

Meeting of the **Professional Surveying Committee**
of the Board of Licensure for Professional
Engineers & Professional Surveyors held February
1, 2007 at 1931 Second St., SW, Albuquerque, NM.

Members Present: Charles Atwell, Chair, PSC
Fred Sanchez, PS
Gilbert Chavez, PS
Salvador Vigil, PS

Members Absent: No one.

Others Present Elena Garcia, Executive Director
Candis Bourassa, Licensing Manager
Mary Smith, Assistant Attorney General, Counsel to the Board
Edward Ytuarte, PE/PS, Complaint Manager
George Marquez, Jr.

1. CONVENE/ROLL CALL/INTRODUCTION OF GUESTS

Mr. Sanchez convened the meeting at approximately 1:00 p.m. A roll call was taken, and it was noted that all members of the committee were present.

2. APPROVAL OF THE AGENDA

It was moved by Mr. Sanchez, seconded by Mr. Vigil and unanimously,

VOTED: To approve the agenda as presented.

3. APPROVAL OF THE MINUTES

3.1 Minutes of the November 2, 2006 Meeting - It was moved by Mr. Sanchez, seconded by Mr. Vigil and unanimously,

VOTED: To approve the minutes of the November 2, 2006 meeting.

3.2 January 12, 2007 Minutes – It was moved by Mr. Sanchez, seconded by Mr. Vigil and,

VOTED: To approve the minutes of the January 12, 2007 Minutes. Motion passed. Gilbert Chavez abstaining.

4. CLOSED SESSION (Complaints and Violations) – It was moved by Mr. Vigil, seconded by Mr. Chavez and

VOTED: To go into closed session pursuant to NMSA 1978, Section 10-15-1 (H) (1) to discuss only those cases listed in this section of the agenda, cases 4.1 through 4.9. A roll call vote was taken. **VOTING YES:** Mr. Atwell, Mr. Vigil, Mr. Sanchez. And Mr. Chavez. Motion carried unanimously.

- 4 A. OPEN SESSION** – Mr. Atwell convened the meeting in open session. It was noted that only items discussed on the agenda were 4.1, 4.2, and 4.3. Committee is convening in open session to hear Mr. George Marquez, Jr. under items 4.1 on the agenda [cases 05-04-01 & 05-04-09, and 05-05-07.

Mr. Marquez indicated he came before the Board to see what he needed to do to obtain his license. He indicated that he had not received correspondence from the Board for over a year since he had had personal problems and he had not been notified or could obtain mail from his former residence. It was noted that the Board's Decision and Order for cases 05-04-01 & 05-04-09 mailed to Mr. Marquez on November 22, 2005 was returned by the Post Office after three attempts to deliver to his address of record and was received in the Board office on December 10, 2005. [The NCA for cases 05-04-01 and 05-04-09 was also not claimed]. Mr. Marquez indicated he had only received the Decision and Order a few days ago when Ms. Garcia send him a letter for this meeting enclosing a copy of the Decision and Order. He had been aware that his license was on suspension because he had been told that there was a public notification posted at the county clerk's office. Ms. Smith asked if he had practiced surveying during the year that his license has been on suspension. He stated he has not practiced surveying during this whole time. Ms. Smith asked him if he was now aware of what the Decision and Order said and proceeded to read part of it, including the suspension for one year and the requirement for restitution to all complainants for fees collected for work not performed. Mr. Marquez indicated that he had read the "Order" and understood what it meant, but he needed time to obtain his files that had been in storage regarding his clients. He is ready to comply with the Order. Ms. Smith asked if he was under any obligation to notify the Board of a change of address. He stated he is aware that he needs to do so, but had not done so to date. He proceeded to give a written request for a change of address from Albuquerque to Bluewater, NM to Ms. Garcia.

For Case 05-05-07 it was noted that Mr. Marquez had not requested a hearing after having been served with a Notice of Contemplated Action on 7/26/06.

The committee thanked Mr. Marquez and indicated it will advise him of the Board's action in writing.

CLOSED SESSION (Complaints and Violations) – It was moved by Mr. Vigil, seconded by Mr. Chavez and

VOTED: To go into closed session pursuant to NMSA 1978, Section 10-15-1 (H) (1) to discuss the remainder of cases listed in this section of the agenda, cases 4.4 to 4.9. A roll call vote was taken. **VOTING YES:** Mr. Atwell, Mr. Vigil, Mr. Sanchez. And Mr. Chavez. Motion carried unanimously.

4 A. OPEN SESSION – Mr. Atwell convened the meeting in open session. It was noted that the only items discussed on the agenda were 4.4 to 4.9.

