

Meeting of the Board of Licensure for Professional Engineers & Professional Surveyors held August 5, 2005 at the Board Office, 4001 Office Court Drive, Suite 903, Santa Fe, NM 87507-4962

Members Present      Dr. Rola Idriss, PE, Board Chair  
                                 Gilbert Chavez, PS, Board Vice chair  
                                 Patricio Guerrerortiz, PE, PEC Chair, Board Secretary  
                                 Fred Sanchez, PS, PSC Chair  
                                 Severiano Sisneros, PE  
                                 Subhas Shah, PE  
                                 Stevan Schoen, Public Member  
                                 Charles Atwell, Public Member

Members Absent:      Salvador Vigil, PS

Others Present        Elena Garcia, Executive Director  
                                 Candis Bourassa, Licensing Manager  
                                 Jeremy DelValle, Investigator  
                                 Tom Rollag, Rollag Associates  
                                 Hank Rosoff, NMSPE

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

Dr. Idriss convened the meeting at approximately 9:00 a.m. Roll call was taken, and it was noted that a quorum of the Board was present. Guests introduced themselves.

**2.      APPROVAL OF THE AGENDA**

It was moved by Mr. Shah, second by Mr. Guerrerortiz and unanimously,

**VOTED:** To approve the agenda with the new chairs listed under reports from the Professional Engineering Committee and the Professional Surveying Committee.

**3.      APPROVAL OF THE MINUTES**

**3.1      Approval of the June 10, 2005 Minutes** - It was moved by Mr. Sanchez, seconded by Mr. Guerrerortiz and unanimously,

**VOTED:** To approve the minutes of the June 10, 2005 meeting with the correction listing Severiano Sisneros and not Patricio Guerrerortiz as Board Chair.

**4.      NEW BUSINESS**

**4.1 Qualifications-based Selection** – County of Bernalillo Inquiry. Mrs. Garcia indicated she had made an inquiry to the County of Bernalillo regarding the use of price quotes for surveying work after Mr. Sanchez brought the matter to her attention. She presented the County’s response indicating the project was under \$5,000 which exempts the project from the requirements of the Procurement Code for professional services. Mr. Sanchez read the letter sent to him and other surveying firms soliciting a price quote. Mr. Sanchez believes the Board should request an Attorney General’s opinion regarding the procurement code and its application. Mr. Atwell indicated the Board has no enforcement power over the procurement code and questioned the benefit of requesting another opinion. Mr. Chavez stated municipalities are not sovereign powers and are not exempt from state statutes and he would like to get “Home Rule” defined. Mr. Sanchez indicated the request should inquire on the application of the Procurement Code to “Home Rule” entities and entities not “Home Ruled”. It was noted that the board in the past has distributed the previous AG’s opinion issued in 1995 to entities, licensees, architects, etc. After a lengthy discussion, it was concurred that a current Attorney General opinion on soliciting engineering & surveying services and including price as a factor in determining selection should be requested. Mr. Sanchez and Mr. Schoen volunteered to write this letter. Mrs. Garcia distributed a copy of a July 29, 2005, letter from NMSPE’s President, David Stoliker, PE expressing concerns in this area.

**4.2 Complaint Process/Procedures, Roles of the Board, Executive Director, AG’s Office, Complaint Manager & Investigator.** This item has been discussed and will be further discussed in a future meeting.

**4.3 Appointment – T. Moore, PS** – RE: Home Land Security Laser Tech. – 9:15 a.m. Mr. Moore did not appear before the board.

## **5. CORRESPONDENCE/COMMUNICATIONS**

**5.1 Leigh Fricks, NCEES – RE: Requiring a Council Record for all Comity Applicants.** Mrs. Garcia stated NCEES is promoting their NCEES Records Program which simplifies licensure among states by minimizing duplication efforts and expediting licensure by comity. There were discussions in the past on requiring applicants by comity to acquire a council record. Ms. Fricks would now like to meet with the Board to discuss the benefits of such a requirement/process. Mrs. Garcia and Chair Idriss indicated this item is set for discussion at the February 3, 2006 board meeting when Ms. Fricks will meet with the Board and make a presentation. Mr. Guerrerortiz pointed out that NCEES already offers the Council Records to all licensees; however, making it mandatory would add an expense to candidates and would not guarantee the applicant will be approved for licensure. Mrs. Garcia agreed that each board reviews council records to ensure the applicant meets the state specific licensing requirements. Candidates with Council Records marked “Model Law Engineer” are the only candidates that are guaranteed licensure because they have met the highest standards. The proposed process would not change this. There are advantages and disadvantages to this process and the Board would have to decide if it benefits New Mexico applicants.

