

Meeting of the Professional Engineering
Committee of the Board of Licensure for
Professional Engineers & Professional
Surveyors held at 9:00 a.m., April 19, 2007
at the Board Office at 4001 Office Court
Drive, Ste. 903, Santa Fe, NM.

Members Present: Subhas Shah, PE, PEC chair
Severiano Sisneros, PE
Patricio Guerrerortiz, PE
Salvador Vigil, PS

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

Members Absent Dr. Rola Idriss, PE
Stevan Schoen, Public Member
John Romero, Sr., PE

Guest Raymond Hensley, PE, NMSPE

1. CONVENE/ROLL CALL/INTRODUCTION OF GUESTS

Mr. Shah convened the meeting at 9:00 a.m. Roll call was taken, and it was noted that a quorum of the Professional Engineering Committee was present with Mr. Salvador Vigil, PS attending to establish a quorum [authority 61-23-9 (A)].

- 2. APPROVAL OF THE AGENDA** – Mr. Sisneros requested the addition of a report on the NMSPE meeting he attended, and Mrs. Garcia would like to add a report on the first peer review report submitted on behalf of David Bollschweiler, PE. Mr. Sisneros also would like to be updated on the complaint filed against an unlicensed individual from the NMED. Mrs. Garcia stated the complaint was closed since NMED submitted information which indicated they had changed their process for RFPs to ensure professional engineers were contracted for all engineering work. She will pull the file for Mr. Sisneros.

Motion by Mr. Guerrerortiz, second by Mr. Sisneros and unanimously,

VOTED: To approve the additional agenda item under “6.2 - Other Business.”

3. APPROVAL OF THE MINUTES

3.1 February 1, 2007 Minutes – Mr. Sisneros requested the minutes be amended by adding that his late arrival to the meeting was due to inclement weather conditions. Mr. Guerrerortiz requested the minutes reflect that he had

arranged to be available by teleconference if needed. Motion by Mr. Guerrerortiz, second by Mr. Sisneros and unanimously,

VOTED: To approve the minutes with the amendments as noted by Mr. Sisneros and Mr. Guerrerortiz.

3.2 March 13-14, 2007 Minutes – Mr. Guerrerortiz would like the minutes amended to reflect that he was absent due to state legislative commitments. Motion by Mr. Sisneros, second by Mr. Guerrerortiz and unanimously,

VOTED: To approve the administrative hearing minutes with the amendment that Mr. Guerrerortiz’s was absent due to state legislative commitments.

4. NEW BUSINESS

4.1 Applications for Branch of Engineering Where Applicant has Failed National Exam for Other Board. – Mrs. Garcia and Mr. Guerrerortiz presented a scenario wherein a licensee applies for an additional discipline of engineering in New Mexico by education and experience. The licensee due to his education and experience obtains approval for the fire protection discipline in New Mexico. At the same time he is awaiting his test scores from another state (CA) on the national fire protection exam. As it turns out he fails the exam. The question now is whether he is competent to practice fire protection engineering. After some discussion, it was the consensus of the Board that the licensee has met the requirements in New Mexico for the granting of the fire protection engineering discipline and the Board has determined he is qualified for the listing. The other state may have different requirements which must be adhered to in that state.

5. REVIEW OF APPLICATIONS

5.1 Applications for Retired & Inactive Statuses – Motion by Mr. Guerrerortiz, second by Mr. Sisneros and unanimously,

VOTED: to approve the 3 retired and 6 inactive statuses applications presented.

5.2 Applications with “MLE” Council Records and “Substantial Equivalency” (approx. 61) – Motion by Mr. Guerrerortiz, second by Mr. Sisneros and unanimously,

VOTED: To ratify the approval of the 61 “MLE” Council Records and “Substantial Equivalency” applications presented.

5.3 Review of New Comity and Examination Applications (approx 10). Motion by Mr. Guerrerortiz, second by Mr. Sisneros and unanimously,

VOTED: To delegate authority to board reviewers to note their decisions in the individual applications.

