

Meeting of the Board of Licensure for Professional Engineers & Professional Surveyors held June 10, 2005 at Best Western Pine Springs Inn, 1420 Highway 70, Ruidoso Downs, NM 88346.

Members Present      Severiano Sisneros, PE, Board Chair  
Patricio Guerrerortiz, PE  
Dr. Rola Idriss, PE  
Fred Sanchez PS  
Salvador Vigil, PS  
Charles Atwell, Public Member  
Gilbert Chavez, PS Chair

Members Absent:      Dr. Clifford E. Anderson, PE/PS  
Stevan Schoen, Public Member  
Subhas Shah, PE Chair

Others Present      Elena Garcia, Executive Director  
Candis Bourassa, Licensing Manager  
Mary Smith, Assistant Attorney General, Board Counsel  
Edward Ytuarte, PE/PS, Complaint Manager  
Hank Rosoff, PE, NMSPE

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

Chair Sisneros convened the meeting at approximately 9:15 a.m. Roll call was taken, and it was noted that a quorum of the Board was present.

**2.      APPROVAL OF THE AGENDA**

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

**VOTED:** To approve the agenda as presented.

**3.      APPROVAL OF THE MINUTES**

3.1      **Minutes of the April 22, 2005 Meeting** - It was moved by Mr. Atwell, seconded by Dr. Idriss and unanimously,

**VOTED:** To approve the minutes of the April 22, 2005 meeting.

**4.      CORRESPONDENCE/COMMUNICATIONS**

4.1      Radoslav Barac, PE – Board Recognition – The missive thanked the board for the timely service he received by Perry Valdez, staff clerk specialist and others.

4.2      Jon D. Nelson, PE – RE: Section 5.04 Voting, NCEES Constitution – Mr. Nelson’s proposed amendment would not allow administrators to vote, which presents problems when board members cannot go to meeting. Voting on this issue will come up at the Memphis meeting. Mr. Sanchez pointed out not all boards have the travel funds or authority we do to send board members. The Board generally agrees that each state board should decide who they need to send to NCEES to vote on issues. It was moved by Mr. Sanchez, seconded by Dr. Idriss and unanimously,

**VOTED:** that this Board supports each state in making its decision as to who can vote for them at the NCEES Council meetings.

4.3 NCEES News Release – NCEES Obtains Copyright Infringement Judgment Against Examinee – For Information – FE examinee charged with criminal misdemeanor for attempting to scan test questions during the April 2002 California test.

## 5. COMMITTEE REPORTS

Standing committees:

5.1 Professional Engineering Committee – Subhas Shah, PE, Chair is absent. Mr. Guerrerortiz announced he was elected committee chair and Mr. Schoen vice chair. The committee discussed how complaints are going to be handled with names used or without names. It was decided to continue discussion in the joint meeting as scheduled. In a discussion on rule-making, it was decided a joint committee should decide which rules should go to the PEC and which rules to the PSC. A total of three cases were reviewed. One case was dismissed as unfounded. One case was held over for additional review. The third one requires a cautionary letter to all concerned pointing out the way they use the term “engineer” could become inappropriate. Applications were reviewed for the PE examination, reinstatement, endorsement and a copy of the Boards’ actions are noted in the board’s files. Mr. Guerrerortiz announced that Dr Anderson would resign as of the end of July. He is taking a teaching position in Connecticut. Though Dr. Anderson was unable to attend, he wished to express his thanks as he has enjoyed being on this Board.

5.2 Professional Survey Committee – Gilbert Chavez, PS, Chair was unable to attend the PSC meeting. Mr. Atwell chaired the meeting and reported that under new business there was an inquiry by a surveyor from Santa Fe on Section 12.8.2.9.F NMAC on when monuments should be set. The Committee is advising that monuments should be set before any filing is done. Mr. Sanchez was elected chair and Mr. Atwell as vice chair. There were discussions on complaint procedures that will continue in the joint meeting. In closed session, case 04-04-44 was discussed and in open session a NCA was ordered. There were no applications to review.

Other Committees:

5.3 Rules & Regulations Committee – Subhas Shah, PE, No report

5.4 Arch./Eng. Landscape Arch JPC. No report

5.5 Professional Development Committee: - Mr. Chavez, PS, No report

5.6 Examination Committee – Dr. Idriss, PE, reported the trend of NCEES is toward increasing educational requirements to five years or equivalency to a masters degree, allowing the PE exam any time after graduation, and giving a title to this status until they acquire necessary experience for licensure. NCEES may change their MLE standard. There will be discussion/vote at the Memphis meeting this year. The Board discussed various points in an effort to come up with a position. As the educational requirements for an engineering degree have been reduced by universities, a change to five years could make up for this. Test scores have shown retention is better when testing is done shortly after graduation. Intermediate titles can be confusing to the public and this would have to be worked out. Regardless of the Memphis meeting outcome, our own statutes would govern this board. The Board in general was undecided on increasing the educational requirements, but agrees PE/PS testing prior to four years experience would be better for student taking the exams.

