

Meeting of the Board of Licensure for
Professional Engineers & Professional
Surveyors held at 8:00 a.m., June 15, 2007
at 287 Carrizo Canyon Road, Mescalero,
NM

- Members Present: Patricio Guerrerortiz, PE, Board Chair
Gilbert Chavez, PS, Board Vice Chair, arrives 8:45 a.m.
[believed meeting was at 9:00 a.m.]
Severiano Sisneros, PE, arrives 8:20 a.m.
Subhas Shah, PE, PEC chair
John Romero, Sr., PE, PEC Vice Chair
Salvador Vigil, PS, PSC Vice Chair
Fred Sanchez, PS
Dr. Rola Idriss, PE, arrives 9:00 a.m. [believed meeting was at
9:00 a.m.]
Charles Atwell, Public Member, PSC Chair
- Others Present: Elena Garcia, Executive Director, BLPEPS
Candis Bourassa, Licensing Manager, BLPEPS
Mary Smith, Assistant Attorney General, Board Counsel
- Members Absent: Stevan Schoen, Public Member [Had indicated he would not be
able to attend]
- Guests No guests.

1. **CONVENE/ROLL CALL/INTRODUCTION OF GUESTS** – Mr. Guerrerortiz
convened the meeting at 8:10 a.m. Roll call was taken, and it was noted that a
quorum was present.
2. **APPROVAL OF THE AGENDA** - Motion by Mr. Atwell, second by Mr.
Romero and unanimously,

VOTED: To approve the agenda as presented.
3. **APPROVAL OF THE MINUTES**

3.1 April 20, 2007 Minutes – Motion by Mr. Atwell, second by Mr. Romero
and unanimously,

VOTED: To approve the 4/20/2007 minutes
4. **COMMITTEE REPORTS** -

4.1 Professional Engineering Committee – S. Shah, PE, Chair reported Mr. Guerrerortiz was elected Chair and Mr. Romero Vice Chair. The PEC reviewed requiring two Council Records for an applicant by comity and it was determined that only one Council Record would be required provided the applicant could augment his surveying record with the pertinent documentation required to obtain an engineering license. The committee considered the PE and FE examination results. It reviewed four cases: Case 04-04-08 Daniel Armstrong has appealed the Board's decision; case 05-05-08, the Statue of Limitations has run out; case 07-07-26 an NCA will be issued, and case 07-07-28 was dismissed. Retired, inactive and MLE applications were approved. New comity and examination applications were reviewed and decisions were noted in the individual files.

4.2 Professional Surveying Committee – C. Atwell, Chair reported that in Case 06-05-48, Mr. Leyba appeared for a Show Cause Hearing. He presented everything the committee requested and they will review it. He and others have taken advantage of the current surveyor of record requirements and the rules may have to be strengthened in order to ensure supervision by licensees and that non-licensed individuals do not harm the public. Case 25-24-02, Tommy Conley did not appear for the third time (He was excused.). If he does not appear next time, an extended probation will be considered in accordance with the settlement agreement. One letter of caution was issued and two stipulated agreements were approved. Four cases were dismissed as unfounded and three cases had no action. He was re-elected as chair and Mr. Vigil vice chair. The committee considered the surveying exam results: NM2HR results, four PS, and two FSs were approved. One PS exam application and one PS endorsement were reviewed.

4.3 Professional Service Agreement Task Force – F. Sanchez – This matter was deferred from the previous meeting.

4.3.1 Final Report and Submission of Professional Surveying Agreement for Consideration & Possible Publication on Web Site. Motion by Mr. Shah, second by Mr. Vigil and unanimously

VOTED: To approve Mr. Sanchez' report and to post on the Board's web site if there are no objections from legal Counsel and a disclaimer is added.

5. COMMUNICATIONS

5.1 Seyfollah Etemadi, License Renewal Process –Mrs. Garcia conveyed the request from Mr. Etemadi and provided copies of his electronic mail as well as her response. Mr. Etemadi's indicated he never received his license renewal mailing from the Board and therefore was asked to pay the late penalty. His request includes making the renewal statements a certified mailing to each licensee with a return receipt request from the licensee. Mrs. Garcia provided the costs to the board if all 7,000 plus renewals had to be mailed certified. Motion by Mr. Sanchez, second by Mr. Romero and unanimously,

VOTED: to continue to mail renewal statements via first class U.S. postal mail. As stated in the statutes, it is the applicant's responsibility to renew on time.

