his permission. At the November Board meeting it was agreed to offer Mr. Owens a stipulated agreement. Ms. Castle said that Mr. Owens had since signed the stipulated agreement although he did so under protest. She said that Mr. Owens felt that he did not trespass on the complainant's property because permission is not usually obtained in the rural counties. Ms. Castle said, however, that Mr. Owens had ensured her and the Board that he understands the law and needs to obtain proper permission from landowners. The stipulated agreement would impose a \$500 administrative fine and issue Mr. Owens a public reprimand. The Board considered the stipulated agreement.

02-6 Motion was made by Mr. Westergard, seconded by Mr. Gardner, to accept the stipulated agreement with Mr. Owens. The motion passed unanimously.

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i) Board Counsel's Report

Legislation/Regulations

This item was addressed under agenda item 4. Public Hearing - Proposed Amendments to Regulations.

Rules of Practice

Mr. Robb said that he had drafted a proposed set of Rules of Practice that would not be adopted as a regulation, but could be made available on the Board's website or mailed upon request. He said the Rules of Practice govern how the Board handles disciplinary actions from the date an initial complaint is received through a formal hearing. Mr. Robb said the Board could also consider developing Rules of Practice for such items as licensure, renewals, or examinations. He said that most other state boards he contacted do not have Rules of Practice governing these items, but the Board may wish to advise potential or existing licensees about these things.

Mr. Robb said that he followed the format according to the discussion held on disciplinary procedures at the Board workshop in October 2001. He asked that if these Rules of Practice were acceptable to the Board that it adopt them and give some direction to Ms. Johnson as to how they should be disseminated. Mr. Gardner said the Rules of Practice were excellent. Chairman Lumos said that they detailed very succinctly all the things that were discussed at the workshop.

Mr. Westergard also expressed that the Rules of Practice were very helpful. He referred to item g) in paragraph 1, which states that the Board will decide whether to refer a matter to an advisory committee. He questioned if the Board was doing this now or whether staff had done this sometimes without coming to the Board. Ms. Castle indicated that at times it is very apparent that a matter needs to be referred to an advisory committee and that Board members who have reviewed complaints have often advised staff to do this.

Mr. Kenner said he recalled that most of these cases are first reported in the compliance report where the Board has agreed to refer them to an advisory committee. Chairman Lumos suggested that if the Board adopts the Rules of Practice then it should vote during the compliance report that these cases go forward to an advisory committee as recommended by staff.

After further discussion, Chairman Lumos asked for a motion to approve or disapprove the Rules of Practice.

02-7 Motion was made by Mr. Westergard, seconded by Mr. Gardner, for acceptance of the Rules of Practice. The motion passed unanimously.

The Rules of Practice will be included in the Board Member Manual. They will also be published in the Board's newsletter and on its website.

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Private Plan Check Services

Mr. Robb said the issue of plan checking has come up before the Board several times over the past ten years. He said that most recently the issue arose again concerning Douglas County's contract with an independent company who does not employ licensees to perform plan checks. He said the issue was whether plan checking constitutes the performance of professional engineering services and whether an independent firm or a city employee can do this work.

Mr. Robb reviewed with the Board an opinion given by his previous law partner Susan Ball Rothe in 1996. Ms. Rothe's opinion stated that in order to perform plan checking a person is required to be a professional engineer. Mr. Robb said that the law is clear that an unlicensed plan checker who is making engineering decisions is violating Nevada law. He said there is also no exception for a non-licensed city or county employee or an independent firm to perform plan checking services.

Mr. Robb said, however, that in Nevada there are several small communities that cannot afford to employ a licensee and the Board would need to address this fact. Mr. Kenner noted that there could be staff members who work under a licensee. Mr. Robb said this would not be a problem as long as the licensee had responsible charge.

