

DRAFT

Meeting of the Board of Licensure for
Professional Engineers & Professional
Surveyors held at 1:30 p.m., May 12, 2006
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, Board Secretary
Severiano Sisneros, PE
Subhas Shah, PE
John Romero, Sr., PE
Salvador Vigil, PS
Charles Atwell, Public Member
Stevan Schoen, Public Member

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

Members Absent: Fred Sanchez, PS

1. CONVENE/ROLL CALL/INTRODUCTION OF GUESTS

Dr. Idriss convened the meeting at 1:30 p.m. A roll call was taken, and it was noted that a quorum of the Board was present

2. APPROVAL OF THE AGENDA – Motion by Mr. Atwell second by Mr. Shah and unanimously,

VOTED: To approve the agenda as presented.

3. APPROVAL OF THE MINUTES

3.1 February 3, 2006 Meeting Minutes – Motion by Mr. Atwell second by Mr. Shah and unanimously,

VOTED: To approve the minutes of 2/2/2006

4. NEW BUSINESS

4.1 Appointment – Frank Castello – Reinstatement of License – Acceptable Professional Development Hours – 1:30 p.m. Mr. Castello addresses the board

because some of his PDHs were not accepted. He has a small engineering company in Arizona that has won an ACEC outstanding engineering award, and he has a master's degree from University of Tennessee in geotechnical engineering. He considers scuba and pilot training directly applicable to the consulting industry. He perceives a close relationship with learning comfort in a new experience such as scuba and the mind learning to overcome uncomfortable challenges in engineering. Such people skills are needed in a consulting engineering firm. Mr. Chavez clarified the intent of acquiring PDHs is to keep up with the changes in technology within one's profession and as of now, keeping abreast of technology does not include self-improvement education. Mr. Castello pointed out papers he has written and professional organization activities; the board agreed these would be acceptable. Mrs. Garcia's letter to Mr. Castello dated February 16, 2006 on the licensing requirements for reinstatement was included in the meeting material. Mr. Guerrerortiz and Dr. Idriss clarified the Board must go by the regulations and there are limitations on self-directed hours. Mr. Castello wanted to know how to fit his rejected hours into the allowed categories. Mrs. Garcia explained that for reinstatement he would have to submit a total of 30 acceptable PDHs. Mr. Guerrerortiz moved to reject Mr. Castello's PDH hours in question, Mr. Atwell seconded the motion and it was unanimously,

VOTED: To reject the PDHs in question as not acceptable.

5. CORRESPONDENCE/COMMUNICATION

5.1 Glen W. Thurow, President, NMPS Educational Foundation – Approval of the Two-year Certificate Program in Geomatics; New Program Scheduled for fall at T-VI. Mr. Thurow's letter indicated that on April 11, 2006 the Albuquerque Technical-Vocational Institute Governing Board approved the two-year certificate program in Geomatics. The new educational initiative combined elements of an existing geographic information system program with remote sensing, photogrammetry, and surveying course work into a Geomatics program. This program is expected to begin in the fall.

6. COMMITTEE REPORTS

6.1 Professional Engineering Committee – Patricio Guerrerortiz, PE, Chair reported the NM Environment Dept. made a presentation to the PEC on 20.5 NMAC, the New Mexico Petroleum Storage Tank Regulations. It was decided the issue of engineering requirements could be resolved if the NMED clarifies the work that will require a PE license for storage tanks and this be included in requests for proposals. NMSPE and NMED are going to work together to resolve some of the issues of discontent. Mr. Richard Rose, NMENV, addressed the committee on a similar topic. He wanted clarification of the \$100,000 dollar limit for public works projects. This issue was referred to the rules committee. Eighteen cases were addressed and decision recorded in the PEC minutes. Mr. Shah asked what section of the statutes was used on Case 05-05-38 when

requesting a temporary board due to recusal of board members creating a lack of a quorum. He asked whether PE and PS members not recusing themselves under the Engineering and Surveying Practice Act could be combined to make a quorum for a committee meeting. Mrs. Smith indicated the statute he may be referring is Section 61-23-9 A and it reads “In the event of a lack of quorum and at the request of the committee, other board members may be substituted for a non-attending member in order to have a quorum.” It is Ms. Smith’s opinion this relates to board meetings and is not to be used in the service of a committee in consideration of a complaint. Mrs. Garcia indicated that the word “non-attending” was used so committees could use members of another committee to make a quorum when due to extenuating circumstances a board member was not able to attend a meeting at the last minute. Ms. Smith stated that requesting a temporary board appointed by the Governor for a lack of quorum due to the recusal is addressed in the Uniform Licensing Act section 61-1-7 D. It was noted the PEC’ vote was for the appointment of a temporary PEC.

