

DRAFT

Meeting of the Professional Surveying Committee of the Board of Licensure for Professional Engineers & Surveyors held June 3, 2005 at Bar Center, 5121 Masthead, NE, Albuquerque, NM.

Members Present: Gilbert Chavez, PS
Fred Sanchez, PS
Charles Atwell, Public Member
Salvador I. Vigil, PS (arriving after meeting convened)

Members Absent: No one.

Others Present: Jeremy Del Valle, Investigator
Edward Ytuarte, Complaint Manager
Perry Valdez, Licensing Specialist
Mary Smith, Assistant Attorney General, Board Counsel
Celina Alaniz, Guest on the agenda
Glen Thurow, NMPS

1. **CONVENE/ROLL CALL/INTRODUCTION OF GUESTS**

Chair Chavez convened the meeting at around 1:00 p.m. A roll call was taken; it was noted that all members except Mr. Vigil were present.

2. **APPROVAL OF THE AGENDA**

It was moved by Mr. Sanchez, seconded by Mr. Atwell and unanimously,

VOTED: To approve the agenda as presented.

3. **APPROVAL OF THE MINUTES**

3.1 **Minutes of the April 21, 2005 Meeting** - It was moved by Mr. Sanchez, seconded by Mr. Atwell and unanimously

VOTED: To approve the minutes of the April 21, 2005 meeting as presented.

4. **OLD BUSINESS**

4.1 Compilation of Existing Records vs. Boundary Surveying/Exhibit Easements Report from Committee

4.1.1 Vladimir Jirik, PS Correspondence – Mr. Sanchez indicated that the letter from Mr. Jirik (who works for him) requested some clarification on what a surveyor could or could not do. Mr. Sanchez reported a committee of the Board was established to review the issues involved. The committee met May 31st and discussed at length the issues and came up with an agreement. NMPS had also submitted a position paper on this particular issue which was used extensively during the meeting. The letter included in the meeting packet is the second of two letters which Mrs. Garcia drafted for the committee. He believes the second letter answers Mr. Jirik's questions but also leaves room for a professional surveyor to make a judgment call as to when to sign, seal documents provided the professional also adheres to all state laws and regulations. Mr. Atwell inquired of Mr. Thurow if the drafted letter was consistent with their position paper. Mr. Thurow indicated, upon a quick review of the letter, that it appeared that it did. It was moved by Mr. Sanchez, seconded by Mr. Atwell and unanimously,

VOTED: To approve the June 2, 2005 letter as the official response to Mr. Jirik.

4.2 Correspondence from Celina Alaniz – RE: PS Application – Appointment 1:15 p.m. – Ms. Alaniz indicated that the letter she received from the Board indicated that her experience was not gained

under the supervision of a licensed professional surveyor while employed under the Bureau of Land Management Cadastral Surveying. She indicated that in her written response she demonstrated that she was at all times under the direct supervision of state licensed surveyors and federally authorized surveyors. The second portion is the Board's concern that her boundary experience is solely with the cadastral surveying, Bureau of Land Management. Even though it is a single employer, she indicated that her experience has been of a broad nature. She was under the supervision of a minimum of seven professional surveyors at all times. The nature of cadastral surveying is to establish legal boundaries on all federal interest, public lands. The prevailing criteria for having supervision under so many surveyors is due to the complexity of cadastral surveying. You do not just simply lay out a township from its concept. Retracing original surveys is very difficult, so it requires all points of view, varying types of experience in surveying to be able to ascertain and determine a legal boundary. Also, while all surveys were on federal lands and/or lands that had a federal interest such as Indian lands or Indian reservations, the other side of that line is an individual private land owner, or a city, a county or a state agency. She had several opportunities in her experience with cadastral surveying to research and evaluate boundaries that are under the New Mexico state statutes or the Oklahoma state statute. She indicated her experience is not just broad, but also in-depth experience as compared with her peers or other professional organizations. She has had a unique opportunity to research and evaluate evidence on all sides, including local, historical, state, and federal. She is very confident that her experience qualifies her to sit for the principles and practices licensing examinations.

