	<u> </u>
1	COMMONWEALTH OF PENNSYLVANIA
2	DEPARTMENT OF STATE
3	BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
4	
5	<u>FINAL MINUTES</u>
6	
7	MEETING OF:
8	
9	STATE REGISTRATION BOARD FOR PROFESSIONAL
10	ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS
11	
12	TIME: 10:38 A.M.
13	
14	Held at
15	PENNSYLVANIA DEPARTMENT OF STATE
16	2601 North Third Street
17	One Penn Center, Board Room C
18	Harrisburg, Pennsylvania 17110
19	as well as
20	VIA MICROSOFT TEAMS
21	
22	March 17, 2023
23	
24	
25	

## State Registration Board for Professional Engineers, Land Surveyors, and Geologists March 17, 2023

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# BOARD MEMBERS:

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James J. Szalankiewicz, PE, PLS

Arion R. Claggett, Acting Commissioner, Bureau of Professional and Occupational Affairs - Absent Michael F. Brinkash, PLS

12 Daniel A. Hartman, Public Member

Martin F. Helmke, PhD, PG

Ronald N. Jumper Jr., Public Member

Robert P. Kudlawiec, PE, Vice President

Joseph T. McNally, PG, President

17 Carol D. Sides, Public Member

Francis J. Stanton Jr., PE 18

Jonathan J. Tabas, PE, PLS - Absent

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## BUREAU PERSONNEL:

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Todd P. Kriner, Esquire, Board Counsel Ray Michalowski, Esquire, Senior Board Prosecutor Glenn P. Masser, Esquire, Board Prosecution Liaison

Alice R. Glasser, Esquire, Board Prosecutor

Jeannie Bronshtein, Board Administrator

Marc Farrell, Esquire, Regulatory Counsel, Office of Chief Counsel, Department of State Andrew LaFratte, MPA, Executive Policy Specialist,

Department of State

Carolyn A. DeLaurentis, Esquire, Executive Deputy Chief Counsel, Department of State

Carlton Smith, Deputy Chief Counsel, Department of State

Deena Parmelee, Legal Office Administrator 1, Department of State

Amanda Richards, Fiscal Chief, Bureau of Finance and Operations, Department of State

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#### ALSO PRESENT:

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John Wanner, CAE, President, Wanner Associates, on behalf of the Pennsylvania Society of Professional Engineers

Rebecca Albert, PG, Chair, Coordinating Committee on Professional Practices, Department of Environmental Protection

# State Registration Board for Professional Engineers, Land Surveyors, and Geologists March 17, 2023

ALSO PRESENT: (cont.)

Ted Mowatt, Vice President, Wanner Associates, on behalf of the Pennsylvania Society of Professional Engineers

Scott Reeser, PLS, Chair, Education Committee, Pennsylvania Society of Land Surveyors

4 \* \* \* 1 2 State Registration Board for Professional 3 Engineers, Land Surveyors, and Geologists March 17, 2023 4 \* \* \* 5 6 [Pursuant to Section 708(a)(5) of the Sunshine Act, 7 at 9:00 a.m. the Board entered into Executive Session with Todd P. Kriner, Esquire, Board Counsel, for the purpose of conducting quasi-judicial deliberations 10 and to receive the advice of counsel on matters 11 currently pending before the Board. The Board 12 returned to open session at 10:30 a.m.] 13 \* \* \* 14 The regularly scheduled meeting of the State 15 Registration Board for Professional Engineers, Land 16 Surveyors, and Geologists was held on Friday, March 17 17, 2023. Joseph T. McNally, PG, President, called 18 the meeting to order at 10:38 a.m. \* \* \* 19 Roll Call 21 [Jeannie Bronshtein, Board Administrator, provided a roll call of Board members.]

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23

24 Acknowledge Public

25 [Attendees introduced themselves.]

[Todd P. Kriner, Esquire, Board Counsel, noted the Board met in Executive Session prior to the meeting and conducted quasi-judicial deliberations on matters listed under the prosecution division and Report of Board Counsel.