**5.2 Tom Rollag – Practice Act – Broadening Fields of the Surveying Profession – Request for Task Force** - Mr. Rollag requested a task force be established to study licensure of non-boundary surveying, specifically photogrammetry. He addressed the full board noting NCEES is preparing a test for GIS and a photogrammetry test may be ready within a year. He has a problem with boundary surveying being required before one could take the professional surveying exam. Mr. Chavez indicated the board last year studied whether GIS and photogrammetry should be regulated, and it was determined that it is and should be regulated under an engineering or surveying license. A new task force could study photogrammetry as a surveying or engineering discipline. It was moved by Mr. Chavez, seconded by Mr. Atwell and unanimously,

**VOTED:** To establish a task force to include professional engineers, professional surveyors and other interested individuals to study the current needs and options for licensure of photogrammetrists.

Members appointed to the Task Force include: Professor Burkholder, NMSU and T. Rollag, C. Atwell, G. Chavez, F. Sanchez, S. Shah and D. Paulsen. It was noted that the committee would elect the chair.

**5.3 Daniel J. Paulsen RE: Licensure for Photogrammetrists PE** – Mr. Paulsen would like to see the profession of photogrammetry be licensed and regulated by the State of New Mexico, similar to such regulatory authority as is currently applied to Professional Surveyors and Professional Engineers. The Board referred this correspondence to the new photogrammetry task force for consideration.

**5.4 Dr. George D. Peterson, Executive Director, ABET RE: Revised Credentials Evaluation Process.** - Mrs. Garcia has included this for information on ABET's 2003 foreign credentials evaluation service changes to have engineering sciences (1 yr.) and engineering design (1 \_ yrs) content reviewed by experts of ECEI. Applicants' requests for copies of evaluations done prior to 2004 will have to be reevaluated under this revised process according to ABET since they may uncover shortcomings or weaknesses in academic records evaluated under the new procedure.

## **6. COMMITTEE REPORTS**

Standing Committees:

**6.1 Professional Engineering Committee** – Mr. Guerrerortiz reported the committee reviewed two cases; one case was dismissed as the respondent has voluntarily complied to change the title on a business card. On another case three motions were submitted-- a motion to hear telephonic testimony was accepted. The change of venue for the hearing had been settled. Another motion was rejected. The hearing date was set for August 25, 2005. The committee approved two applications for retired status, two applications for inactive status and reviewed applications for licensure by exam and by comity. Mrs. Garcia added additional motions in the same case just reported have been received, but did not make the deadline for adding to this meeting's agenda. They can be taken as preliminary matters during the hearing. She inquired if the Board could reimburse the

state prosecutor for travel if necessary to attend a deposition in Arizona in the event it could not be accomplished via telephone. It was noted that telephonic attendance would be preferable. She indicated there may also be a charge for a transcript ranging from \$150.00 to \$1,000. Mrs. Garcia said expert witnesses may be another expense. The Board agreed that Mrs. Garcia may handle the expenses of the case as necessary and try to keep the costs down.

**6.2 Professional Surveying Committee** – Mr. Sanchez reported the committee had discussed the Strategic Plan. Seven cases were reviewed (two were tied together) with one license suspended, one stipulated agreement, one continuation for further investigation, one deferred for Mr. Ytuarte’s review, one for the full board to consider and two dismissed. There was a short discussion on the Procurement Code. Four applications for endorsement and two examination applications were approved. Discussions covered the format for disclosure of professional liability insurance and the applicability of the Procurement Code to professional services.

Other Committees:

**6.3 Rules & Regulations Committee** - Subhas Shah, PE – No report - There is discussion later in the meeting about the JES committee replacing this committee.