Mr. Chavez asked Ms. Alaniz if she actually goes to the field to retrace the boundaries or does she map them just based on the records. She indicated that she reads all surveying records together with text books in order to provide the local and historical perspective of the boundary; and she personally walks the boundary and collects evidence. Mr. Chavez was interested in knowing if she retraces the boundaries finding the monuments, comparing the records to her measurements, bearings and distances, etc. Mr. Sanchez stated that the concern was that her experience was specific to cadastral surveying and that in previous years applicants with sole experience in cadastral surveying or just one type of surveying had not been considered to have a well-rounded record of experience. He indicated the experience appeared to be limited to surveying in accordance with the 1973 BLM manual. Mr. Sanchez indicated that the updated references were very good but they are still only for cadastral surveying. He was hoping to get references from professional surveyors saying she worked under their personal supervision and have personal knowledge of increasingly responsible-charge experience in all aspects of surveying. He fails to see where the references say that she has more than cadastral surveying experience or an increasingly degree of responsibility in property boundary surveying.

Ms. Alaniz indicated that in doing cadastral surveying she needs to know which manual she uses when doing resurveying, surveying as in laying out brand new lots that had not been laid out before and retracing both of resurveys or original stone surveys. A stone survey which she retraced of an entire township was from 1873, so it was under a different manual from the 1973 manual. For all the federal survey lines, she was the crew chief. On the other side of that line was an entity that was not federal that she had to ascertain research and evaluate the state surveyors' plats. She was of the opinion that the experience should be counted since she was under the supervision of licensed surveyors who were licensed to evaluate that private side of the line. They were directing her in establishing the determination of that line. On the other side of all federal lines are subdivisions, individual land owners, city, counties, and the state lands. She indicated that laying out a brand new township or subdivision is easy. The difficulty is recognizing evidence that is 130 years old, and how it was used by other surveyors. Mr. Sanchez stated the references state the supervision was for specific time periods. He also wanted to know if she ever encountered encroachments while surveying; and if she did, how she handled them and why. Ms. Alaniz stated that she was one of the rare ones in cadastral surveying where the majority of surveys included disputes with the adjoining. She indicated that she evaluated the evidence and then categorized it. Her responsibility was to write a surveyor's report which was then directed to the branch chief of the state, NM Branch Chief. She outlined and discussed all the evidence and includes a conclusion in her surveyor's report as well as provided a minimum of two alternative conclusions. A panel of surveyors would then review the information, ask questions and make a ruling. Ms. Alaniz indicated that in determining her conclusion she prioritizes the evidence and asks herself four questions: 1) is the monument legal, is it placed by a licensed individual; 2) what was the surveyor suppose to do; 3) what did the surveyor say he did; and 4) what did the surveyor finally do. Mr. Sanchez indicated that he believes Ms. Alaniz has a good

understanding of cadastral surveying. One of the things he is trying to ascertain is how she reconciled that a particular stone was where it was set originally.