Mr. Kriner reminded everyone that the meeting was being recorded and continued participation constituted consent to be recorded.]

11 Appointment - Prosecution Division Annual Report
12 Presentation

[Carolyn A. DeLaurentis, Esquire, Executive Deputy Chief Counsel, Department of State, informed Board members that she is now the executive deputy chief counsel for the Department of State and Carlton Smith is the new deputy chief counsel for the prosecution division.

Ms. DeLaurentis presented to the Board to provide an overview of the prosecution division's role and present annual numbers for 2022. She informed Board members that the Bureau of Professional and Occupational Affairs provides administrative and legal support to all 29 licensing boards and commissions with the mission to protect the health

and safety of the public and the integrity of the profession. She noted legal support includes the prosecution division, counsel division, hearing examiners, and administrative staff.

Ms. DeLaurentis explained that the Office of Chief Counsel is under the Governor's Office of General Counsel and assigned to the Department of State, noting the prosecution division is one division under the Office of Chief Counsel. She noted the prosecution division works with the Bureau of Enforcement and Investigation (BEI), along with the Professional Compliance Office (PCO).

Ms. DeLaurentis stated BEI, PCO, and prosecution are all tasked with receiving complaints, investigating allegations, ensuring public safety, and enforcing compliance with the acts and regulations that govern the 29 licensing boards and commissions. She noted the prosecution division has five senior prosecuting attorneys, noting Karl Geschwindt is an acting senior prosecutor.

Ms. DeLaurentis mentioned that Ray Michalowski is the senior prosecuting attorney assigned to their Board, along with William Newport, Heather McCarthy, and Paul Jarabeck serving other boards and commissions. She noted there are currently 32

prosecuting attorneys with 1 vacancy. She stated the prosecution division has five senior prosecuting attorneys because the prosecution division is broken into five teams, noting they also have attorneys assigned to the team.

Ms. DeLaurentis explained that prosecution is a complaint-driven agency, noting complaints are received from any source but prefer complaints be submitted through the Pennsylvania Licensing System (PALS) at pals.pa.gov because it is the most efficient. She noted prosecution also accepts complaints from other state and federal agencies, law enforcement, and through media reports.

Ms. DeLaurentis discussed levels of review, including jurisdiction checks to see if the complaint falls under their jurisdiction. She mentioned complaints are referred to the appropriate agency if prosecution does not have jurisdiction.

Ms. DeLaurentis stated prosecution works with BEI inspectors and investigators to determine whether there is a violation of the act or regulation. She noted BEI conducts investigations, interviews witnesses, and gathers documents and facts.

Ms. DeLaurentis addressed the various levels of review and determining whether there was a violation.

She explained that matters could be closed if there is not a violation to focus attention on cases where there may be a violation.

Ms. DeLaurentis noted attorneys make charging decisions and determine whether to file an order to show cause, file a citation, or close a case. She addressed due process rights with formal charges through a hearing process, noting it is similar to a regular criminal trial, where both parties enter evidence through witness testimony, documents, and legal arguments.

Ms. DeLaurentis noted hearing examiners typically issue a proposed adjudication and order and then the final decision is made by the Board because they have the power to impose discipline. She addressed consent agreements, where both parties have negotiated and reached a settlement they wished to present before the Board, but the Board has the final authority of whether to accept or reject the consent agreement.

Ms. DeLaurentis addressed the prosecution division's role at Board meetings, including presenting consent agreements and listening to concerns of the Board. She pointed out that prosecution has a confidentiality statute that

applies to their files, where all of the contents within their files is confidential under the law and is why prosecution cannot speak on some matters.

Ms. DeLaurentis stated BEI conducts interviews and inspections for certain boards to obtain evidence. She noted BEI also serves subpoenas and deliver orders and letters, along with testifying to the results of their investigations and inspections. She noted BEI does not have unlimited access to locations or documents, is not considered a law enforcement agency under Pennsylvania law and does not have search warrant authority.

Ms. DeLaurentis addressed document authority, where some boards have regulations and statutes that require cooperation if a request is made to review their records but not everyone complies, where they could ask the board to issue a subpoena.