6.2 Professional Surveying Committee – Fred Sanchez, PS Chair submitted a written report which was included in the meeting books. It was moved by Mr. Atwell, seconded by Mr. Shah and unanimously,

VOTED: to refer any action on it till the next meeting

6.3 Photogrammetry Task Force – F. Sanchez, Chair submitted a written report to the Board after the Committee’s last meeting on March 21, 2006 at the March 22, 2006 NM Fire Academy Campus, Socorro, NM. The report indicated that while photogrammetric services are regulated by the NM Engineering and Surveying Practice Act under both engineering and surveying the recommendation of the committee is not to establish a licensing category for photogrammetrists as a profession since, among other reasons, there exists no recognized exam by NCEES to measure competency in this area. Furthermore, it was the recommendation of the Committee that the Board of Licensure contemplate no change to the existing law (the Act) until such time that a photogrammetrically specific depth module (exam) is developed by NCEES. It was moved by Mr. Shah, seconded by Mr. Atwell and unanimously,

VOTED: To accept Mr. Sanchez report as presented

6.4 Joint Engineering & Surveying Subcommittee (JESS)– [S. Schoen, Chair – Mr. Atwell, Mr. Sanchez, Mr. Guerrerortiz make up the committee.] Mr. Schoen reported the meeting of the JESS was to clarify Section 61-23-3 S on supplemental surveying and who would promulgate rules on this matter. He indicated the minutes included in today’s meeting book are very good and show a motion was made and passed that this matter be referred to the professional surveying committee for them to promulgate rules regarding the supplemental surveying work. That was the committee’s resolution. This matter could come back to JESS, but at this time, the survey committee will do their rules because it

is their committee's jurisdiction. The JESS committee had the choice to send it to the survey committee or engineering committee. Mr. Schoen indicated there were many strong opinions expressed and he thanked the committee for their help.

6.4.1 Minutes of the JESS April 6, 2006 – [page 21, 5/12/06 meeting book] It was moved by Mr. Schoen, seconded by Mr. Atwell and unanimously,

VOTED: To approve the minutes of the JESS 4/6/2006 meeting.

It was noted that the JESS committee's authority is 61-23-9 E. *"The joint engineering and surveying standing committee shall have the exclusive authority over practice disputes between engineers and surveyors to determine if any proposed rules of professional responsibility are exclusive to the practice of engineering or exclusive to the practice of surveying so that rule-making authority is delegated to the engineering committee or surveying committee. Determination of exclusive practice of engineering or surveying requires an affirmative vote by not less than three members of the committee. If an affirmative vote of three members cannot be achieved, the determination of exclusivity shall be made by the full board"*.

7. DIRECTOR'S REPORT

7.1 Staff Activities Report –

Handbook for building officials - Mrs. Garcia indicated she included in the meeting material a copy of her April 3, 2006 letter mailed to all individuals contacted regarding supplemental surveying (all public works directors/personnel through the state). The letter was to point out the new changes to the Act in reference to the practice of surveying. Mr. Sanchez expressed concern over the Board not having been able to convince the architects and landscape architects to update the handbook since it includes obsolete information regarding the Engineering and Surveying Practice Act (changes in 2005). It was noted that the Architects had been hesitant to proceed with revisions to the Handbook due to contemplated changes on fire protection and the role of the Architect.

