

Meeting of the Professional Surveying
Committee of the Board of Licensure for
Professional Engineers & Professional
Surveyors held at 1:00 p.m., April 20, 2006
at the Board Office, 4001 Office Court
Drive, Suite 903, Santa Fe, NM 87507-4962

Members Present Fred Sanchez, PS, PSC Chair
 Gilbert Chavez, PS, Board Vice Chair
 Salvador Vigil, PS
 Charles Atwell, Public Member

Others Present Elena Garcia, Executive Director
 Candis Bourassa, Licensing Manager
 Mary Smith, Assistant Attorney General, Legal Counsel
 Ed Ytuarte, Complaint Manager
 Richard Tresise
 Ed Trujillo
 Robert Gromatzky
 Diego Sisneros.

1. CONVENE/ROLL CALL/INTRODUCTION OF GUESTS

Mr. Sanchez convened the meeting at approximately 1:00 p.m. Roll call was taken, and it was noted that a quorum of the Committee was present.

2. APPROVAL OF THE AGENDA

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

VOTED: To approve the agenda as presented

3. APPROVAL OF THE MINUTES

3.1 Approval of the February 2, 2006 Minutes – Motion by Mr. Atwell, second by Mr. Chavez, and unanimously,

VOTED: To approve the 2/02/06 minutes.

4. NEW BUSINESS

4.1 Robert J. Tresise – Appearance to Submit to Oral Examination – 1:10 p.m.
Mr. Tresise was questioned by the board members on the Minimum Standards, including questions on boundary surveying, basis of bearing, topographic

surveying, signing and stamping plats, time allowed for plat filing, plat of survey required information, improvement location reporting, when the manual of survey instruction applies, monumentation setting, purpose conveyed by a drawn survey, and what gives Mr. Tresise the most trouble in a survey, easements, county lines, and unclassified surveying. It was mentioned that the Minimum Standards are being revised. Mr. Sanchez closes the questioning; and the Committee agreed to reinstate Mr. Tresise's license as he has met all the requirements in the Board's Decision and Order.

4.2 NCEES on Council Record & Possibility of Requiring a Council Record for Comity Licensure – Mrs. Garcia explained NCEES' services if the Board was to require a Council Record of all its comity applicants. Mrs. Garcia indicated requiring a council record may be more useful for engineers than surveyors since there are lots more engineers applying by comity than surveyors and licensing requirements in other states still vary significantly on the surveying side. Mr. Sanchez believes the education requirements are equalizing with each year. Mrs. Garcia stated approximately 62% of NM licensed engineers live out of state and this would help these candidates. NCEES Council Records are kept for life. The disadvantage is that there would be extra charges imposed by NCEES on candidates, and the Board is already raising its biennial renewals. Mr. Sanchez suggested the Committee review NCEES' proposal during the Sunset review in six years. Discussion will continue on making it mandatory or keeping it optional with the next full board meeting.

4.3 Accepted Proposed Ethics Courses – S. Vigil (Ed Trujillo) Mr. Trujillo stated he wishes to establish a qualifying ethics course. He would like to use past complaints as examples; he has had trouble finding a code of ethics for engineers and surveyors. Mrs. Garcia points out the Rules of Professional Conduct 16.39.8.9 of the Administrative Code and points out that they can be a starting point for him. Mr. Sanchez stated that ethics is the idea of doing things because they are the right thing to do and benefit the majority of the people. There is no list of rules that apply just to surveyors. The intent is to improve ethical professional conduct. Mr. Trujillo asked if this can be a part of an in-house program, part of a technical society's program or civic activities. Mr. Sanchez agreed such activities could be considered an ethics activity; caution must be taken not to be caught in a company's promotion rather than a real ethics course. Preferably, professional groups will create training. The Board's licensing staff has started a class listing of available courses. Mr. Trujillo invited Board members to attend the local chapter meetings.

Mrs. Garcia handed out a release by BLM for a three-credit hour survey course offered by distance-learning methods on cadastral services in Indian country. Mr. Sanchez is aware there is a national move and money backing the BLM to do this training plus various types of certifications. In addition, NMSPE is starting in May with a two-hour ethics course and will have one every month.

5. CORRESPONDENCE

5.1 Not used

5.2 Subdivision Act and Recordation – G. Chavez – (city surveyor for city of Las Cruces.) He has asked for legal interpretations because Mr. Chavez opposes city of Las Cruces's lease parcels to the public on their airport property. Mr. Chavez feels this is a violation of the State Subdivision Act while the city of Las Cruces thinks they are a sovereign power. The city code defines a subdivision as a division of land for any purpose, consequently they ask surveyors to survey out tract parcels 100' x 100' to enter a leases agreements with various entities. Mr. Chavez wondered how he can be asked to do that since it is in violation of surveying standards. The City Of Las Cruces says the land is under federal control (FAA) and for leases purposes can be so used. The city does not record these leases, which would allow access to the public. It has taxiways, named & addressed roads, but there is no record of it for a taxing. Mr. Chavez is assigned to do this work and has noted it is not compliant as a survey in any way. Mr. Atwell understands Mr. Chavez believes he is being directed to work outside the Standard Practices and Subdivision Act. As the City of Las Cruces is home ruled, Mr. Sanchez does not believe this negates a State Act. Mr. Chavez feels he is in a difficult situation and may have to file a complaint against to city of Las Cruces for unlicensed practice. It is decided the committee cannot make any decisions until action if taken and FAA regulations will have to be acquired and reviewed for compliance or exemption.