Ms. DeLaurentis addressed post-investigation, where BEI is gathering facts and present the evidence to the legal office for review. She stated BEI is not determining whether or not a law has been violated or determining whether someone should be charged. She noted everything is reviewed by the prosecuting attorneys, legal analysts, and Board staff to determine whether there was a violation to

decide whether to close the matter or file charges.

Ms. DeLaurentis addressed immediate temporary suspensions, where a license is immediately suspended if someone is an immediate danger to the health and safety of the public. She noted automatic suspensions include 302 commitments, drug act violations, and orders for examination for mainly health care boards. She also noted petitions for appropriate relief are when someone has violated a board order.

Ms. DeLaurentis stated levels of discipline include revocations, suspensions, probations, reprimands, fines, remedial education, and cost of the investigation.

Ms. DeLaurentis referred to the confidentiality statute under 63 Pa.C.S. § 3109, where prosecution and investigative files are deemed privileged and confidential under the law. She explained that investigative records are deemed noncriminal investigative records and exempt from disclosure under the Right-to-Know Law.

Ms. DeLaurentis stated information could be shared with other agencies in furtherance of investigative efforts but only their final action could be shared publicly, including final

1 adjudications and orders, final consent agreements, 2 and final letters.

Ms. DeLaurentis provided data as of January 3, 2023, where the number of open cases for the prosecution division was 13,154, which is down from 2022 at 15,141. She stated 16,084 cases were opened in 2022 and is down from 2021 at 18,363 cases. She reported closing 17,826 files in 2022 and is up from 2021, where 15,994 cases were closed. She thanked the prosecution division, counsel division, hearing examiners, BEI, and the Board for their group effort.

Ms. DeLaurentis informed Board members that an annual report is issued to the General Assembly, which includes a breakdown of case categories, and would inform Board Counsel when that report is available.

Ms. DeLaurentis addressed specific information for the State Registration Board for Professional Engineers, Land Surveyors, and Geologists as of January 3, 2023, noting 144 cases were opened in 2022 and 189 in 2021. She reported 220 cases were closed in 2022 and 144 in 2021. She noted the Board currently has 58 open cases, which was down from last year at 133. She mentioned that prosecution is not concerned with the number of open cases.

Ms. DeLaurentis referred to disposition of closed cases, including discipline and non-discipline. She mentioned that some cases may result in more than one type of discipline and may be counted in more than one category. She stated single digits are consistent with the prior year and means their licensee population is following all of the rules. She noted 7 cases resulted in fines and was an increase from the prior year with 3, 6 Act 48 or citation fines with 3 the prior year, and 5 probations with 1 the prior year.

Ms. DeLaurentis addressed the disposition of closed cases with no discipline and referred to Z codes, which is what they use in their system to close cases. She referred to Z18 warning letters, noting 91 warning letters last year, which was an increase from the prior year at 26. She explained that warning letters are not disciplinary but used for de minimis violations. She noted warning letters are a great tool for prosecutors on behalf of the Board to remind licensees to follow the act and regulations.

Mr. Brinkash personally thanked Mr. Michalowski and Mr. Masser for being visible in the participation and activities of their Board. He commented that

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1
   they should be recognized for being outstanding
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   attorneys.
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        Mr. Szalankiewicz also commended Mr. Michalowski
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   on the excellent prosecution division presentation a
5
   year or so ago.
        Ms. DeLaurentis noted the importance of outreach
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7
   and thanked Board members for their comments.
8
        President McNally thanked Ms. DeLaurentis for the
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   presentation and all of the attorneys and staff for
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   their hard work.
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12
   Approval of minutes of the January 23, 2023 meeting
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   PRESIDENT MCNALLY:
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                  Approval of the minutes.
15
   MR. KUDLAWIEC:
16
                  So moved.
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   MR. STANTON:
18
                  Second.
19
   PRESIDENT MCNALLY:
                  Roll call vote.
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                  James Szalankiewicz, yes; Michael
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                  Brinkash, abstain; Daniel Hartman, yes;
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                  Martin Helmke, yes; Ronald Jumper, yes;
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                  Robert Kudlawiec, aye; Joseph McNally,
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yes; Carol Sides, yes; Frank Stanton, yes.