6. COMPLAINTS & VIOLATIONS

6.1 CASE 04-04-08 Daniel Armstrong, PE [Appealed Board's Decision & Order] – Status Only – Mrs. Garcia stated Mr. Armstrong has appealed in District Court the board's decision and order to suspend his license for one year, a \$5,000 administrative fine and the costs of the proceedings. Mrs. Garcia is preparing the record to file with the District Court. Ms. Smith will be responding to his filing. His appeal was based on: *1. - The board's action was being arbitrary and capricious; 2. - The decision was not supported by substantial evidence; 3. - The board did not act in accordance with the law.* He also filed for a stay, suspending the enforcement of the Board's order. The lawsuit filed against the Board by Mr. Armstrong about a year ago in which Mary Smith has been defending the Board was dismissed. There is a May 8, 2007 court date set which Ms. Smith will attend regarding Armstrong's appeal.

6.2 Other Business –

NMSPE Meeting - Mr. Sisneros attended the NMSPE meeting in Albuquerque. The Deans of NMSU and UNM took part in the event honoring the graduating engineers. Mr. Sisneros was impressed by the event and passed out copies of the NMSPE pledge the students recited as part of the ceremony. It is suggested that the Board establish some kind of event to recognize new EI's and PE's.

NMED Cooperation - Mrs. Garcia verified from the case file that NMED (Petroleum Storage Tank Bureau (PSTB)) has amended their guidelines and RFP form to adhere to the NM Engineering and Surveying Practice Act. Mr. Sisneros points out they were going to continue to work with us to assure us that they would not have technicians overseeing the work of engineers. Mr. Sisneros' personal experience is that to get a permit from EID, you have to get approval from someone who is not an engineer. There were concerns by Mr. Hensley that engineers never see the design work and that private engineers who bring concerns to their attention are not treated fairly. Mr. Guerrero believes if NMED is not following the commitment to the board that they made in their presentation then the board must get involved. Mr. Sisneros's personal dealings show that NMED apparently sees engineers' work/judgment as contrary to the environment. The board would like to review the actual motion that closed this case to find what follow-up requirements were included. Mrs. Garcia suggested NMED be contacted to follow-up, not on the complaint since it has been closed, but as a status report on the presentation promises they made to the board. Mr. Hensley has been unable to get a procedure from NMED of how an engineer ever sees or reviews an engineering report or design. He suggests the board ask NMED for this engineering review procedure. They may be soliciting engineering with no intention of allowing an engineer to review their designs.

Mr. Guerrerortiz suggested the board obtain input from Dr. Richard Rose regarding engineering work/review by NMED's staff.

Committee Meetings- Mr. Shah will call a meeting of the rules committee with input on items to address from Mrs. Garcia. He will also call a meeting of the Land Fill Gas Committee. He would like to set it for May 24, 2007. Mr. Sisneros would like amnesty licensure for NM engineers that have worked under federal exemption and were never licensed and to establish a possible engineering oath to be reviewed and required of engineers. Mrs. Garcia suggested the committee review the licensing of professors perhaps with a grandfathering clause for certain professors as legislative amendments. She stated that when the federal exemption was removed from the Act and now with the waiving of the FE exam by additional experience or higher degree(s) many federal employees and some professors applied under the new requirements and became licensed. It was noted the Rules Committee will need continued input on which items to address.

David Bollschweiler – Mrs. Garcia presented the first report submitted by the peer reviewer on behalf of Mr. Bollschweiler to ensure the sufficiency of the reporting. After some discussion, the committee concurred that the information in the report was adequate.

7. **ADJOURNMENT** – Having no further business, Mr. Shah adjourned the meeting.

Submitted by:

Approved by

Elena Garcia, Executive Director

Mr. Subhas Shah, PE, Chair PEC

Approval Date