Chairman Lumos said that Douglas County had asked the Board if its contract with the independent plan checking company is legitimate. She asked Ms. Johnson if she had been able to find out the details of this contract so the Board could know if the services constituted actual plan checking or checking for code compliance. Ms. Johnson replied that the County does not have an actual contract so the type of service is not known. She said, however, the County is considering a contract.

Chairman Lumos referred to a list of state boards that shows how each state addresses plan checking services Ms. Johnson informed that the majority of states contacted are not concerned about this issue. She said that some states are very clear that plan checkers must be licensed if engineering decisions are being made; however, the majority of the states do not require licensure.

Mr. Kenner said there is a fine line between checking for code compliance and looking at design issues. He said that plan checkers deal with both design and codes issues on typical residential development projects. Mr. Mulvihill said that this also occurs with fire protection issues, which are heavily into design.

After further discussion Board agreed that Ms. Johnson would respond to Douglas County's inquiry about plan checking services in accordance with the opinion outlined by Mr. Robb. Chairman Lumos suggested that that an article on this issue be written for the Board's newsletter.

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Holiday Policy

At the November Board meeting Mr. Robb was asked to research whether the employees of this Board are entitled to double time or time and a half pay if they are required to work on Veteran's Day. Mr. Robb said it his opinion that because the employees of the Board are not state employees this is not the case. He noted that the Board's employees are not included in NRS 284 which governs state personnel. He said that he also spoke with Tina Leiss, Senior Deputy Attorney General, who after conferring with another attorney in her office agreed with his opinion.

Chairman Lumos said that Veteran's Day is the only holiday not included on the list of holidays in the Board's Personnel Policy. Mr. Westergard noted that the Board has used state employee salaries and benefits as a gauge for providing these things for staff He said that to be consistent perhaps the Board should consider whether to add Veteran's Day to the holiday list. Chairman Lumos said this was open for discussion, but at the time the Personnel Policy was adopted the Board considered that it pays its employees better than the state rate and that it was appropriate to give them the holidays the Board approved at that time. She said the Board also has some benefits that are equal to or better than what state employees are receiving.

Mr. Westergard said it might be appropriate for the Administrative Procedures Oversight Committee to address this matter as it would be considering salary ranges. Chairman Lumos asked Vice Chairman Gribben to include this on the agenda for the committee's next meeting.

j) Miscellaneous

Mr. Robb informed that the petition for judicial review filed by Dale L. Forbes, CE #6507, had been dismissed by Clark County District Court in December. The Board imposed discipline against Mr. Forbes in 1996. Mr. Robb reported on Arthur L. Shelton, ME #14837, who submitted his first licensure renewal in December and indicated that he had been disciplined by the California board. Mr. Robb explained that in an application for licensure in California Mr. Shelton indicated that he had never been licensed there when in fact he had. A company employee later submitted an affidavit to the board that stated the wrong box was inadvertently marked on the application and that Mr. Shelton had not directed anyone to do this. In it discipline against Mr. Shelton, the California board stated that he had committed perjury. The board required him to pass the Murdough Engineering Ethics course, imposed a fine, and placed him on probation.

Mr. Robb said the Oklahoma board subsequently reviewed the disciplinary action, but did not take any action against Mr. Shelton because it felt that California had imposed sufficient discipline. He said the issue before the Board now was whether it wished to move forward with disciplinary action against Mr. Shelton. Mr. Robb said that he shared the opinion of the Oklahoma board and recommended that the Board also not taken any action against Mr. Shelton. After some discussion the Board agreed to accept Mr. Robb's recommendation and to accept Mr. Shelton's request for license renewal.

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4. Public Hearing - Proposed Amendments to Regulations

Chairman Lumos opened the public hearing at 9:00 a.m. She asked Mr. Robb to review the proposed regulations and report on the workshop that was held on January 4, 2002 in Reno.