4.1 Cases 05-04-01 & 05-04-09 George J. Marquez, Jr. – It was moved by Mr. Chavez, seconded by Mr. Vigil and unanimously,

VOTED: To issue a notification for hearing to “Show Cause” and attach copy of the Decision and Order for the April meeting to appear before the board and bring proof if he has made restitution (affidavits from clients that they have been reimbursed for work not completed). Suspension is to continue until the “Show Cause” hearing in April.

Case 05-05-07 George J. Marquez, Jr. – It was moved by Mr. Chavez, seconded by Mr. Vigil and unanimously,

VOTED: To defer this case to the April meeting at which time the Board will take action on this case.

4.2 Case 05-04-02 Tommy R. Conley, PS – It was moved by Mr. Sanchez, seconded by Mr. Vigil and unanimously,

VOTED: To defer this case to the next Board meeting, April Meeting, for consideration and allow Mr. Conley to come before the Board. The extension is being made due to Mr. Conley’s notification of unavailability due to medical reasons.

4.3 Case 04-04-44 Joseph R. Maestas, PS – It was moved by Mr. Sanchez, seconded by Vigil to issue a hearing notification for a “Show Cause” why he has not complied with the Board’s Decision and Order. Hearing to be scheduled during the April meeting or earlier if possible.

Case 06-05-44 – Maestas did not request a hearing after having been served with an NCA. It was moved by Mr. Vigil, seconded by Mr. Chavez and unanimously,

VOTED: To issue a Decision and Order to suspend Maestas surveying license for one year and access a fine of \$2500 with suspension effective on the date of receipt of Order or notification to board of refusal to accept by Post Office.

4.4 Case 05-04-05 LeRoy M. Smith, PS – It was moved by Mr. Sanchez, seconded by Mr. Vigil and unanimously,

VOTED: To issue a Decision and Order assessing a fine of \$5,000 with \$2,500 suspended if Board there are no violations upheld by Board for a period of 18 months, a nine month supervised probation (submit names of peer reviewer to be approved by board and submit lists of projects monthly to board office and peer reviewer. Peer reviewer will review a percentage of plats and provide a report to the Board each month.) and a nine month unsupervised probation, completion of NMSU ethics course within 180 days, correction of the survey plat as ordered by the District Court, recordation of

plat after acceptance by complaint manager, payment of any monetary enumeration by the court, and issue a letter of reprimand. Peer reviewer is to be compensated directly by Mr. Smith.

4.5 Case 06-05-54 John Esquibel, PS – It was moved by Mr. Sanchez, seconded by Mr. Vigil and unanimously,

VOTED: To send Mr. Esquibel a letter indicating his corrected plat submitted pursuant to the Board’s Stipulated Agreement needs further correction by including additional signatures for parole evidence. Once this is approved by the complaint manager he can proceed to record the plat as soon as possible. He must complete the ethics course, last requirement, in April, 2007.

4.6 Case 07-06-18 – It was moved by Mr. Sanchez, seconded by Mr. Chavez and unanimously,

VOTED: To issue an NCA for alleged violations as noted in the complaint manager’s report.

4.7 Case 06-05-45 – Ms. Garcia noted the case had been acted upon in Nov. 2006. No action needed at this time.

4.8 Case 05-05-26 – It was moved by Mr. Chavez, seconded by Mr. Vigil and unanimously,

VOTED: To accept the Stipulated Agreement as presented and to correct the revised submitted plat to show the basis of bearing as required by the minimum standards of surveying. This is not just a “GPS Observation” but must reference two established monuments, e.g. based on static, used geodetic and what he calibrated, localization by observation, etc.

4.9 Case 07-06-16 It was moved by Mr. Sanchez, seconded by Mr. Vigil and unanimously,

VOTED: To dismiss as unfounded since it involves a civil matter (contractual matter).

4a. Appointment of Hearing Officer(s): For case 07-06-18 A committee of two was appointed to hear this case in Santa Fe; Mr. Sanchez and Mr. Atwell, Mr. Sanchez presiding.

5. REVIEW OF APPLICATIONS

8.1 Review of New Comity and Examination Applications – The Committee considered the application(s) for licensure by comity and by examination. Copies of the Board’s action are noted in the individual applicant files.

Case 05-04-05 – Decision and Order is to cite violations as noted in Complaint Managers report and include violations of standard surveying practices.

9. **ADJOURNMENT** – Having no further business, Chair Atwell adjourned the meeting.

Submitted by:

Approved by:

Elena Garcia, Executive Director

Charles Atwell, Chair, PSC

Approval Date