

Meeting of the Board of Licensure for Professional  
Engineers & Professional Surveyors held 9:00 a.m. April  
18, 2008 at the Middle Rio Grande Conservancy District  
Office, 1931 Second St., SW, Albuquerque, NM

Members Present      Gilbert Chavez, PS, Board Chair  
                            Patricio Guerrerortiz, PE, PEC Chair, Board Vice Chair  
                            John T. Romero, Sr., PE, PEC Vice Chair, Board Secretary  
                            Fred Sanchez, PS  
                            Dr. Rola Idriss, PE  
                            Salvador Vigil, PS, PSC Vice Chair  
                            Charles Atwell, Public Member, PSC Chair  
                            Stevan J.Schoen, Public Member, Esq.

Members Absent      Severiano Sisneros, PE  
                            Subhas Shah, PE

Others Present      Perry Valdez Acting Executive Director, BLPEPS  
                            Candis Bourassa, Licensing Manager, BLPES  
                            Roman Garcia, Investigator, BLPES  
                            Ed Ytuarte, Complaint Manager, PEPS, BLPES

Guests                None

1.      **CONVENE/ROLL CALL/INTRODUCTION OF GUESTS**

Mr. Chavez convened the meeting. Roll call was taken, and it was noted that a quorum of the Board was present.

2.      **APPROVAL OF THE AGENDA**

Mr. Atwell motioned, second by Mr. Romero and unanimously,

**VOTED:** To approve the agenda.

3.      **APPROVAL OF THE MINUTES**

3.1      January 10, 2008 Minutes – Mr. Romero motioned, second by Mr. Schoen and motion went to vote.

**VOTED:** seven “yes”, one abstained.

4.      **COMMITTEE REPORTS**

4.1 Professional Engineering Committee – Mr. Guerrerortiz, Chair, reported that the PEC in executive session covered the cases listed and Mr. Abeyta’s application. Mr. Abeyta appeared and his application for PE examination was approved. Dr. Zimmerman did a presentation having the Board make a request of NCEES to adopt an examination for software engineers. The PEC’s motion passed to support the test creation and Mr. Guerrerortiz will draft a letter in support of the test. Right now, there are no qualifications or discipline set up in New Mexico. Mr. Chavez added that he attended a meeting on emerging disciplines at the NCEES annual meeting and once the exam is created, there has to be a sufficient number of requests for it. There are many difficulties with new exams. Mr. Chavez would recommend the PEC bring the issue to the full board so that the New Mexico jurisdiction can make that presentation to the national council. Mr. Romero noted not all the PEC accepted Mr. Zimmerman’s proposal, and software may fall under computer science or electrical engineering. Mr. Sanchez commented it takes ten jurisdictions that request it to NCEES. Mr. Guerrerortiz noted in the past when the PEC took action on issues that pertained to engineering it was considered the action of the full Board. Mr. Chavez agreed, but it is a full Board when it is administrative and there is potential for rules changing. Mr. Guerrerortiz established it will be easier to bring it to the full Board.

4.2 Professional Surveying Committee – Mr. Atwell, Chair – Under new business there was one “Show Cause” hearing for Mr. J. Maestas. Tom Moore, PS also spoke on issues of construction staking and other things. Under correspondence there were three letters that support the “engineering surveys” model law changes as introduced at the last western zone meeting. A website advertising for surveying software was also brought to the PSC’s attention, but the work would require a licensed surveyor. Mr. Sanchez believed this might require a warning letter. In closed session, there were nine cases. Three were tabled, one was dismissed as unfounded, one NCA issued, three will be followed up on to carry out penalties. Three cases had hearing officers appointed. An application was approved for inactive status and applications were reviewed.

4.3 Examination Committee – Mr. Vigil –

4.3.1 NM2HR Professional Survey exam – Subcommittee report - The committee met Jan 8, 2008 for about 1 ½ hours to review questions on the NM2HR exam. Several exam questions were revised and one question added. The next meeting is in June.