Mr. Chavez indicated that he would also like to see additional information on experience dealing with disputes in the private sector, not just in the federal government sector. Mr. Sanchez stated he was looking for references that can say she worked under their direct supervision for this progressive period of time and she has acquired increasingly responsible experience in over all boundary surveying experience. Mr. Sanchez stated he would also consider other types of surveying. Mr. Chavez indicated that there is also condominium surveying, easement surveying, construction surveying which may be considered. Mr. Vigil indicated that if Ms. Alaniz has experience providing information on a private parcel which may be extracted from government lands she should submit it. Mr. Sanchez stated that he would like to see references from private professional surveyors supporting her private sector experience or her experience dealing with the private sector. Ms. Alaniz re-iterated that every federal government survey she did dealt with a private survey. Mr. Vigil stated that he tends to agree with Ms. Alaniz because when doing federal surveys, she had to check the private boundary of that private person to take the government lands out of that. Mr. Sanchez reiterated that he is looking for experience other than surveying done by using the BLM manual. Ms. Alaniz indicated that the manual of instructions is not chiseled in stone; they do not take sides they have to be completely objective and must take into account the private property owners. Mr. Sanchez noted that he is only one vote on the committee, and if everyone else differs in opinion, that is fine. He also added that surveyors do not take sides; they present existing conditions, no more. Mr. Chavez stated that the Committee will not make a decision at this time and would like her to provide additional information to consider. Mr. Atwell indicated the Committee should be real clear to her in expressing how she is to present the information the Committee is requesting. Mr. Sanchez read the PSC's previous letter to Ms. Alaniz and stated he felt it could not be clearer. Mr. Del Valle noted that the required forms on which to submit the information was provided to Ms. Alaniz with the Mrs. Garcia's letter.

Mr. Chavez indicated that on page 15 Section 16.3.9.5.8 Application, item E, states how an applicant may update an application for additional experience [same as previously provided to Ms. Alaniz].

Ms. Alaniz indicated that that is exactly what she has done and on top of that she has provided affidavits. Ms. Smith advised Ms. Alaniz to go back and read the statutory provision regarding the need to demonstrate boundary surveying experience under the direct supervision of a licensed professional surveyor, not a professional engineer and to look at how she can update her application. She further pointed out that the Board can not further guide her step by step because they may not be familiar with the exact experience she may have which may still need to be presented. The previous board letter said the experience as listed on the application was not enough. Mr. Sanchez indicated that his decision to request additional surveying experience is to comply with Board's established policies that cadastral surveying experience by itself does not meet the "boundary surveying" experience acceptable to the Board as noted in the law, specifically the types of surveying listed in the NM surveying standards.

5. NEW BUSINESS

5.1 Glen Thurow, NMPS Education Foundation – Results of Questionnaire on Need for Skilled Technical Personnel/Progress Report on Efforts to Establish a Two-year Technical Program.

Mr. Thurow indicated that the purpose of his attendance is to inform the Board of some of the activities that have been going on the educational front. He believes it is very good news. On May 25th members of the surveying community, himself and David King, Steven Frank and Tony Trujillo met with administrators of TVI, the Dean, associate Dean and the school relations coordinator at TVI and also representatives of APS. The meeting was to present the results of the questionnaire that the NMPS educational foundation conducted in April and May of this year. Three hundred and nineteen questionnaires were sent to members of NMPS inquiring as to their needs for technical personnel in surveying, CAD and GIS for current positions and also for projected needs in two years and five years. The tabulated results were presented to the TVI Board. The basic conclusions were that there is a critical need for trained technical personnel. There are approximately 400 openings right now statewide in those three subcategories. They project that in the next five years there will be an annual opening of 220 positions. This trend will continue into the future. The presentation was well received by TVI and they

will be able to offer in the fall a plane surveying course as part of their GIS CAD program at TVI. This had been tried in the past with no success and that was because they were looking for current private surveyors to send people to this course. Well they did not have them to send and if they did, they would not send them in the morning when their crews are out. He reported they are moving this recruitment effort into the secondary school system at the high schools and offering four introductory classes at the high school level. TVI will treat this as a concurrent learning opportunity which means that once students graduate from high school they are going to have credit issued to them at TVI. Dr. Steven Frank was among the participants because NMSU is looking at accepting some of the credits earned at this concurrent level for those students moving on directly to NMSU. With these four courses offered at the high school; they hope to interest students in careers in surveying and giving them credit in the educational process. In the spring a 23 credit certificate program will be started at TVI based on the national science foundation curriculum. This is not to take the place of the four-year degree at NMSU, but will be a stepping stone to NMSU or training for students who wish to become technicians in the surveying field. Bernalillo H.S., Valley, West Mesa, and one of the chartered schools will offer the introductory course. There are eleven high schools and they hope to eventually implement this in all the high schools. When questioned by Mr. Sanchez, Mr. Thurow indicated NMSU will accept credits from High schools or TVI if the courses meet ABET-accreditation criteria. As far as instructors, a TVI employee will work in conjunction with APS. There was some discussion on whether graduates of the technical program would be eligible for the NMPS Certified Survey Technician program. Mr. Thurow stated that initially that was envisioned. TVI was also interested in a salary review and a survey was done on this. The result was that the entry level would be about \$14.00 to \$15.00 an hour. Mr. Thurow's report was well received by the Committee. Mr. Thurow indicated he would be happy to keep the Committee apprised of future developments.