Mr. Robb said the first proposed regulation involved NAC 625.610, with proposed changes found in subsections 3 and 9. He said the Board wished to ensure that licensees include the expiration date of their license whenever they stamp and sign any work. He said that a stamp may contain the expiration date or the licensee may write in the date near the stamp. He explained that the Board has been burdened at nearly every meeting in dealing with persons who have stamped work after their license has expired. Mr. Robb indicated this regulation change should prevent someone from stating that his stamping was inadvertent.

Mr. Robb said that a new subsection 8 in 625.610 identifies the documents that need to be stamped and adds the requirement of the license expiration date. He said that a new paragraph 9 provides that "An interim document must be clearly marked in substantially the following manner to show the intended purpose of the document: (a) "For review only"; (b) "Not for construction"; or (c) "Preliminary"."

Mr. Robb said the reason for this proposed change was a very heated disciplinary action where a licensee submitted plans to a state agency that was treated by the agency as a final and formal submission. He said the licensee's position was that this was only a 50% complete submittal and was never intended as a final or formal submittal. Mr. Robb indicated that by the proposed language the Board intends to enhance communication between licensees and governmental agencies and clients.

Mr. Robb said that discussion had occurred at the Reno workshop as to whether a licensee is limited to marking his documents "For review only", "Not for construction", or "Preliminary". He noted that the language refers to the documents as being marked "in substantially" a certain manner so a licensee would not have to use the exact three phrases. He said the proposed regulation did not seem to be very controversial among licensees.

Mr. Robb next addressed the proposed changes in NAC 625.647 and 625.6475, which govern the Board's advisory committees. He said the intent of the language is to provide that the recommendation of an advisory committee must be entered into evidence at any disciplinary action subsequently held before the Board. He referred to subsection 4 of NAC 625.647. He said the discussion at the workshop was that the word "must" is in error and should instead be "may".

Mr. Robb said it would be the Board's discretion whether to accept an advisory committee's recommendation as an item of evidence, which would make it consistent with the verbiage used in paragraph 2 of NAC 625.6475. This language reads that "During a hearing de novo the Board may review the evidence considered and the recommendation made by an advisory committee

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during a complaint.” He said the issue for the Board to decide was whether it wished to have an advisory committee’s recommendation made part of the evidence, and if so did it wish to have this occur every time. Mr. Robb said that two people attended the Reno workshop to give comments about this issue. He said that Shawn Gooch, civil engineer and a past chairman of advisory committees, expressed that it would be very helpful to have the committee's recommendation as well as the chairman's report made available for the Board to consider. Mr. Gooch also suggested that it would be helpful to have the chairman in attendance at formal hearings to answer questions.

Chairman Lumos referred to subsection 9 of NAC 625.647 regarding the marking of interim documents. She said one of the persons at the workshop thought that just marking them “Preliminary” would be sufficient. She said the other person, Mr. Gooch who also represented the City of Sparks, expressed concern that the proposed change would foster “design by review”. Chairman Lumos said that Mr. Robb explained to Mr. Gooch that the City of Sparks can develop its own policies that are more restrictive than the regulation, and could choose whether the City will allow plans to be submitted that are marked “Preliminary”.

Mr. Anderson said the distinction here was whether plans were being submitted to an agency for a land development project versus a capital improvement project where a person consulted directly to the agency. He said this is where the terms “Preliminary” and “Not for construction” really apply. Mr. Anderson said that in most capital improvement contracts certain submittals are required at certain completions. He said the submittals are usually at 30%, 50%, and 90% completion and that it is appropriate to mark them as such. He said he hoped that the proposed regulation would not cause people to think they can only use the three markings outlined in the language. Mr. Anderson also questioned whether the regulation language should require the designation to be somewhere near the licensee’s seal so the status of the plans is clear to the agency.

Mr. Kenner noted that private development projects would not require the “Preliminary” marking, but rather “Not for construction”. He said this marking, however, does not mean the plans are incomplete. He said his employer uses “Not for construction” because the plans have not been reviewed by the agency and signed off. He said that sometimes an early grading permit is obtained and the engineering firm does not want the drawings to be used until they have been signed off by the agency.