5.3 Survey of Partial Parcel – Robert Gromatzky – Specific Question: Is a PS required to survey and show on a plat the entire parcel of land when severing smaller portion of land from the whole? Mr. Gromatzky referred back to the Minimum Standards before revision to a rule that stated a percentage of the total parcel could be subdivided and one did not have to survey the total. Mr. Sanchez recalls the rule was brought about for the Department of Transportation's need for rights of way, and it became very difficult to apply. In Mr. Gromatzky's situation there is a land grant of 36,000 acres and the he asked if the entire grant would have to be surveyed in order to develop a small portion of it. Mr. Sanchez asked what kind of boundary record exists on the grant and whether the public is involved. Mr. Atwell asked how the insurance of title will be developed. Mr. Atwell suggested he ask his title company what they require. Mr. Gromatzky stated they wanted a legal description over just the portion to be developed, which would not be a legally created tract. Mr. Sanchez advised him to be cautious that all the underlying rights be addressed such as county lines, utilities, easements, right of way, etc. Mr. Chavez noted the grant lines involved need to be retraced. Mr. Sanchez stated that short of legal advice from their title company, the action they decide to take will carry stamp and signature responsibility.

5.4 Riparian Rights and Ownership, if any, of Accreted Lands Within the State & Clarification on Ownership, in Fee, to Riparian Lands – Larry Sterling, on page 19. Mr. Sterling submitted a letter to the board which he received from the

US Department of the Interior and which has been dispersed to owners in northern NM. Property owners have interpreted these letters to grant ownership, in fee, to riparian lands. Mr. Sanchez sees this more as a quitclaim from the government, but it is the property owner's responsibility to make a legally sustainable claim on the property. Mr. Atwell motion that this is not an issue for the board to decide, second by Mr. Sanchez and unanimously,

VOTED: To approve the motion

6. **CLOSED SESSION** [Complaint and Violations] – It was moved by Mr. Chavez, second by Mr. Vigil and unanimously,

VOTED: To convene in closed or executive session pursuant to NMSA 1978, Section 10-15-1 (H) (1) to discuss only those cases listed in item 6 of the agenda. A roll call vote was taken. Voting yes, Mr. Sanchez, Mr. Atwell, and Mr. Chavez and Mr. Vigil. Motion carried unanimously.

- 6A. **OPEN SESSION** – Mr. Sanchez reconvened the meeting in open session and further stated that the discussions in closed session were limited to those listed under 6.1 through 6.7 on the agenda. *[...All charges, unless dismissed as unfounded, trivial, resolved by reprimand, or settled informally shall be heard in accordance with the provisions of the ULA, 61-23-27.11(D), NMSA 1978]*

6.1 Case 04-04-15 [Decision & Order – J. Robert Martinez, PS] Motion by Mr. Sanchez that a letter of compliance be issued and case closed when Mr. Martinez has filed the plat. Second by Mr. Vigil and unanimously,

VOTED: To pass the motion

6.2 Case 05-05-01 [NCA – Harry Work] Motion by Mr. Chavez to issue an order according to Section 61-23-27.15 that imposes a \$5,000 civil penalty for practicing surveying without a license, second by Mr. Vigil

VOTED: To pass the motion

6.3 Case 05-05-37 – Motion by Mr. Sanchez to dismissed as unfounded as the complaint was out of the Board's jurisdiction, second by Mr. Atwell and unanimously,

VOTED: To pass the motion

6.4 Cases 03-03-09; 04-03-11 [Richard J. Tresise] Motion by Mr. Vigil to dismiss case and activate his license as Mr. Tresise has completed his oral examination today, second by Mr. Chavez and unanimously,

VOTED: To pass the motion

6.5 Case 05-05-26 – Motion by Mr. Chavez to dismissed as unfounded, second by Mr. Vigil and unanimously,

VOTED: To pass the motion

6.6 Case 05-05-27 – Motion by Mr. Sanchez to write a letter to the electric utility company that they are in violation of surveying standards by describing a boundary of a tract of land and they are not allowed to do this. Section 61-23-27.10 “...surveying services performed do not include any determination, description, portraying, measuring or monumentation of boundaries of a tract of land.” Second by Mr. Chavez and unanimously,

VOTED: To pass the motion

6.7 Case 05-04-05 Update by Mr. Ytuarte who explained that the case had gone to the Court of Appeals who agreed with the District court that the garage in conflict should be removed from the plat. Mr. Ytuarte was asked to bring additional information explaining and summarizing all that has transpired, including all the court proceedings.

Appointment of hearing officers - no appointments are needed this meeting

7. REVIEW OF APPLICATIONS

7.1 Applications to Reactivate License from Retired Status and Inactive Status/Approve for Retired Status – Motion by Mr. Chavez to reactivate Mr. Glassburn PS #4984, and approve Mr. Washburn PS#4798 for retired status, second by Mr. Atwell and unanimously,

VOTED: To pass the motion

7.2 Applications for Exam – two applicants were approved for the PS and NM2HR examination. One applicant was denied for educational deficiency. The Committee’s decisions are recorded in the applicants’ folders.

8. ADJOURNMENT – Having no further business, Mr. Sanchez adjourned the meeting.

Submitted by:

Approved by:

Elena Garcia, Executive Director

Fred Sanchez, Chair, PSC

Approval Date