3 [The motion carried. Michael Brinkash abstained from 4 voting on the motion.]

\* \* \*

6 Report of Board President

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7 [Joseph T. McNally, PG, President, thanked Ms.

8 Bronshtein for her hard work in making the Board run

9 smoothly over the past five years.

President McNally also recognized and thanked Mr.

Stanton for six years of service on the Board.

12 \*\*

13 Report of Board Members

14 [Robert P. Kudlawiec, PE, noted signing up for the

15 National Council of Examiners for Engineering and

16 Surveying (NCEES) Meeting at Houston, TX, in April.

Mr. Helmke noted presenting at the Pennsylvania

18 | Council of Professional Geologists Meeting on

19 February 28 with a presentation called Licensing

20 Update for Pennsylvania Geologists. He mentioned

21 about 140 geologists were present from across the

22 state, and their presentation was well received.

Mr. Brinkash thanked Scott Reeser, the chair of

24 | the Education Committee at the Pennsylvania Society

25 of Land Surveyors for his fantastic job organizing

15 1 the continuing education workshops and survey.] 2 3 Report of Acting Commissioner - No Report 4 5 Report of Board Administrator [Jeannie Bronshtein, Board Administrator, noted it 6 7 has been an honor and pleasure to serve as Board 8 administrator. 9 10 Report of Board Prosecution Division 11 [Glenn P. Masser, Esquire, Board Prosecution Liaison, 12 presented the Consent Agreement for Case No. 22-47-13 001641.1 14 MR. KRINER: 15 As per discussion in Executive Session, 16 it is my understanding that the Board would entertain a motion to approve the 17 18 Consent Agreement at Case No. 22-47-001641. 19 20 MR. KUDLAWIEC: 21 So moved. 22 MR. STANTON: 23 Second. 24 PRESIDENT MCNALLY: 25 Could we have a roll call on that,

Jeannie?

James Szalankiewicz, yea; Michael
Brinkash, yea; Daniel Hartman, yes;
Martin Helmke, yes; Ronald Jumper, yes;
Robert Kudlawiec, yea; Joseph McNally,
yes; Carol Sides, yes; Frank Stanton,
yes.

7 8

[The motion carried unanimously. The Respondent's name at Case No. 22-47-001641 is James Lester

11 Hufnagel Jr.]

\* \* \*

Report of Board Counsel - Status of Cases

[Todd P. Kriner, Esquire, Board Counsel, provided a
Status of Cases Report for the Board's review and
requested Board members notify him of any recusals.

He informed Board members of seven cases and
mentioned one hearing scheduled for this meeting had
been continued for prosecution to secure their
expert. The hearing will be held at the next meeting
if everything works out.

Mr. Kriner noted one hearing was being rescheduled, one was still outstanding, one case had a continuance granted and being worked out with prosecution. He mentioned a case between putting it

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   on the agenda and where an order was issued that
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   denied the respondent's motion to dismiss and was
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   referred back to the hearing examiner. He explained
   that the next step in that case is the hearing
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   examiner would schedule a hearing. He noted two
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   cases were moving forward and would most likely be
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   negotiated.
        Mr. Kriner commented that the Board was not
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9
   currently working on any regulations and commended
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   Mr. Fritz.]
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   Applications for Review - Act 41 Applications
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   MR. KRINER:
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                  It's my understanding that pursuant to
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                  discussions in Executive Session that
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                  the Board would entertain a motion to
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                  approve the Act 41 License Applications
18
                  for Mahmut Agba, Eric Bernstein, and
19
                  Alan Lopez.
   MR. KUDLAWIEC:
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21
                  So moved.
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   MR. STANTON:
23
                  Second.
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   PRESIDENT MCNALLY:
                  Could we have a roll call vote?
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18 1 2 James Szalankiewicz, yea; Michael 3 Brinkash, yea; Daniel Hartman, yes; 4 Martin Helmke, yes; Ronald Jumper, yes; 5 Robert Kudlawiec, yes; Joseph McNally, 6 yes; Carol Sides, yes; Frank Stanton, 7 yes. 8 [The motion carried unanimously.] 9 10 Discussion Items 11 MR. KRINER: Pursuant to the discussion that took 12 13 place in Executive Session, it is my understanding that the Board would 14 15 entertain a motion to deny the 16 Continuing Education Waiver Request for 17 Gregory Turner. 18 MR. KUDLAWIEC: So moved. 19 20 MR. STANTON: 21 Second. 22 PRESIDENT MCNALLY: 23 Roll call vote. 24 25 James Szalankiewicz, yes; Michael

