

DRAFT

Meeting of the **Professional Engineering Committee** of the Board of Licensure for Professional Engineers & Professional Surveyors held at 9:00 a.m., November 1, 2007 at New Mexico DOT Building, 750 N. Salano Street, Las Cruces, NM

Members Present: Patricio Guerrerortiz, PE, PEC Chair
John Romero, Sr., PE, PEC Vice Chair
Dr. Rola Idriss, PE
Subhas Shah, PE

Members Absent: Stevan J Schoen, Public Member
Severiano Sisneros, PE

Others Present: Elena Garcia, Executive Director
Candis Bourassa, Licensing Manager
Perry Valdez, Licensing Specialist
Ed Ytuarte, Complaint Manager, PEPS

Guests: Alvin Dominguez
Filiberto Castorena
Arthur J. Romero
Sherri Holliefield
Gabriela Contrems-Apodaca

1. CONVENE/ROLL CALL/INTRODUCTION OF GUESTS

Mr. Guerrerortiz convened the meeting. A roll call was taken, and it was noted that a quorum of the Board was present. Mr. Sisneros contacted staff indicating he would be unable to attend due to illness. Guests introduced themselves.

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

VOTED: To approve the agenda as presented.

3. APPROVAL OF THE MINUTES

3.1 August 2, 2007 Minutes – Mr. Guerrerortiz indicated he would like Mr. Romero to sign the minutes of the August meeting since he had not been present. Mr. Shah corrected item 6A to reflect that the motion was seconded by him and not by Mr. Romero. Motion by Mr. Shah, second by Mr. Romero and unanimously,

VOTED: To approve the minutes with the correction.

4. **NEW BUSINESS**

Prioritization of Items – due to time limitations, it was concurred by the members of the committee that only those items listed below with asterisks, indicating action items, would be discussed and acted upon at this meeting.

4.1 Overall goal/direction for 07/08

4.2 2009 Legislative priorities and review of the results from 05 Sunset Act Changes (2-year PE Test allowance, PEC/PSC joint committee, ethics course, etc). How are they working, improvement etc.

4.3 PE Licensure Promotion/amnesty

4.4 Review of the complaint process and roles of PEC Board/Hearing Officers and Attorney General Office along with statutes

4.5 Redacting names from review of complaints

4.6 PE Ceremony w/NMSPE/NMSU/UNM

4.7 Directions/discussion on Engineering Technology Majors BSCET, etc.

4.8 When is a PE Stamp required and how is the PEC going to enforce/promote, etc.?

4.9 Surveying Engineer

4.10 Notice to Right to inspect Public Records – Mrs. Garcia suggests this item on the agenda be deleted since it was acted on by the full board during the August meeting. Motion by Mr. Romero second by Dr. Idriss and unanimously,

VOTED: To remove item 4.10 from the agenda and approve the agenda with the new modifications.

4.11 Procurement Code-Qualification-Based Selection-How it applies to

Universities – All information received thus far implies that universities' projects are not defined as public works projects and do not appear to fall under this provision in the Code.

4.12 Procedures for Agenda Items on Committee & Board Agendas – Mrs. Garcia summarized the procedures she drafted for the Board's consideration. The Committee commented on each paragraph as noted: Mr. Shah added under 1.1 added that all activity...shall be brought to the attention of the executive director by any board member or member of the public....” The same language should be suggested to the Professional Surveying Committee. At item 3, Mrs. Garcia has used specific language noted in Section 61.23-10 E NMSA 1978. Item 5.2 should be revised to reflect the changes in item 1. Mrs. Garcia will send a final draft to all members. Motion by Mr. Romero, second by Dr. Idriss and unanimously,

VOTED: To approve the Procedures for Agendas subject to an amended final draft reflecting the changes.

4.13 Flood Certificates – As stated on the form, flood certificate forms can be signed by engineers, architects or surveyors. The Architectural Board has showed no interest in

their members signing this form. The form states that *“This certification is to be signed and sealed by a land surveyor, engineer, or architect authorized by law to certify elevation information.”* Mr. Guerrerortiz believes the statutes in New Mexico only authorize professional surveyors to certify elevations. Motion by Mr. Romero, second by Dr. Idriss that engineers can sign flood certificates as the FEMA government form reads. In discussion, Mr. Romero, Mr. Shah, and Dr. Idriss believe this is easily within the skills of a licensed engineer.

VOTED: Engineers may sign the FEMA Elevation Certificate forms. [Three yes votes and one no vote.]

4.14 Board Member Qualifications Clarification – Mr. Shah would like an opinion whether retired engineers qualify as board members. Mrs. Garcia noted the board has had many retired professionals appointed to the board in the past. The Board’s rules state professional engineers may apply for inactive or retired status. Mr. Shah read from 61-23-6 A on board member qualifications where it refers to “professional engineer licensed in New Mexico”. His question was if licensure ends when the license is no longer active. If retired or inactive engineers can not practice how are they considered licensed? Motion by Mr. Shah that board members must be licensed [meaning active]. No second, motion dies. Mr. Shah motioned, second by Dr. Idriss and unanimously,

VOTED: That a legal opinion is acquired on Section 61-23-6 A from the Office of the Attorney General.

Mr. Shah suggests the Board get an opinion from the AG’s office, but not from Ms. Smith, Assistant Attorney General and Counsel to the Board. The question should be directed to the Attorney Generals office. The Committee concurred.