Mr. Mulvihill said that he submits reports, particularly to Clark County, where an initial review is encouraged. He said that he puts the qualifier “Draft Report” near the signature line. He said that usually the reports are not stamped; however, some partial construction reports require a stamp, even at the draft stage, with a final report to follow. Mr. Mulvihill questioned if he was limited to using the three qualifiers in the proposed regulation. Mr. Robb advised him to follow the language in the regulation so there will never a controversy concerning his compliance.

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Ms. Johnson said that to date the Board office had not received any written comments regarding the proposed regulations.

Mr. Robb said the Board had resolved the issue of stamping and sealing plans. He recommending adopting the regulation as written, unless the Board wished to insert language to address Mr. Anderson's concern about adding a notation near the licensee's seal. He suggested this not be done as the seal might be in a difficult place on the plans. Mr. Robb instead recommended that the Board wait and see how licensees will handle the placement of their notations.

02-8 Motion was made by Mr. Anderson, seconded by Mr. Krob, to adopt as written the proposed language contained in NAC 625.610 up through subsection 9, which relates to writing the license expiration date with the seal and signature and the manner in which interim documents are identified. The motion passed unanimously.

Mr. Robb suggested the Board next consider a motion concerning the proposed language in NAC 625.647 as drafted by the Legislative Counsel Bureau, with the exception that the verb "must" in subsection 4 be changed to "may".

Mr. Westergard expressed concern that the proposed changes would potentially affect the peer review process adversely. He said this process had been developed to be informal in nature and was concerned that all evidence received in this informal setting would be made a part of the record before the Board. Mr. Westergard said that respondents might be extremely cautious and perhaps less candid and responsive than they would be in an informal process.

Mr. Westergard said that changing the word "must" to "may" in subsection 4 places another discretionary determination on the Board that could be very controversial if it considered another hotly contested case. He questioned what criteria the Board would use to decide whether or not the committee's recommendation would be accepted. He said it might be better to leave in the word "must". He said that under subsections 5 and 6 there is a provision that states "The Board may give the weight deemed appropriate by the board to the recommendation of an advisory committee pursuant to this section", and "The board may accept or reject, in whole or in part, the recommendation of the advisory committee."

Mr. Westergard said that if the Board was receptive to going this way then it would be better to have the recommendation be a part of the record and let the Board under subsections 5 and 6 weigh the merits of the recommendation. He expressed concern that the word "may" might lead to an argument about whether the recommendation should or should not be accepted, when in fact the Board has the authority under subsections 5 and 6 to give whatever weight is deemed appropriate.

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Chairman Lumos recalled that in the disciplinary case Mr. Westergard referred to the respondent originally indicated that he would agree to the stipulated agreement recommended by an advisory committee. The respondent then decided not to accept the stipulated agreement, and his attorney contested that the Board could consider any information discussed in the advisory committee in the subsequent formal hearing.

Chairman Lumos noted that in the past the Board has reviewed an advisory committee's report before a respondent has indicated whether he was going to accept a stipulated agreement. She said the purpose of the proposed regulation was to make it clear in a case like this that the Board could go ahead with the formal hearing without having to recuse themselves because the members had seen the advisory committee report.

Mr. Kenner said that he appreciated the concerns about the informal nature of the advisory committee. He said, however, the benefits of having the committee's recommendation made available to the Board during a formal hearing outweighs them. He said he hoped that any dampening of the forthrightness of a licensee would be the exception and not the rule.

Mr. Avery, a past member of advisory committees, said that information brought out in the peer reviews would be of great assistance to the Board, as the committees usually have at least three members with expertise in the respondent's field of work. He said there would be a loss if the information from the peer review is not used by the Board.