6. NEW BUSINESS

6.1 Election of Officers – Motion by Mr. Atwell to nominate Mr. Chavez for Board Chair, second by Mr. Vigil. Motion by Mr. Romero to nominate Mr. Shah for Board Chair, second by Mr. Sisneros. Nominations ceased and the election was held.

VOTED: Mr. Shah three votes, Mr. Chavez four votes. Mr. Chavez is elected Board Chair for FY 2008

Motion by Mr. Atwell to elect Mr. Guerrerortiz Vice Chair by acclamation since there are no other nominations, second by Mr. Sanchez

VOTED: To elect Mr. Guerrerortiz Vice Chair of Board FY 2008 by acclamation.

Motion by Mr. Sisneros to elect Mr. Romero for Board Secretary by acclamation since there are no other nominations, second by Mr. Shah

VOTED: To elect Mr. Romero Board Secretary for FY 2008 by acclamation.

6.2 Open Meeting Resolution – Mr. Sisneros moved, seconded by Mr. Vigil. Mr. Romero requested friendly amendment to the motion to include under No. 6 a change from “secretary” to “secretary or board designee”. Friendly amendment was accepted by 1st and 2nd.

VOTED: To approve the Open Meetings Resolution with new wording on number six, “secretary or board designee”

Mrs. Garcia added the meeting notifications letters are now done electronically and the office is always purging and adding to the list as individuals make specific requests. Mr. Shah suggested asking them as part of the notification if they would like to be removed. Mr. Chavez stated sometimes individuals with special interests get on the mailing list and later do not wish to continue to receive them.

6.3 NCEES Annual Meeting – August 22-25, 2007 Philadelphia.

6.3.1 Presentation of the NM Resolution at Meeting for the Deletion of Engineering Surveys from the Practice of Engineering in the Model Law. Mr. Sanchez and Mr. Chavez will present this at the meeting. Together they will present the removal of engineering surveys from the Model Law as it has been done in the NM statutes. Mr. Guerrerortiz sees a need for better education for engineers and surveyors on this issue. He suggested the board summit

suggestions and asked if the surveying association had educational plans. Mr. Sisneros believes it is too geared against engineers since it appears it is to increase work for surveyors and increase the number of surveyors. In his opinion, this removal of engineers from surveying without a meshing of engineers and surveyors will cause it to be fewer surveyors and this will bring the board up in front of the legislature and could possibly cause the elimination of surveying in the Sunset review. He suggested it should be done on the bases that education has nothing to do with it. Mr. Sanchez offers to meet with Mr. Sisneros to discuss his ideas. Mr. Chavez stated he does not want their case to sound like it is making stabs at engineers. It does not say engineers are not competent but it clarifies who needs to be licensed to do surveying. Mr. Sanchez explained that according to the Act engineers can do supplemental surveying and it is well defined. Mr. Romero asked how surveyors feel about it being an engineering sub-discipline. Mr. Chavez stated that he just received a letter from the IL board that they would not accept an engineering surveying degree as qualifying for an engineering license. Originally, the presentation was written to modify or delete any reference to engineering surveys from the model law. Somewhere along the way, the word modify was struck but it has been suggested the solution may be to modify the definition of engineering surveys in the Model Law rather than striking the reference to it. This compromise might work. Mr. Sanchez does not support this and believes as technology evolves, new effort is being made to open the field and give the exclusivity to make it worthwhile. He can see a sub-discipline in the future, but the future is not today. It was moved by Mr. Chavez, second by Mr. Vigil and unanimously,

VOTED: That the board authorizes the surveying committee to make this presentation at the NCEES annual meeting.

6.3.2 NCEES-Funded Delegate – will be Mr. Sanchez. Also attending, Mr. Chavez, Mr. Sisneros, Mr. Romero and possibly Mr. Vigil.

6.4 Advisory on Flood Certification (who is legally qualified to certify) Mr. Chavez explained this was presented to the PSC, and it was decided to bring it up to the full board. FEMA's new form states engineers, architects, and surveyors can do flood certification. Under New Mexico's law, however, only licensed surveyors are permitted to do elevations and control. Flood Plan Managers do not know New Mexico's laws or regulations and are usually not engineers or surveyors themselves. If the Flood Plan Managers work falls under the definition of engineering, that issue should also be looked at. Motion by Mr. Chavez, second by Mr. Sanchez and unanimously,

VOTED: To submit this issue to the Rules and Regulations Committee.