5.6.1 NCEES/ELSES Exam Survey – For information. Mrs. Garcia summarized the survey results included in the meeting books for the April 2005 exams administered in Albuquerque, Las Cruces, and Socorro by ELSES.

5.7 Fire Protection Committee – Organizational/membership/schedule of meetings – It was moved by Mr. Guerrerortiz, second by Mr. Atwell and unanimously,

**VOTED:** To approve the membership list and schedule.

5.8 Publications Committee – Mr. Guerrerortiz announced things are on schedule for a newsletter in August. Collection of articles from board members and professionals continues. The deadline to submit articles is June 24<sup>th</sup>, but will be extended by a week. Needed subjects were discussed and articles should be obtained on: 1) how the legislative process works, defining the responsibilities between engineers and surveyors as when supplemental survey work is done [Chavez], and what is expected in professional ethical behavior [Guerrerortiz]. Mr. Sanchez emphasized the need of surveying ethics due to their public contact.

5.9 Executive Committee – Mr. Sisneros, Mr. Guerrerortiz, and Mr. Atwell – Mrs. Garcia requested a meeting date, as she needs to turn in a budget by September 1 for FY 07. It is agreed to meet during the scheduled August 4, 2005 Board meeting.

5.10 Committee to Evaluate Compilation of Surveys for Document – Mr. Sanchez reported owners are acquiring properties and are requesting services to assemble and reconcile separate survey documents into one high-quality compilation. A response under Chair Chavez signature has been sent to Mr. Vladimir Jirik on this subject after the committee met and agreed on a position. The letter was included in the meeting books. It is the Board's opinion that surveyors have the discretion to determine the appropriate use of their seal/signature and the scope and limits of assembled documents must appear on the prepared documents so as not to mislead. Licensed surveyors can do this process as long as the applicable state laws and regulations are followed.

## **6. NEW BUSINESS**

6.1 FY 06 Open Meeting Resolution – Motion by Mr. Sanchez, seconded by Mr. Guerrerortiz and unanimously,

**VOTED:** To adopt the open meeting resolution as presented.

6.2 Election of Officers – Chair, Vice Chair & Secretary

Mr. Guerrerortiz nominated Dr. Rola Idriss as Chair of the Board. Mr. Atwell nominated Mr. Chavez as Chair of the Board. Nominations closed. Elections were held and

Dr. Rola Idriss was elected as Board Chair.

Mr. Atwell nominated Mr. Chavez for Vice Chair of the Board. Nominations closed and the election was held.

Mr. Chavez was elected as Vice Chair of the Board.

Mr. Vigil nominated Mr. Guerrerortiz as secretary of the Board. Nominations closed and the election was held.

Mr. Guerrerortiz was elected Board Secretary.

6.3 Board Meeting Schedule for FY 06 – After a discussion of dates, the schedule was set as follows: August 4-5, 2005 in Santa Fe; November 4, 2005 in Las Cruces; January 13, 2006 in Santa Fe; February 2-3, 2006 in Albuquerque; April 20-21, 2006 in Santa Fe ; June 15-16, 2006 in Ruidoso. Motion by Mr. Atwell, second by Mr. Vigil, and unanimously,