**6.4 Arch./Eng./Landscape Arch JPC** – F. Sanchez, PS

6.4.1 Proposed Revisions to the Handbook for Building Officials - Mr. Sanchez reported he reviewed the Handbook with Glen Thurow, PS and has reviewed and submitted revisions to reflect the language of the new Act. These were sent out by Mrs. Garcia to board members about a week ago soliciting comments on the verbiage used. Mr. Chavez added that the societies should be presented with a final draft, and that he will get his suggestions to Mr. Sanchez.

Mr. Guerrerortiz volunteered to attend the August 16th JPC meeting to have an engineer present. This is the first JPC meeting this year. Dr. Idriss suggested to Mr. Rosoff that NMSPE also submit comments.

**6.5 Professional Development Committee** – Gilbert Chavez, PS - No report

**6.6 Examination Committee** – Dr. Rola Idriss, PE - No report

**6.7 Fire Protection Committee** – Mr. Schoen reported the committee met in June and discussed organization and some issues dealing with fire protection. The next meeting is set for August 11<sup>th</sup> and will clarify the specific proposals they want to address. He will report these to the board.

**6.8 Publications Committee** – Mr. Guerrerortiz reported the second newsletter is being prepared. Mrs. Garcia announced she has articles from Dr. Rose, Mr. Chavez and

staff articles. She expects to have the newsletter written and printed by the end of the month.

**6.9 Executive Committee** – Mr. Sisneros, PE. No report. Mrs. Garcia explained she depends on this committee to assist her when expediency is required in administrative matters.

Mrs. Garcia will provide Dr. Idriss a list of committees and members to review as to the necessity of continuing some of these committees. Mrs. Garcia added she has compiled a working draft of the Administrative Code – rules and standards which include Mr. Sanchez and other noted recommendations. She will distribute this draft at the end of the meeting and can also email the electronic documents. The JES committee can decide which rules will be promulgated by each committee and report to the full board. Mr. Shah questioned the separate powers of JES and Rules & Regulations Committee. Mrs. Garcia indicated the JES committee will help her divide rules between engineering and surveying. Dr. Idriss stated the charge of the JES committee is limited with membership set by the ACT, while the Rules & Regulations Committee is very broad. Mr. Schoen referred to the Practice Act 61.23.9.D which establishes the JES committee members as PEC chair, PSC chair, and two public members. This creates a committee of Mr. Schoen, Mr. Atwell, Mr. Sanchez, and Mr. Guerrerortiz.

Mrs. Garcia stated there is also another committee, the Landfill Gas Remediation, a PEC sub-committee. A meeting had been set, however, the City of Albuquerque cancelled and has not given her additional meeting dates.

## 7. **Old Business**

**7.1 WZ Meeting in June 2006 in Santa Fe – Update** – It was noted that the Central Zone wished to join the Western Zone for its zone meeting in Santa Fe. Mrs. Garcia reported the La Fonda on the Plaza Hotel was the Board's recommendation to NCEES for hosting the zone meeting. NCEES will need to sign the hotel contract which has been forwarded to them. The dates are June 1-3, 2006. Mr. Chavez offered the web site [www.newmexicohistory.org](http://www.newmexicohistory.org) by the NM Museum as a good reference and possible link for them.

**7.2 NCEES Annual Meeting** – August 24-27, 2005 [Memphis, TN] Mrs. Garcia, Mr. Sanchez, Mr. Shah, and Dr. Idriss are scheduled to attend. Mrs. Garcia indicated she will miss the administrative hearing but everything has been arranged for the hearing.

## 8. **DIRECTOR'S REPORT**

**8.1 Staff Activity Report** – Mrs. Garcia reported staff has been busy as usual serving applicants, licensees, and the public as evidenced by the number of applications and cases presented for review during these meetings.

**8.2 Performance Measures for Fiscal Year 2007** – Mrs. Garcia reported that under the Accountability in Government Act, agencies are required to establish performance measures. LFC and DFA from these measures will select specific performance measure(s) for appropriations. Performance measures such as the number of licenses issued, while a great benchmark, are not good performance measures since the Board can not control the number of applications filed. Performance measurements connected to efficiency are better. An example of an efficiency performance measure is the time required to process and issue licenses. A timeline can be set for the review of cases as well depending on the type of cases. Some cases can be processed and presented at the following board meeting after it is filed while others may require more time. Some cases can drag on for years due to legal appeals, etc. and the Board may have no control over them. She presented the July 15, 2005 letter sent to DFA and LFC transmitting two “efficiency” and two “output” performance measures. Mrs. Garcia has received no response from LFC and DFA, but they are the ones that monitor this performance budgeting and have a lot to say about what goes into the appropriations bill.