Vice Chairman Gribben said that after hearing Mr. Westergard's comments he was not sure if the word "must" should be changed to "may" in subsection 4 of NAC 625.647. Mr. Robb agreed, stating that Mr. Westergard had made an excellent point. Mr. Robb said the word "must" could be left in and the language in paragraph 2 of NAC 625.6475 could be changed to read, "During the hearing de novo the board may review the evidence considered by the advisory committee concerning the complaint."

Mr. Robb said this change would ensure that the Board has to take into evidence the recommendation of the advisory committee, but does not have to take in all the evidence considered since the committee may have thrown out irrelevant or unfounded information. He said that the two regulations would now be consistent. Vice Chairman Gribben and Mr. Gardner agreed.

02-9 Motion was made by Mr. Gardner, seconded by Mr. Kenner, to approve as written the proposed language in NAC 625.647 and NAC 625.6475, including the modified language in subsection 2 of NAC 625.6475. The motion passed unanimously.

The language adopted today will be resubmitted to the Legislative Counsel Bureau, informing it that hearings were conducted and the Board took action to adopt the regulations as promulgated by LCB. Upon approval by LCB, the Secretary of State and the State Librarian will be notified of the regulations. If LCB does not give its approval, then the Board will reconsider the regulations at the March 2002 Board meeting.

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As there was no further discussion or comments, Chairman Lumos closed the public hearing at 9:30 a.m.

5. Administrative Report - Executive Director

k) Administrative Procedures Oversight Committee

Committee Appointments

Chairman Lumos explained that she had been waiting to appoint committee members until Governor Guinn made his appointments to the Board. She said that Vice Chairman Gribben will chair the Administrative Procedures Oversight Committee and that Mr. Anderson will continue to sit as a member. She asked new Board member Mr. Krob to also serve on the committee.

Chairman Lumos said that Mr. Kenner will chair the Legislative Committee and that Mr. Robb, Ms. Johnson, and herself will also serve on the committee. She said that former committee member Mr. Westergard is also welcome to participate as his experience is valued.

Chairman Lumos said the Architectural Engineering Committee was formed to attempt to find parity among those colleges that grant degrees in architectural engineering, but also to review the new NCEES examination that is being formulated for this discipline. The committee members will be Vice Chairman Gribben, Mr. Gardner, and licensees Nancy Ruth, Kent Bell, and Mike Blakely.

Chairman Lumos said that she asked Mr. Westergard to chair the Academic Relations Committee, with the remaining members to be Mr. Gardner, Mr. Kenner, and herself.

Chairman Lumos said that Vice Chairman Gribben will attend the Nevada Construction Industry Relations Committee meetings in Reno and she will attend the meetings in Las Vegas. Ms. Johnson will also attend.

Technology Report

Ms. Johnson said that the person in charge of the state's Micrographics and Imaging Program recently suffered a severe heart attack so the imaging of all licensee records has slowed somewhat. She said, however, that completion of the imaging is still targeted for February. She said that staff from the Department of Information Technology has been working on the Board's web site to make all forms interactive. Ms. Johnson said that a display of these advancements will be given at the March Board meeting in Reno.

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Committee Report

Vice Chairman Gribben reported on the Administrative Procedures Oversight Committee meeting held on November 7, 2001, in Reno. He said that Ms. Johnson provided charts that show various licensing statistics and said they are available for the Board to review. He said the committee performed the first quarter financial review and the figures are in accordance with the Board's budget. Vice Chairman Gribben said the committee has recommended that the Board place its checking account funds into a sweep money market account as more interest can be accrued this way. The Board agreed to have staff move forward with this.

Vice Chairman Gribben said the committee also reviewed the first quarter employee task report. He said that probably not much change can be made in the time that is being spent on the various activities. He said that salary ranges for staff will be discussed at the next committee meeting this month.