6.5 Meeting Schedule for FY'08 - Board decides they would like special work meeting again in FY 2008. Motion by Mr. Atwell, second by Mr. Sisneros

VOTED: Mrs. Garcia will arrange a special working meeting for PSC in Farmington in September since there is a special interest from individuals in that area working on Indian Lands.

Engineers would also like a working meeting. Motion by Mr. Sisneros, second by Mr. Romero and unanimously,

VOTED: That the PEC hold a special working meeting in July.

7. DIRECTOR'S REPORT

7.1 Proposed Revision to the Administrative Code - to More Closely Reflect the NCEES Model Code of Conduct & Other Revisions – For Public Hearing –. Mr. Chavez had requested consideration of the Model Law format. This was brought to the full Board and staff was asked to make recommended revisions to the Board's current code as soon as possible and bring to this board meeting for approval to go to public hearing. An advanced copy was provided to each board member prior to the hearing. The board moved to review the proposed changes. Mr. Guerrerortiz suggested the wording of "to safeguard life..." as it is used in section 16.39.8.8 A Preamble be worded exactly the same in other provisions such as 16.39.8.9 A (1). Under paragraph 16.39.8.9 G, Mrs. Garcia suggested a change to "and or examination". There were more comments and members asked if they could also make more comments at the hearing. Ms. Smith advised the board to get their changes in before publication of the Board's proposal to be presented at a public hearing. Motion by Mr. Chavez, second by Mr. Romero and unanimously,

VOTED: To table Code of Conduct changes until August meeting so Board members can have additional time to submit their comments.

7.2 Financial Reports. Mrs. Garcia reported staff has been very busy with end of fiscal year obligations and meeting deadlines. She explained a bill from Information Services Department of GSD received \$5,543.31. She explained that these were back charges that GSD had not billed in their monthly bills, and therefore it is anticipated that possibly \$7,543.31 would be needed to cover for the back charges and May and June. Mrs. Garcia introduces a budget increase adjustment request for these charges. Motion by Mr. Sanchez, second by Mr. Shah and unanimously,

VOTED: To approve up to a \$10,000 budget increase from cash to cover the unexpected costs.

Mrs. Garcia reported she had to complete a BAR to move funds from one category to another category to accommodate an increase in board member travel reimbursement by \$8,000 due to an increase in board meetings. This BAR was within the budget total appropriated and therefore was not brought to the board

prior; it did not increase the overall budget that had been approved. Motion by Mr. Sanchez, second by Mr. Guerrerortiz

VOTED: To ratify the BAR [interdivision] to move funds to accommodate the needed increase in travel and other category.

7.2 Staff Activities Report - Mrs. Garcia indicated the Handbooks are ready to be mailed. She reported the Fire Protection Committee met yesterday. The Rules Committee needs to set a meeting for July and the Landfill Gas Committee met just the other day. Mrs. Garcia stated fliers on disciplinary actions continue to be mailed to all county clerks. There appears to be a problem with some county clerks thinking they are obligated to file everything that comes in without checking to see if plats are sealed and signed by licensed surveyors. She will continue to work with them.

Mrs. Garcia has contacted the NMED to follow up on issues of concern as conveyed by members of the PEC. Mrs. Garcia provided information from NCEES' regarding exam copying/collusion analysis completed. It was reported that the number of affected boards were 18 with 1 of those boards having 20 pairs of what they are calling "cheaters" detected through test analysis. New Mexico was not contacted as being one of the Boards identified with "exam cheating problems."

7. **EXECUTIVE SESSION** – The board may convene in closed or executive session pursuant to NMSA 1978, Section 10-15-1 (H) (7) No need is found

9. **COMPLAINTS/CASES**

9.1 Appeals to the Board's Decision and Order in District Court – It was noted that Daniel Armstrong, PE & LeRoy Smith, PS have both filed appeals in District Court.

10. **ADJOURNMENT** – Having no further business, Mr. Guerrerortiz adjourned the meeting.

Submitted by:

Approved by

Elena Garcia, Executive Director

Mr. Patricio Guerrerortiz, Board Chair

Approval Date