

Meeting of the Professional Surveying Committee of the Board of Licensure for Professional Engineers & Professional Surveyors held June 9, 2005 at Best Western Pine Springs Inn, 1420 Highway 70, Ruidoso Downs, NM.

Members Present : Charles Atwell, Public Member
Fred Sanchez, PS
Salvador Vigil, PS

Members Absent: Gilbert Chavez, PS

Others Present: Elena Garcia, Executive Director
Candis Bourassa, Licensing Manager
Mary Smith, Assistant Attorney General, Board Counsel

1. CONVENE/ROLL CALL/INTRODUCTION OF GUESTS

Chair Atwell convened the meeting at approximately 1:15 p.m. Roll call was taken.

2. APPROVAL OF THE AGENDA

Motion by Mr. Sanchez, second by Mr. Vigil and unanimously,

VOTED: To approve the agenda as presented.

3. APPROVAL OF THE MINUTES

3.1 Minutes of the June 3, 2005 Meeting – Need to be deferred until the next meeting. Motion by Mr. Atwell, second by Mr. Sanchez and unanimously,

VOTED: To defer approval of the June 3, 2005 minutes to the August meeting.

4. NEW BUSINESS

4.1 Inquiry in Section 12.8.2.9 (F) Setting New Monuments – When Should Monuments be Set, e.g. at time of signing the plat, before filing, or after filing? The committee examined Sections 12.8.2.9 and 12.8.2.16 of the Minimum Standards for Surveying. Mr. Sanchez noted there is no reference in the Act or standards that sets a specific time for the setting of monuments. After further discussion, the committee agreed that monuments should be set before the filing of plats. Mr. Sanchez asks if the question came from a professional surveyor and inquired as to the exact verbiage in order to respond appropriately. Mrs. Garcia joined the meeting and indicated that a professional surveyor, Jeff Ludwig in Santa Fe had asked her the above question. It was moved by Mr. Sanchez, seconded by Mr. Vigil and unanimously,

VOTED: To issue a written response indicating the setting of monuments should take place at any time within the perimeter of the existing rules and laws, but before recording the plat.

Mrs. Garcia stated this can be added as an advisory opinion and eventually can be included in the rules.

4.2 Election of Officers – Chair, Vice Chair – No nominations were made. It was agreed to recess the meeting at the end of the agenda and continue this item at a set time later tomorrow when Mr. Chavez will be present. Mr. Atwell deferred the election of officers till 8:45 a.m. tomorrow, June 10, 2005.

4.3 Ratification of FLS & PPLS (national) Scores – Mrs. Garcia reported on the overall examinee performance. There were two candidates and both passed (one new candidate and one exam retaker). Mr. Sanchez noted the results included 72.0 as the mean score with a national of 73. For the Fundamentals

exam in April, one passed and a repeat taker failed. Because so few take the exam, Mr. Sanchez indicated it was difficult to interpret performance. Mrs. Garcia will provide the last three exam statistics so the committee can see the trend over a period of time.

5. **COMMUNICATIONS** – No report

6. **OLD BUSINESS [Pending Issues/Reports Discussion and/or Actions]**

Complaint Procedures – Mrs. Garcia explained that after a long discussion at the PE committee meeting, it was decided to continue the practice of having no names during the initial review of complaints. This item will all be covered in the joint board meeting. Mrs. Smith stated that including names during complaint reviews can lead to bias or the appearance of bias. It would be hard for the state litigation to defend this if challenged in court. When considering complaints, all that is looked at are the facts and the evidence to determine any rules violations. Her point is that it does not matter who the licensee is to determine if the complaint is valid. Under due process, licensees have a right to be heard and to know when actions are taken against them. A court challenge based on Board acting without giving the licensee due process could not be defended by the Attorney General's office. Mr. Sanchez and Mr. Vigil recall situations when they have been approached by complainants and had to try to remain neutral and not prejudge. It is recognized that among surveyors the licensee may be recognized by his actual work even if names are not given. This is all right if the member is fair and impartial in conducting the hearing. As a former public member to the Board, Mrs. Smith indicated she can relate to being approached by private individuals. She advises such complaints be referred to Mrs. Garcia. Mrs. Smith stands behind the memo she sent in January and the discussion will continue during the joint meeting

7. **CLOSED SESSION (Complaint and Violations)** – [*...All charges, unless dismissed as unfounded, trivial, resolved by reprimand, or settled informally shall be heard in accordance with the provisions of the ULA, 61-23-24(E), NMSA 197*]

It was moved by Mr. Vigil, second by Mr. Sanchez and,

VOTED: To go into closed session pursuant to NMSA 1978, Section 10-15-1 (H) (1) & (7) to discuss only those cases listed in this section of the agenda. A roll call vote was taken. VOTING YES: Mr. Sanchez, Mr. Vigil, Mr. Atwell, Motion carried unanimously.

7.1 Case 04-04-44

7A. **OPEN SESSION** – Action on Above Cases All charges, unless dismissed as unfounded, trivial, resolved by reprimand, or settled informally shall be heard in accordance with the provisions of ULA, 61-23-27.11(D), NMSA 1978. Chair Atwell convened the meeting in open session. He indicated only those cases listed as item 7.1 as listed on the agenda was discussed pursuant to the closing of the meeting.

Case 04-04-44 – It was moved by Mr. Sanchez that a NCA be issued for: violation of ethics, non-cooperation with board, and failure of contractual responsibility covered in Administrative Code 16.39.8.9.A, 16.39.8.9.A.1.a., 16.39.8.9.A.1.e and the Engineering and Surveying Practice Act sections 61.23.27.11 A 7. The motion was second by Mr. Vigil and unanimously,

VOTED: To issue an NCA as noted in the motion in case 04-04-44.

7B **Appointment of Hearing Officer(s)** – It was agreed by the Committee that Mr. Atwell will be the hearing officer for case 04-04-44.

8. **REVIEW OF APPLICATIONS-** Application by Endorsement – Mr. Robert Riecken, Canadian applicant who appeared before the Board February 3, 2005 is still lacking verification of licensure. Motion by Mr. Sanchez to defer action until verification from Canada is received, second by Mr. Vigil and unanimously,

VOTED: To defer action until application is complete.

8.1 Retired Status Applications - None

8.2 Applications for Principles & Practice of Surveying (Professional Exams) None

9. **Recessed** – Mr. Atwell recesses the meeting until June 10, 2005 at 8:45 a.m. when it will convene for agenda item **4.2 Election of Officers**.

June 10, 2005

Members Present: Charles Atwell, Public Member; Fred Sanchez, PS; Salvador Vigil, PS; Gilbert Chavez, PS

Members Absent: No one

Others Present: Elena Garcia, Executive Director
Candis Bourassa, Licensing Manager

Mr. Atwell reconvened the Professional Surveying Committee meeting at approximately 8:47 a.m. on 6/10/05.

Item 4.2 on agenda as deferred: Election of Officers – Office of Chairman: Mr. Vigil nominated Fred Sanchez; nominations closed and Mr. Sanchez was elected Chair by acclamation. Office of Vice-chair: Mr. Vigil nominated Mr. Atwell; nominations closed and Mr. Atwell was elected Vice-chair by acclamation.

9. **ADJOURNMENT** – Having no further business, it was moved by Mr. Vigil, second by Mr. Sanchez and unanimously,

VOTED: To adjourn the meeting.

Submitted by:

Approved by:

Elena Garcia, Executive Director

Charles Atwell, Public Member, PSC Vice Chair

Approval Date