Chairman Lumos said that Ms. Johnson will be preparing her 2002-03 budget requests for the committee's review and a draft of the budget will be submitted to the Board at the March meeting.

l) NCEES

Council's 2000-01 fiscal year financial statements were available for the Board's review. There was also information concerning legal action by Council against Ted Madson regarding his unauthorized use of NCEES copyrighted examinations. Recently a supplemental settlement agreement was reached along with an Amended Permanent Injunction.

m) Rural Board Meeting

Chairman Lumos said that she and Ms. Johnson had reviewed items for consideration at a possible plan session, but felt that one was not needed as the Board had previously addressed most of the items. She said, however, that one item the Board might wish to discuss was scheduling another Board meeting in a rural area such as Elko or Ely. Chairman Lumos noted that licensees in Elko have been appreciative of the Board holding a meeting in their area. After some discussion, it was agreed to consider having another meeting in Elko in September. Dates will be selected at a later time.

n) Monthly Board Meetings

Chairman Lumos said another item for consideration was whether to hold monthly Board meetings instead of bimonthly meetings. She said that overnight stays could be eliminated and there would be a shorter licensing time for reciprocity applicants. She said that fixed meeting dates could also be established ahead of time to make scheduling easier. She said, however, there

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would be an increase in meeting room rental fees and airfare. After some discussion it was agreed to have the Administrative Procedures Oversight Committee review this matter and report back to the Board in March. Ms. Johnson will provide the committee with information on any added budget costs.

o) Examination Report

Ms. Johnson reviewed the October 2001 exam results for the engineer intern, land surveyor intern, professional land surveyor, and structural exams. She said the results for the professional engineer exams had not been received.

Ms. Johnson was pleased to report that the pass rate for the land surveyor intern exam for first time takers was 67%. Chairman Lumos explained that the exam changed in October 1999 from a task-based exam to a curriculum-based exam. She said the national pass rate has been staying at about 50%, but the Nevada pass rate for the past few administrations was in the low 20% range.

Ms. Johnson said that two people out of six passed the Structural II AM exam which is quite low. She said that only one person out of 10 passed the Structural II PM exam. Vice Chairman Gribben said that he had reviewed both AM and PM exams and did find them to be very difficult. He said that either the candidates are not qualified to take the exams or there is something wrong with the exams. During further discussion it was noted that perhaps the exam candidates needed closer review.

p) Corporate Requests to Use Term “Engineer”

There were no requests for the Board to act on.

q) Emeritus Board Member

Chairman Lumos said that past chairman Frank Loudon had just gone off the Board after serving for 12 years. She said that he had participated greatly in Board activities and at the NCEES level, and continues to chair the Exam Policy and Procedures committee and to work on the professional engineering exam. Chairman Lumos asked the Board to consider giving Mr. Loudon emeritus state so can he continue with his NCEES activities.

02-10 Motion was made by Mr. Anderson, seconded by Mr. Kenner, to grant Mr. Loudon emeritus status with the Board. The motion passed unanimously.

6. World Trade Center - George Brizendine

Past Board member and chairman, George Brizendine, was present at the meeting. Mr. Brizendine gave a presentation on the World Trade Center following his visit as part of a FEMA team that evaluated the destroyed structures.

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7. Oral Interviews

Chairman Lumos reconvened the meeting after lunch at 1 :00 p.m., and then recessed the meeting to begin the oral interviews. She again reconvened the meeting at 2:30 p.m. and committee recommendations were given. The Board considered five applications for reciprocal licensure.

Gilbert Dilanchian, applying for licensure as a mechanical engineer.

02-11 Motion was made by Mr. Gardner, seconded by Mr. Krob, to grant licensure based upon receipt of Mr. Dilanchian's acceptable education evaluation. The motion passed unanimously.

Thomas D. Fuhrmann, applying for licensure as a civil engineer.

02-12 Motion was made by Vice Chairman Gribben, seconded by Mr. Westergard, to grant licensure. The motion passed unanimously.

William G. Ghattas, applying for licensure as an electrical engineer.