4.15 Job Description- Engineering Technician - deferred

4.16 Public Officer Changing Engineering Design – Mrs. Garcia indicated this item was included at the request of Mr. Sisneros regarding non-licensed public employees providing engineering by making changes to professional engineers’ drawings. Mr. Guerrerortiz indicated he has had experience with state agencies having non-engineers reviewing engineering work. This practice has recently been done by the NMED (considered by the Board in the past). Since the review of engineering work is engaging in engineering work, this can not be done by unlicensed individuals. Mr. Guerrerortiz recommends by authority of Mr. Sisneros’ email on the matter, that a letter be written to NMED addressing the need for the engineering reviewer who adds notes to engineering drawings be done by a licensed engineer and that these notes carry his stamp and signature as to take responsibility for his notes. Dr. Idriss motion, second by Mr. Guerrerortiz and unanimously,

VOTED: Mrs. Garcia will address a letter to the NMED addressing the requirements.

5 CORRESPONDENCE

5.1 Binode Roy-RE: Indian Transcript – Mr. Roy states he is a graduate electrical engineer from Calcutta University, India and he is interested in becoming a PE in N M. He indicated he has not made progress because he does not have transcript with him, but he states that Indian engineering degrees are accredited in the US and are recognized internationally. Staff indicated that all foreign applicants are required to have a transcript evaluation completed to establish if the degree is comparable to a US engineering degree. It appears Mr. Roy is not willing to have his transcript evaluated. Some applicants have indicated that in order to have a transcript evaluated the evaluation service the Board uses requires official transcripts and it is impossible to provide official transcripts from India. NCEES; however, has indicated that they do many evaluations from Indian universities. Mr. Shah stated that not all schools will provide official transcripts. The Board recommended that Mr. Roy make an official application to the Board for review.

5.2 Michael Robert Anderson, Comity Applicant-Requirements for Council Record. Mrs. Garcia indicated she had allowed him to file his application without a council record, under the same process as foreign applications. He addressed a legal concern regarding the Board’s policy and the timeliness of having his application reviewed. Mr. Guerrerortiz motioned, second by Mr. Romero and unanimously,

VOTED: To ratify the actions of the executive director and send needed changes to Rules Committee.

6. COMPLAINTS & VIOLATIONS Closed Session – It was moved by Dr. Idriss, second by Mr. Romero and unanimously,

VOTED: To convene in closed or executive session pursuant to NMSA 1978, Section 10-15-1 (H) (1) and/or (7) to discuss only those cases listed in .6.1 through 6.9 of the agenda. A roll call vote was taken. Voting yes, Mr. Guerrerortiz, Dr. Idriss, Mr. Shah, and Mr. Romero. Motion carried unanimously.

[S. Shah recusing himself from case 07-07-35 and leaving the room during discussion of this specific case in closed session]

6A. COMPLAINTS & VIOLATIONS Open Session – Action on the Above Cases – Mr. Guerrerortiz reconvened the meeting in open session and further stated that the discussions in closed session were limited to those cases listed as items 6.1 through 6.9 on the agenda.

[... All charges, unless dismissed as unfounded, trivial, resolved by reprimand, or settled informally shall be heard in accordance with the provisions of the ULA, 61-23-24(E), NMSA 1978]

Mr. Romero motioned, second by Dr. Idriss and unanimously,

6.1 Case 07-07-30 – Tabled

6.2 Case 07-07-31 – Tabled

6.3 Case 07-07-32 – Tabled

VOTED: To table case 07-07-30, 07-07-31, and 07-07-32

6.4 Case 07-07-34 – Mr. Romero motioned, second by Mr. Guerrerortiz and unanimously,

VOTED: To issue an NCA with possible settlement agreement of 4 hours of ethics, fine \$1000 and up to a one-year probation.

6.5 Case 07-07-35 – Mr. Romero motioned, second by Mr. Guerrerortiz and unanimously,

VOTED: To issue a cease and desist letter, and inform him that he is not an EI. [Mr. Shah recused from this case, abstained from this matter/vote.]

6.6 Case 07-07-40 – Mr. Romero motioned, second by Mr. Guerrerortiz and unanimously,

VOTED: To issue an NCA with possible settlement agreement of a one-year probation.

6.7 Case 08-07-05 – Mr. Guerrerortiz motioned, second by Dr. Idriss and unanimously,

VOTED: To issue a letter to the City of Albuquerque to use or hire only licensed engineers to do engineering work and studies. A separate letter of cease and desist to the unlicensed engineer doing engineering work [traffic studies].

6.8 Case 08-07-04 – Mr. Romero motioned, second by Mr. Guerrerortiz and unanimously,

VOTED: No action is taken since entity is working to resolve the Board's concerns.

6.9 Case 08-07-13 – Dr. Idriss motioned, second by and unanimously,

VOTED: To issue an NCA with settlement agreement to deny license for 6 months for misrepresenting his record (failure to report disciplinary letter from another board).

6A. Appointment of hearing officers [if required] for new cases. PEC requested to hear as a full committee.

7. REVIEW OF APPLICATIONS

7.1 Applications for Retired Status and Inactive Status – 9 retired and 11 inactive - Motion by Dr. Idriss, second by Mr. Guerrerortiz and unanimously,

VOTED: To approve the retired and inactive request lists as presented by staff.

7.2 Application with “MLE Council Records” and “Substantial Equivalency” – 94 applications - Motion by Mr. Shah, second by Mr. Guerrerortiz and unanimously,

VOTED: To approve MLE licensures.

7.3 Review of New Comity and Examination Applications - The Board considered approximately 20 applications for licensure by comity and by examination. The Board’s actions are noted in the individual applicants’ files.

8. ADJOURNMENT – Having no further business Mr. Guerrerortiz adjourned the meeting

Submitted by:

Approved by:

Elena Garcia, Executive Director

Mr. Patricio Guerrerortiz, PEC Chair

_____ Approval Date