

Meeting of the Professional Surveying Committee
of the Board of Licensure for Professional
Engineers & Professional Surveyors held January 4,
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 (Arrives 10:15 a.m.)
 Charles Atwell, Public Member

Others Present Elena Garcia, Executive Director
 Candis Bourassa, Licensing Manager
 Mary Smith, Assistant Attorney General, Legal Counsel
 Glen W. Thurow, NMSPE
 Paul Brasher, Brasher & Lorenz, Inc.
 Chuck Cala, Jeff Mortensen & Associates.

1. CONVENE/ROLL CALL/INTRODUCTION OF GUESTS

Mr. Sanchez convened the meeting at approximately 9:15 a.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 December 13, 2005 Minutes – It was moved by Mr. Atwell, seconded by Mr. Chavez, and unanimously,

VOTED: To approve the 12/13/05 minutes.

4. CORRESPONDENCE

4.1 Charles G. Cala, Jr. P.S. – RE: Request for Advisory Opinion – Topographic Survey by Engineering Firm – Mr. Cala requested an advisory opinion on engineers completing surveying work. He presented his opinion that Brasher & Lorenz an engineering firm should not be doing topographic surveying associated with their engineering project. He stated that the intent of the Act was to allow engineering firms to supplement data, for example coming off controls

which surveyors set, but engineers are not authorized in the Act to initiate surveying. Chair Sanchez agreed the City of Albuquerque's engineer should be sent a letter indicating engineers are not permitted to do surveying. Mr. Paul Brasher on behalf of Brasher & Lorenz (not the preparer of the drawings), indicated his firm did in fact prepare the grading and drainage plan that Mr. Cala is using to ask for a Board opinion. In defense, Mr. Basher stated they shoot topography for their own use on projects only if a surveyor has established property corners. They do not imply any opinion on property corners or their accuracy. They will show existing ones on the drawing and remind anyone looking at it that what they are doing is not a boundary survey. It is vertical control off the city benchmark to engineer a drainage plan. No initiation of a survey is involved in shooting their elevation. They know what specific measurements they need—what points are important to them. Mr. Brasher does not believe this is infringing on the surveying profession, and it is a practice of many agencies. Mr. Cala indicated that the boundary survey used was not accurate and is encroaching into a right-of-way.

Mr. Vigil joined the meeting at approximately 10:15 a.m.

Chair Sanchez stated that with changes to the Practice Act, the type of work represented in the plans before the Committee is not allowed. Mr. Cala requested a copy of the Board's opinion be sent to Mr. Richard Dourte the City of Albuquerque's engineer. Mr. Chavez recommends that all the departments should be informed on the changes in the Practice Act. Members of the committee agreed that the work as noted on the plans before the committee should not be done by engineers. Mr. Sanchez will draft a letter for review, input, and see that it is distributed. Engineers should not be performing surveying except what the Practice Act defines as supplemental surveying.

5. OLD BUSINESS

5.1 Approval of Draft Changes to the Rules (NMAC 16.39.1 through 16.39.8.9 & Minimum Standards 12.8.2.1 through 12.8.2.17 to Schedule Hearing [Extended from Dec. 13, 2005 meeting] Proposed Rules for the Scheduling of Public Rules Hearing(s) – There was discussion on scheduling the hearing date. Mrs. Garcia will submit the public notice and summary of changes to the State Records and Archives for publication by no later than February 1, 2006 since state agencies are required to do so thirty days prior to a hearing. March 2, 2006 could be the hearing date. Mr. Thurow indicated he might be able to get the public notice and rule hearing date in the issue of *Benchmark*. Mr. Sanchez stated the proposed changes to the standards is basically is to correct conflicts with the new Act. Mrs. Garcia used power point to present each section's changes for discussion. See the attached result in its completed format. It was moved by Mr. Atwell, second by Mr. Chavez and unanimously,

VOTED: To approve the proposed changes as completed in this meeting for presentation at the public rules hearing.

5.1.1 Review of Comments/Input from NMPS, DOT and Others – It was noted that Mrs. Garcia had solicited comments from DOT on the proposed changes to the standards specifically the right-of-way surveying section.

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

VOTED: To convene in closed or executive session pursuant to NMSA 1978, Section 10-15-1 (H) (1) to discuss only the case listed in 6.1 of the agenda, case 05-05-25. A roll call vote was taken. Voting yes, Mr. Sanchez, Mr. Atwell, 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 on the agenda and mentioned in the motion to convene in closed session, items 6.1 .

6.1 Case 05-05-25 – It was moved by Mr. Vigil, seconded by Mr. Chavez and unanimously

VOTED: That a letter of reprimand/caution be sent to respondent indicating the Committee is very concern regarding his professional conduct—verbal agreement with clients are to be considered the same as written agreements. In the future he should avoid verbal contracts. He must review rules *16.39.8.9 Rules of Professional Conduct* and carry out his professional duties in the future in an appropriate manner. In addition, any further similar conduct may result in future disciplinary actions against him.

7. **REVIEW OF APPLICATIONS**

7.1.1 Mark Shadburn, PS Application [November 21, 2005 letter – Application now Complete] Mrs. Garcia indicated Mr. Shadburn’s application is now complete and ready for board review. The Committee reviewed the application and approved Mr. Shadburn to sit for the two hour New Mexico examination. A letter is to be sent to Mr. Shadburn requesting completed affidavits by the surveyor in responsible charge of the work for his company.

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

Submitted by:

Approved by:

Elena Garcia, Executive Director

Approval Date

Fred Sanchez, Chair, PSC