**VOTED:** To set the meeting dates contingent on the budget and availability of state plane for Las Cruces.

6.4 Complaint Process/Procedures, Roles of the: Board, Executive Director, AG's Office, Complaint Manager & Investigator – Mr. Sisneros had requested this item be added to the agenda. Mrs. Garcia has prepared materials for the Board identifying the individual roles. Several Board members suggest a retreat where this subject can be given full attention. Mary H. Smith addressed the Board on the Board's authority as a public body and points out that there is no individual authority. When members are approached to bring anything to the Board it should be directed first to Mrs. Garcia. Mrs. Smith sees a need for the Rules of Professional Responsibility to be looked at, to possibly have a provision that specifically addresses ethics in relationship with client, Board, and other professionals. There is a discussion on the limitations when the complaint involves a federal or tribal employee. The licensure of government contractors and protecting the public in general are areas for continued discussion at a retreat. The Board respects Mrs. Garcia's judgment on what is within the jurisdiction of the Board and Mrs. Smith is available for counsel. Mrs. Garcia reviews each complaint according to board policies and reviews the continuation of current policies with the Board frequently. She presents all gray-area complaints to the Board, but if it is clear that there is no purview Mrs. Garcia follows the Boards' policies. Discussion on the Complaint Process chart suggests that at *Preliminary Investigation* other steps could be added to the flow chart. Mrs. Garcia suggests she revise it and present it to the Board at a later time. On the topic of hearings, Mr. Sisneros believes guilt is associated with the hearing and this can cause defamation of character. Mrs. Smith suggests licensees be educated on what the NCA hearing determines and that it is not to say it is issued because the board believes the licensee is guilty. Mrs. Smith spoke of the Board staff and Mrs. Garcia's judgment as an effective system to determine if there is jurisdiction. A discussion on the current law ensued. Mrs. Garcia pointed out new legislation since 2003 gives more jurisdictions over non-licensees because civil penalties can be assessed. Mr. Sanchez stated he would like to add in possible disciplinary actions that a licensee's PDHs be audited because it appears many licensees do not know the rules and regulations.

## 7. **Old Business**

7.1 2005 Western Zone Meeting Report – Mrs. Garcia has just sent out the minutes of the 2005 Western Zone meeting report and attending members have given an update of what happened at that meeting.

7.1.1 Invitation to New Mexico in 2006 – Board member attending the Anchorage meeting gave an invitation to New Mexico.

7.2 WZ Meeting in June 2006 in Santa Fe – Working on entertainment, gift bags, and contacts with possible samples as guest gifts. Entertainment examples enjoyed at other meetings were the Alaska dinner cruise and quiet background music for luncheons or dinners.

7.3 NCEES Annual Meeting – August 24-27, 2005 [Memphis, TN] – Mrs. Garcia wants to make sure everyone has received their packets, and also included copies in the meeting books. Mrs. Garcia pointed out the 8/24/05 NCEES Leadership Workshop which may be appropriate for members wishing to change things at the national level.

7.3.1 NCEES Funded Delegate – Dr. Idriss was submitted as the NCEES funded delegate.

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

8.1 Staff Activity Report

8.1.1 Examination Information to Candidates (Flyer) - Mrs. Garcia reports the scores for the April examination were received and applicants notified. A list of past surveyors' license numbers were prepared and is being posted on the web site for cross reference to old ground monument caps. She will be providing a link for continuing education information for non profit organizations/professional organizations. She reported the Board has had difficulties with mail service at the new office location and also with General Services Dept. on the updating of our web

site. She believes the problems may be corrected. The new practice act had its first printing at a cost of \$8,000. On July 13, the Board staff will switch to MS Outlook Web Access for email. The Board employees participated in a pilot project established by GSD. This she believes will make for a smooth transition to the new process. She has completed NCEES's two-year survey report and completed the report of activities for the Western Zone meeting. The report was electronically submitted to the WZ secretary and dealt mostly with changes to the ACT. Training has been provided on dealing with upset clients. A copy of NCEES test policies changes in the tests was provided and discussed. A copy of the Board's testing instructions/deadlines was also provided.

8.1.2 Tracking of Cases – Mrs. Garcia indicated she has worked on the development of a tracking form in Excel for use by her and Mr. Del Valle in order to ensure important deadlines under the ULA are not overlooked.

8.1.3 Dr. Kenneth R. White – Recipient of NCEES Distinguished Service Award with Special Commendation – Mrs. Garcia stated that the Board's nomination of Dr. White had been successful. He would be receiving this award during the Memphis meeting.

8.2 FY 05 Financial Status Report – March, April – After presentation by Mrs. Garcia, it was moved by Mr. Sanchez, seconded by Mr. Chavez and unanimously,

**VOTED:** To approve the March vouchers.

April expenditures on pg. 73: It was moved by Mr. Sanchez , seconded by Dr. Idriss and unanimously,

**VOTED:** To approve the April vouchers.

8.3 Audit Report for FY '04 – It was moved by Mr. Guerrerortiz, seconded by Mr. Atwell and unanimously,

**VOTED:** To approve Audit Report for FY 04

9. **CLOSED SESSION (Complaints and Violations)** , no business.

10. **OTHER** – Mrs. Garcia announces a Decision and Order was issued in Case 04-03-14 and a Stipulated Agreement of Settlement in Case 04-04-09.

11. **ADJOURNMENT** – Having no further business, it was moved by Mr. Guerrerortiz, seconded by Mr. Atwell and unanimously

**VOTED:** To adjourn the meeting

Submitted by:

Approved by:

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Elena Garcia, Executive Director

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Severiano Sisneros, III, PE, Board Chair

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Approval Date