02-13 Motion was made by Mr. Krob, seconded by Mr. Gardner, to grant licensure. The motion passed unanimously.

Robert D. Hutchison, applying for licensure as a civil engineer.

02-14 Motion was made by Mr. Anderson, seconded by Mr. Kenner, to grant licensure with a letter of caution to stay within his area of expertise (plan review). The motion passed unanimously.

Hemant C. Sura, applying for licensure as an electrical engineer.

02-15 Motion was made by Mr. Krob, seconded by Mr. Davoren, to grant licensure. The motion passed unanimously.

Please refer to "Appendix A" of these Minutes for the names and action taken by the Board.

8. Requests for Waivers of NRS/NAC 625

The Board considered the non-appearance waiver requests for those persons applying for reciprocal licensure and recommendations were given.

02-16 Motion was made by Mr. Anderson, seconded by Vice Chairman Gribben, to accept the recommendations. The motion passed unanimously.

EXHIBIT F

The Board next considered a waiver of three references in the same discipline from B. Dietrick McGinnis, applying to take the environmental engineering exam. Mr. Westergard asked that action on Mr. McGinnis's request be held until the Board reviewed his application under agenda item 11) Special Consideration of Applications.

Please refer to "Appendix B" of these Minutes for the names and action taken by the Board.

9. Board Approval of Non-Appearance Applications for Reciprocal and Non-Reciprocal Licensure

The Board considered a total of 61 reciprocal applications without an appearance before the Board and recommendations were given.

02-17 Motion was made by Mr. Anderson, seconded by Mr. Krob, to accept the recommendations. The motion passed unanimously.

The Board considered one non-reciprocal application without an appearance before the Board.

02-18 Motion was made by Mr. Westergard, seconded by Mr. Anderson, for approval of the application by Aloysius W. Pelly. The motion passed unanimously.

10. Board Approval of Non-Appearance Applications for Licensure by Examination

The Board considered three applications for licensure by examination and recommendations were given.

02-19 Motion was made by Vice Chairman Gribben, seconded by Mr. Gardner, to approve the examination candidates. The motion passed unanimously.

Please refer to "Appendix C" of these Minutes for the names and action taken by the Board concerning the nonappearance applications.

11. Special Consideration of Applications

The Board acted on the following requests

Tadeusz M. Bijasiewicz, ME #13400 - Mr. Bijasiewicz submitted three patents he had received many years ago to meet the continuing education requirement in Nevada. Ms. Johnson said that staff informed him that the patents were not acceptable and that he needs to submit professional development hours that he acquired within the last two years. Mr. Bijasiewicz has appealed staff's decision and is asking the Board to consider accepting the patents based on his many years of engineering experience. The Board discussed Mr. Bijasiewicz's request.

EXHIBIT F

02-20 Motion was made by Vice Chairman Gribben, seconded by Mr. Gardner, to deny Mr. Bijasiewicz's request. The motion passed unanimously.

Alfonso L. Gomez - Mr. Gomez applied for electrical licensure and requested a waiver of the fundamentals of engineering exam. The Board granted his waiver earlier in the meeting. Ms. Johnson said that Mr. Gomez graduated in 1955 from the University of Havana, Cuba, and he passed his P.E. exam in Florida in 1968.

Chairman Lumos said there was question whether Mr. Gomez has been working without a license or working with someone on the projects he has been working on in Reno within the last three years. Ms. Johnson said that she would review Mr. Gomez's application to find out this information.

02-21 Motion was made by Mr. Krob, seconded by Vice Chairman Gribben, to approve Mr. Gomez's licensure conditional upon satisfactory proof of supervision. The motion passed unanimously.

B. Dietrick McGinnis - Mr. McGinnis applied to take the environmental engineering exam, having a B.S. degree in Wood Science and Technology, a M.S. degree in Civil/Environmental Engineering, and a Ph.D. in Civil Engineering. He has asked the Board for a waiver of three references in the same discipline and to consider placing him into the eight-year experience program.

