

Meeting of the Temp. Professional Engineering Committee of the Board of Licensure for Professional Engineers & Professional Surveyors held August 21, 2007 in Albuquerque, NM at 2410 Centre Ave., SE.

Members Present: Thomas T. Mann, PE/PS (Retired), PEC Chair
David Marble, PE/PS (Rt.)
James Wernicke, PE
Rex Kirksey, Public Member
Sam Small, PE

Members Absent: Dr. Kenneth R. White, PE [recused by respondent]

Others Present: Elena Garcia, Executive Director, BLPEPS
Mary Smith, Assistant Attorney General, Board Counsel
Edward Ytuarte, PE/PS, Board Complaint Manager, BLPEPS
Eric Miller, Assistant Attorney General, Litigation Division
Charles T. DuMars, Law & Resource Planning Associates
Bill Turner, Guest
Bill Leatherberry, NMSPE

Meeting/hearing was recorded by Kathy Townsend Court Reporters out of Albuquerque, NM. Transcript available in subject case file.

1. CONVENE/ROLL CALL/INTRODUCTION OF GUESTS

Mr. Mann convened the meeting at 9:02 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. Small, seconded by Mr. Wernicke and unanimously,

VOTED: To approve the agenda as presented.

3. APPROVAL OF THE MINUTES

3.1 Approval of the April 13, 2007 Minutes – It was moved by Mr. Wernicke, seconded by Mr. Marble and unanimously,

VOTED: To approve the minutes of the April 13, 2007 meeting.

- 4. HEARING – CASE 05-05-38B** – Chair Mann indicated Case # 05-05-38B was before the Board in the matter of Subhas Shah, PE, license # 6390. Chair formally convened the hearing stating the matter was being held in accordance with the provisions of the Uniform Licensing Act. After parties were identified it was noted that the respondent was not present; however, the parties wished to submit a settlement agreement for the board’s consideration.

4.1 Preliminary Matter(s): Consideration & Deliberation Regarding Proposed Settlement Agreement

Attorneys for the parties indicated they believed the settlement agreement being presented to the Board for consideration was a fair agreement.

- 5. CLOSED SESSION** – Chair Mann entertained a motion to go into closed session to consider the settlement agreement. It was moved by Mr. Kirksey, seconded by Mr. Wernicke and

VOTED: to go into closed session to consider and deliberate upon the settlement agreement presented to the board today for Case no. 05-05-38B, and close the meeting pursuant to the Open Meetings Act Section 10-15-1(H) 3 to consider and deliberate upon the settlement agreement. A roll call vote was taken: Voting yes: Mr. Kirksey, Mr. Small, Mr. Mann, Mr. Wernicke, Mr. Marble. Mr. Mann indicated a five affirmative/zero negative to go into closed session.

Guests and others left the room.

- 6. OPEN SESSION** - Chair Mann reconvened the meeting in open session inviting those waiting to join the meeting and indicated the Board only discussed matters in the closed session that were contained in the motion to go into closed session, and no other matters. Chair Mann entertained a motion. It was moved by Mr. Wernicke, seconded by Mr. Small and unanimously,

VOTED: To accept the settlement agreement as presented.

Mr. Mann then indicated that the Board would now proceed to prepare the letter of reprimand that is included in the settlement agreement and entertained a motion to go into executive session. He stated the hearing was now vacated since there is a settlement agreement and those present for the hearing were free to leave.

CLOSED SESSION – It was moved by Mr. Kirksey, seconded by Mr. Marble and

VOTED: To go into executive session pursuant to NMSA 1978, Section 10-15-1(H) 3 to consider and deliberate upon the settlement agreement’s letter of reprimand for case 05-05-38B. A roll call vote was taken: Voting yes: Mr. Kirksey, Mr. Small, Mr. Mann, Mr. Wernicke, Mr. Marble. Motion passed unanimously.

OPEN SESSION - Chair Mann convened the meeting in open session indicating the only matter discussed in closed session was case 05-05-38B, the letter of reprimand.

It was moved by Mr. Wernicke, seconded by Mr. Small and unanimously,

VOTED: To have Board staff type the letter of reprimand prepared by the Board and have Chair Mann review and sign the letter of reprimand to be filed with the respondent.

It was moved by Mr. Kirksey, seconded by Mr. Small and unanimously,

VOTED: To adjourn the meeting indicating this was the conclusion of the Temporarily-appointed Board's responsibility.

Submitted by:

Approved by:

Elena Garcia, Executive Director

Thomas T. Mann, PE/PS (Ret.), Board Chair

Approval Date