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                  Brinkash, yes; Daniel Hartman, yes;
                  Martin Helmke, yes; Ronald Jumper, yes;
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                  Robert Kudlawiec, yes; Joseph McNally,
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                  yes; Carol Sides, yes; Frank Stanton,
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                  yes.
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   [The motion carried unanimously.]
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8
   Miscellaneous - Vote on 2024 Meeting Dates
   [Joseph T. McNally, PG, President, noted the proposed
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   2024 meeting dates are January 24, March 13, May 29,
   July 24, September 25, and November 13.]
11
   PRESIDENT MCNALLY:
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13
                  Is there a motion to approve the
14
                  proposed dates?
15
   MR. KUDLAWIEC:
16
                  So moved.
17
   MR. STANTON:
18
                  Second.
   PRESIDENT MCNALLY:
19
                  Roll call vote.
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21
22
                  James Szalankiewicz, yes; Michael
23
                  Brinkash, abstain; Daniel Hartman, yes;
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                  Martin Helmke, yes; Ronald Jumper, yes;
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                  Robert Kudlawiec, yes; Joseph McNally,
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                  yes; Carol Sides, yes; Frank Stanton,
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                  yes.
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   [The motion carried unanimously.]
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   [Jeannie Bronshtein, Board Administrator, announced
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   Kristel Hemler would be taking over her role as Board
7
   administrator.
        President McNally thanked Ms. Bronshtein for her
9
   work on the Board over the past several years.]
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11
   [The Board recessed from 11:29 a.m. until 11:45 a.m.]
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   Appointment - Bureau of Finance and Operations
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     Annual Budget Presentation
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   [Amanda Richards, Chief of Fiscal Management, Bureau
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   of Finance and Operations, Department of State,
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   referred to licensee population over the past seven
18
   years, noting 31,456 licenses in FY21-22 and 32,896
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   licenses at the time of the report, which is an
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   increase of 1,440 licenses from last year. She
21
   reported another increase this morning to 32,962
22
   licenses, showing an increase of 66 licenses since
23
   the report.
24
       Ms. Richards noted the Board has three license
25
   classes and referred to the breakdown of licensees by
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- 1 license class, including professional engineer,
  2 professional land surveyor, and professional
- 3 geologist.
- 4 Ms. Richards addressed revenue on a biennial
- 5 basis. She referred to the revenue for FY20-21 and
- 6 FY21-22, noting the biennial total. She noted 96
- 7 percent of revenue is from renewals and applications.
- 8 | She stated revenue is received from other categories
- 9 but is not a consistent source of revenue.
- 10 Ms. Richards noted the two main categories when
- 11 reviewing expenses are administrative and legal
- 12 costs. She stated expenses can hit the Board through
- 13 direct charges, timesheet-based charges, and license
- 14 population. She noted the Board's expenses in FY20-
- 15 21, FY21-22, and FY22-23. She informed Board members
- 16 that the budgeted figure was adequate based on
- 17 expenses.
- 18 Ms. Richards addressed revenue and expenses
- 19 showing an anticipated balance for FY22-23 and FY25-
- 20 26, which is a healthy balance.
- 21 Mr. Szalankiewicz commented that the Board was in
- 22 | a crisis mode for a while and always in the red until
- 23 they doubled their fees. He mentioned the fee
- 24 increase to be a good remedy and that it looks like
- 25 things are now under control.