Mr. Westergard said there is a lot of overlap during the time that Mr. McGinnis was a graduate student doing research and the time he claimed as engineering experience. He said that Mr. McGinnis indicated he has three years of engineering experience at McGinnis & Associates as president of that company; however, his letterhead specified that he is a Ph.D. and a Certified Environmental Manager. Mr. Westergard said that these three years should be deducted from his total experience. He also said that most of Mr. McGinnis's experience was gained before he obtained a degree in engineering.

Mr. Westergard said this is a difficult situation as Mr. McGinnis is academically well qualified and has written many publications. He said, however, that he is not satisfied that Mr. McGinnis has adequate experience or supervision. He noted that a professor had provided the supervision during the time Mr. McGinnis was doing research at a university. Mr. Westergard said that perhaps Mr. McGinnis could be asked to appear for an oral interview in March. He asked for input from other Board members.

Mr. Kenner said he did not see that Mr. McGinnis has two years of outside engineering experience. He said that Mr. McGinnis could be questioned about the two years of related work from 1999 to 2002 and under whom this work was performed. Chairman Lumos noted that all this work was either out of state or for the Bureau of Indian Affairs, something the Board has no control over. She said that the best thing would be to ask Mr. McGinnis to clarify his experience.

EXHIBIT F

Mr. Westergard said the burden should be on Mr. McGinnis to distinguish the overlap and how he meets the experience qualifications. Mr. Kenner said that Mr. McGinnis should be asked to clarify his work experience beyond his research work and academic pursuits. Mr. Westergard added that Mr. McGinnis should also explain the operations of his company and who was in charge of the work. The Board agreed to request Mr. McGinnis to appear for an oral interview at the March Board meeting and to act on his waiver request at this time.

Bradley J. Waldrop - Mr. Waldrop applied for civil licensure reciprocal with California. Ms. Johnson said that Mr. Waldrop had attended college from September 1989 to August 1999 before obtaining his civil engineering degree. She said that he needed credit for some of that time when he did not attend school full time, but rather worked full time, in order to qualify for licensure.

Chairman Lumos noted that Mr. Waldrop was given about half credit for his full time work during the period from 1989 to 1999. Mr. Westergard and Vice Chairman Gribben reviewed Mr. Waldrop's application. They both indicated that Mr. Waldrop had met the experience requirement for licensure.

02-22 Motion was made by Mr. Westergard, seconded by Mr. Kenner, for approval of Mr. Waldrop's application for licensure. The motion passed unanimously.

12. Unfinished Business (Items from November Minutes)

Chairman Lumos reviewed the list of items, noting those completed and those still pending.

13. Meeting Dates

The Board agreed to schedule the May Board meeting for May 16-17, 2002, in Las Vegas.

14. Miscellaneous

At its November 2001 meeting, the NCEES Board of Directors authorized the purchase of mechanical pencils for all candidates taking the April 2002 and future exams. Based on recommendations from an exam-security study, Council voted to provide the pencils to prevent examinees from using small wand-like scanning devices during exams.

Chairman Lumos said that for security reasons there has also been discussion about purchasing calculators to supply with the exams. Ms. Johnson said that a review of calculators will be on the agenda for the upcoming Presidents Assembly/Member Board Administrators meeting in February.

Robert Krebs, NCEES President-Elect, recently sent out a memo to all state board members soliciting persons to serve on committees for the 2002-03 administrative year. Chairman Lumos said that participation by this Board is encouraged.

EXHIBIT F

Staff received a letter from a new licensee who said he does not agree with pro-rating new licensees.

The guests gave their input about participating in today's meeting

Adjournment

There being no further business, Chairman Lumos declared the meeting adjourned at 3:50 p.m. on Monday, January 7, 2002.

Respectfully,

Noni Johnson
Executive Director