6. CLOSED SESSION (Alleged Violations)

It was moved by Mr. Sanchez, seconded by Mr. Vigil and unanimously,

VOTED: to go into closed session pursuant to NMSA 1978, Section 10-15-1(H) (1) to discuss cases listed in section 6 of the agenda, specifically cases 6.1 through 6.5. A roll call vote was taken. Voting Yes: Fred Sanchez, Charles Atwell, Salvador Vigil, and Gilbert Chavez.

6A. **OPEN SESSION** –It was moved by Mr. Sanchez, seconded by Mr. Vigil and unanimously,

VOTED: To reconvene in open session and further stated that the discussions in closed session were limited to those listed on the agenda and mentioned in the motion to convene in closed session, items 6.1 through 6.5 on the agenda.

6.1 Case 05-04-05 It was moved by Mr. Vigil, seconded by Mr. Sanchez and unanimously,

VOTED: To issue a letter to the respondent that the board is very concerned about the complaint received against him and that he is to immediately notify the Board of any activity in the litigation.

Mr. Chavez indicated that staff should issue a letter of warning and make it very clear that the surveying committee is very concerned about the activities going on. It was also noticed that in the preliminary review of the information that was provided that there appears to be violations of the Board's rules and code of conduct and hereby direct him to inform the board of any activities in the current litigation. Mr. Del Valle is to email the draft letter (without names) to members of the PSC for review.

6.2 Case 05-04-06 It was moved by Mr. Sanchez, seconded by Mr. Vigil and unanimously

VOTED: To dismiss this case as unfounded

6.3 Case 05-04-14 It was moved by Mr. Sanchez, seconded by Mr. Atwell and unanimously

VOTED: To close for a lack of complaint at this time.

6.4 Case 03-02-30 It was moved by Mr. Sanchez, seconded by Mr. Atwell and unanimously,

VOTED: To issue a Decision and Order stating that the board finds him in serious violation of the rules of professional conduct. He is to pay an administrative fine of \$750 plus the administrative costs of hearings that have occurred. Within 180 days he is to take an ethics surveying course available on line through NMSU and that he be ordered to provide the documentation of the PDH claimed that he has made during the last three years for auditing by the board. Should he fail in any way on these conditions, the

board would reopen the case. Other than the ethics course, the other conditions should be completed within 30 days.

6.5 04-04-09 Klad Zimmerle, PS Stipulated Agreement of Settlement – It was moved by Mr. Sanchez, seconded by Mr. Atwell and unanimously,

VOTED: that the Stipulated Agreement of Settlement be approved.

7B. APPOINTMENT OF HEARING OFFICERS(S)

None required.

It was noted that Mr. Chavez would not be able to attend the meeting on June 9, 2005 in Ruidoso. The Vice Chair will conduct the meeting at that time. It was noted that the election of officers could be postponed until the end of the agenda and perhaps recess the meeting on Thursday and reconvene early the next day.

9. ADJOURNMENT -

The meeting was adjourned by Chair Chavez.

Submitted by:

Approved by:

Executive Director

Gilbert Chavez, PS, PSC Chair

Approval Date

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