Ms. Richards mentioned that licensee population is also increasing and is a big help as well.

Mr. Stanton noted that the surveyor population is showing a steady decline.

President McNally requested information regarding the effect COVID had on expenses and revenue.

Ms. Richards explained that there was not much of a difference in expenses for FY20-21 and FY21-22.

President McNally thanked Ms. Richards for the presentation.]

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[Joseph T. McNally, PG, President, addressed the importance of having a full complement for the State Registration Board for Professional Engineers, Land Surveyors, and Geologists. He commented that Board members may know someone in the public who may want to participate on the board and encouraged everyone to ask people if they would be interested. He mentioned that Mr. Helmke let people know during his presentation at the annual meeting for professional geologists.

Mr. Michalowski commented that the State Board of Certified Appraisers is also seeing a national decline in the profession. He mentioned that they came up with additional training modalities

nationally that are now virtual.

Mr. Szalankiewicz stated many surveyors actually did not go to college because they had 11 or 12 years of experience. He addressed a situation of an applicant with 25 years of surveying experience and who would be very qualified, where they would take the surveyor in training (SIT) and pass it but have to wait 4 years. He commented that it is not completely fair in all situations and understands it is the law but believed the law should be reviewed.

Mr. Michalowski noted that appraisers are a little different than everybody else because they are overseen by the federal government and have a four-year requirement.

Mr. Szalankiewicz mentioned attending the Penn State Mont Alto Campus and being both a PE and PLS but currently noted Penn State Wilkes-Barre and the small number of graduates, where education is also another problem.

Mr. Szalankiewicz commented that it is a disaster to make someone with 15 or 20 years of practical experience wait 4 more years if they can pass the SIT when there is such a shortage of land surveyors in Pennsylvania and other areas. He mentioned that surveyors in western Pennsylvania are all busy, and

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   the public is suffering.]
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 3
   Adjournment
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   PRESIDENT MCNALLY:
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                   Motion to adjourn.
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   MR. KUDLAWIEC:
 7
                   So moved.
 8
   MR. STANTON:
 9
                   Second.
10
   PRESIDENT MCNALLY:
11
                   Thank you everyone. See you in May.
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13
    [There being no further business, the State Board of
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   Professional Engineers, Land Surveyors, and
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   Geologists Meeting adjourned at 12 p.m.]
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# CERTIFICATE

I hereby certify that the foregoing summary minutes of the State Registration Board for Professional Engineers, Land Surveyors and Geologists meeting, was reduced to writing by me or under my supervision, and that the minutes accurately summarize the substance of the State Registration Board for Professional Engineers, Land Surveyors and Geologists meeting.

Kathryn Witherow,

Minute Clerk

Sargent's Court Reporting
Service, Inc.

			26
1 2 3 4 5 6		EGISTRATION BOARD FOR PROFESSIONAL RS, LAND SURVEYORS, AND GEOLOGISTS REFERENCE INDEX	
		March 17, 2023	
7 8 9	TIME	AGENDA	
10 11 12	9:00 10:30	Executive Session Return to Open Session	
13 14	10:38	Official Call to Order	
15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32	10:38	Roll Call	
	10:39	Acknowledge Public	
	10:42	Appointment - Carolyn A. DeLaurentis, Esquire, Executive Deputy Chief Counsel, Department of State, Annual Prosecutorial Division Presentation	
	11:13	Approval of Minutes	
	11:14	Report of Board President	
	11:17	Report of Board Members	
	11:17	Report of Board Administrator	
	11:18	Report of Board Prosecution Division	
33 34 35	11:20	Report of Board Counsel	
36	11:23	Applications for Review	
37 38	11:24	Discussion Items	
39 40	11:26	Miscellaneous	
41 42 43 44 45 46 47 48 49 50	11:29 11:45	Recess Return to Open Session	
	11:45	Appointment - Bureau of Finance and Operations Annual Budget Presentation	n
	12:00	Adjournment	