Mr. Schoen suggested the number of current licensees be acknowledged. Mrs. Garcia agreed that statistics are good for the evaluation of the agency’s work. Statistics are kept from year to year.

**8.2.1 Tracking of Cases** – Mrs. Garcia presented copies of a new excel work sheet that will track the activity in each case. It will give her and the board a way to review the status of a case at any time and track the performance of parties involved.

**8.3 FY 07 Strategic Plan** – due Sept 1, 2005 for FY 07 – A copy of the revised strategic plan was provided. Some of the recommendations of the Surveying Committee, such as the review of the rules to bring them up to date with the new law are a part of the plan. The plan is for one program which is then divided into four different activities: 1. Administration/Finance, 2. Application and Examinations, 3. Certifications/Licensure, 4. Law enforcement. Each has its own goals, objectives and performance measurements. Mr. Sisneros pointed out the advantages to one program is the flexibility to distribute monies.

**8.4 FY 07 Budget Request** – Mrs. Garcia stated the guidelines for preparation of the FY 07 budget were very recently received from DFA as well as the training to use the budgeting program, BPS. Copies of what was distributed to the Executive Committee were provided. The governor’s office has indicated agencies need to stick to a flat budget, no new programs, new FTEs can not be added without making cuts in other areas. The preliminary cash reserve for the end of June 30, 2005 is \$ 484,400. This number will change once all July bills are paid. The Board has been budgeting a certain amount from its cash balance in order to decrease its fund balance to a more appropriate amount. The last fee increase was in early or mid 1990s. She anticipates that in 2006 we will receive \$354,500 in revenues. The 2006 operating budget starting July 1, 2005 will be \$547,900. The difference comes from the reserve. Projected fund balance as of the end of FY 06 will be around \$291,000. The budget submitted September 1, 2005 is for

FY 2007. Cash reserves at the end of FY 07 could be slightly lower than \$90,800. Mrs. Garcia suggests an increase in fees and a years notice be given to licensees. This could be an increase from \$80 to \$100 for renewals, \$75 to \$100 for PE examination applications and for comity and reinstatement applications from \$100 to \$150. Dr. Idriss wondered if this is enough. Mrs. Garcia suggested other fees can be assessed such as fees for verifications, EI certification, retired/inactive status and others. Some services have been provided free of charge due to the Board's cash reserve. Dr. Idriss pointed out we are pulling about \$200,000 a year from the cash reserve. Mr. Guerrerortiz added how low the fees are in comparison to other states. Mr. Sanchez has seen the fees the same for a long time and an immediate 25% increase could be followed by 5% each year in the renewal fee. Notice could be sent out January 1, 2006 and the even numbered renewals would be first to pay in December 2006. Mrs. Garcia will bring additional information to the November meeting for a determination of fee increases.

**8.5 FY 05 Financial Status Report** – The May and June preliminary reports were presented and discussed.

It was moved by Mr. Sisneros, seconded by Mr. Shah and unanimously,

**VOTED:** To approve the May reports including the vouchers paid.

Mrs. Garcia addressed the June financial reports. These were preliminary and the board preferred to wait for the actual report.

**9. CLOSED SESSION (Complaints and Violations)**

9A. **OPEN SESSION** Actions on above case(s) No report

- 10. OTHER – A working/training meeting** was set for September 16, 2005 in Taos. The purpose is to set direction for the Board and set a plan to pursue its mission. It will be a time to brainstorm important issues and include them in a strategic plan to follow for the next few years.

**Certificates of appreciation** were presented to Mr. Sanchez, PSC Chair May 2004 - 2005, and Mr. Shah, PEC Chair, May 2004 -2005. A Certificate for Dr. Anderson for his service to the Board was also presented and will be mailed to him.

- 11. ADJOURNMENT** – Having no further business, it was moved by Mr. Guerrerortiz, second by Mr. Shah and unanimously,

**VOTED:** To adjourn the meeting.

Submitted by:

Approved by:

Approval Date

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Elena Garcia, Executive Director

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Dr. Rola Idriss, PE, Board Chair