7.2 Financial Report – January, February and March 2006, The Board reviewed the January through March, 2006 financial reports. Members had questions on voucher for \$16,585 to NCEES. Mrs. Garcia noted that the costs were for the October exams and the \$5,000 to NCEES was for membership dues. It was noted the renewal fees were increased effective with the December 2006 renewal cycle. The January ending undesignated balance is \$436,000. The budget status report through March was reviewed as well as the revenues. The balance sheets ending February 28, 2006 shows undesignated cash balance of \$421,444. For the period ending 3/31/06, the revenues in the approved budget of \$358,000 were exceeded by \$11,000 with an actual of \$369,022. The unreserved fund balance at the end of March was \$400,853. It was moved by Mr. Guerrerortiz, seconded by Mr. Atwell and unanimously,

VOTED: to approve the voucher paid in January, February and March 2006.

7.2.1 FY 06 Budget Adjustment Request (Increase) – ending June 30, 2006 - Mrs. Garcia estimates at the end of June 2006 the budget would be short by \$27,400 due to the projects underway. A Budget Adjustment Request (BAR) from Cash Reserves was approved by Chair Idriss. Increases were in personnel services (200), board travel, printing, postage, and other costs services (400) categories. The BAR request justification turned in to DFA for \$27,400 was reviewed. It was moved by Mr. Schoen, seconded by Mr. Guerrerortiz and unanimously,

VOTED: To approve/ratify the request and increase the operating budget from reserve by \$27,400.

7.2.2 FY 07 Operating Budget – Effective July 1, 2007, Mrs. Garcia explained, the operating budget of \$588, 900 for FY 07. She indicated that since renewal fees were going up this year, it should create a balanced budget (expenditures offset by revenues.) However, since the budget approval, it has become apparent there will be a shortage for personal services. After SPO reviews the information for salary increases, the information will be brought to the board.

7.3 Audit Report for Fiscal Year '05 – ending June 30, 2005 – Mrs. Garcia gave an explanation that this item was included in the revised agenda. On page 75 starts the independent audit of the Board's financial records. All conditions resolved on page 84 covered segregation of duties, compensated absences, cash receipts, and expenditures.

7.4 ELSES Summary of Scheduled Candidates for April 20-21, 2006 Exams – Mrs. Garcia reported the report is a summary of examinees for the April exam session.

Mr. Romero suggested an “*” be placed on the agenda to separate information items from action items.

7.5 Applications to Reactivate License from Retired Status or Inactive Status – Staff have created a new form for this applicant. A sample form can be put in the next meeting book for board suggestion.

8. OTHER

8.1 Case No. 04-04-08 Daniel Armstrong, PE [Update – 2nd Judicial District Matter] Mrs. Smith reported an NCA was issued and Mr. Armstrong applied to district court for a declaratory judgment that the Practice Act and Code are unconstitutional as applied to him. Mary Smith indicated she filed a motion to dismiss his complaint and deny his request for a preliminary injunction. The court date is May 23, 2006 at 1:30 p.m. If the case goes forward, a hearing will be set.

8.2 Report from NSPS – Registration Board’s Forum – G. Chavez stated there were 12 different states represented in Orlando, FL. The discussions covered the NCEES calculator policy, a photogrammetry examination bank, four-year degree requirements for the PS license, ALTA standards, on-line processing of GPS data, and issues affecting the various states. The biggest issue is photogrammetry, even with only about five states offering licensure. Mr. Chavez has information to pass on to the photogrammetry committee. [Page 119 has this meeting report.]

8.3 Western & Central Zone Meeting June 1-3, 2006, Santa Fe, NM – Mrs. Garcia provided an update on the meeting planning. She included the preliminary business agenda in the meeting books. She explained the letter she issued to merchants and staff contacts with the merchants for donations did get one complaint on the use of state resources for these types of activities. Her letter explained the benefits to the board and to the state of New Mexico. Attendance projections are at 150 with 47 guests. She described the outing to the Gerald Peter’s for dinner on Friday and her plan to contract two buses. The Board recommends one bus and have some of the attendees walk there. Ms. Bourassa added the luncheon speaker will be an expert on Los Alamos, Dr. Richard Melzer of UNM.

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

VOTED: To adjourn the meeting

Submitted by:

Approved by

Elena Garcia, Executive Director

Dr. Idriss, PE, Board Chair

Approval Date