4.4 Executive Committee report - Mr. Atwell reported Mr. Valdez is doing a good job and Mr. Ytuarte is ready to begin as director starting April 21, 2008. Mr. Guerrerortiz added the personnel situation acquiring new classifications and salaries is of first priority. The Board should be in line with the salaries of Boards of the same type. He would like to be directly involved in that pursuit. Mr. Atwell said he has gained budget insight on salaries and this Board is much lower than the other Boards, but this could take up to a year into the 2010 budget to make changes. Mr. Guerrerortiz stated the Board could take actions necessary without waiting. Mr. Vigil pointed out that he and Mr. Romero worked on the pay scale and what the Board is paying is appalling. Staff has been passed over repeatedly. This is discouraging to staff and office morale. Mr. Romero congratulated Mr. Ytuarte and regretted the appointment was not completed before Mrs. Garcia retired. The Board needed to go directly to the governor as he did to expedite the appointment. It is a lesson the Board can learn from for the future. Mr. Sanchez asked Mr. Ytuarte to bring to the Board’s attention any budget faults for the coming year. The

Board trusts the director to understand and bring them a budget ready for approval. They do not have time to review each expenditure, but it is time they took a closer look at the budget. Mr. Ytuarte said he would compile the justifications for change and keep the Board informed. Mr. Vigil asked for a time frame, as this cannot drag out for months. Mr. Ytuarte explained LFP and DFA should recognize the need and it will be addressed.

5. NEW BUSINESS

5.1 Western Zone Meeting – Bismark, ND

5.1.1 Gilbert Chavez – Candidate for NCEES Vice President Elect – Request Support- Mr. Chavez has requested a letter of support. Motion by Dr. Idriss, second by Mr. Romero and unanimously,

**VOTED:** To support his candidacy. Mr. Guerrerortiz has written a letter on behalf of the Board. The Board fully supports Mr. Guerrerortiz's letter for Mr. Chavez.

Mr. Chavez asked also for support for Mr. David Whitman for NCEES President-Elect. Motion by Mr. Sanchez, second by Mr. Romero and unanimously,

**VOTED:** To offer a letter of Board support for Mr. Whitman.

5.2 Approval of FY09 Meeting Calendar Board agreed to change meeting to January 8-9, 2009 and to make the agenda legislative issues, exam approval and complaints. Schedule 9:00 a.m. first day and 8:00 a.m. second day if possible for all long distant meetings.

5.2.1 Possibility of three day 'meeting to include a working session – Ruidoso. Board decided to make this a two-day meeting only.

5.3 Engineering/Surveying work by unlicensed public officers. Mr. Vigil believed there are serious problems with some governmental agencies. They are dictating what to produce on a survey plat without a licensed surveyor or engineer on staff. Consistently it is what they require and not what is legally required. These governmental agencies need advising again that any changes and requirements need oversight by a licensed professional. Mr. Sanchez has experienced this and found the counties are governed by their own rules. Mr. Chavez also experienced unlicensed persons making determinations. He asked for the possibility of a special council to look at some of these items. At NMSA 61-23-26, it states that any public works involving a licensed engineer or surveyor have to be executed under the responsible charge of a licensed professional. Also at NMSA 61-23-27, Public Office, anyone who does reviews needs to be a licensed professional. The problem is that you cannot file a complaint against county policies. He asked Mr. Schoen look at the Boards options. The Attorney Generals office has not issued an opinion though asked to do so two and a half years ago. Mr. Schoen reported that from the Attorney Generals office he was referred to a deputy who handles special commissions. Mr. Schoen requested a special commission to assist the Board with prosecutions when the assigned legal representation is unable to assist us. He was told the Board has to make an official request for a special commission, secondly the Board must specify what they want them to do on a case-by-case basis. Mr. Schoen told the deputy for example there are a number of people not licensed

in NM that were practicing. They said they could authorize a cease and desist after formal steps. Mr. Schoen has made first contact and now the Board requests a special commission. He asked about pending cases and they said to include them in the list of requests. Mr. Chavez asked about compensation, and Mr. Schoen believed it comes out of the Board budget. Mr. Chavez asks if money is budgeted to proceed with such an action. This needed investigation. He believed there needed to be enforcement over jurisdictions ignoring the Act because they say it does not apply to them. Mr. Guerrerortiz motioned to establish a special commission with the Attorney Generals office, second by Mr. Sanchez. Discussion began with Mr. Schoen stating at this time, first the Board makes a formal request for a special commission. Mr. Chavez asked Mr. Ytuarte to formulate a letter to the AG's office. Mr. Vigil recalled that he and Mrs. Garcia were going to go talk to the head of the counties, but the meeting could never be arranged. The counties disregarded attempts to meet. A committee could be formed to track progress so the issue is not forgotten. Mr. Ytuarte stated after the special committee is in place the municipalities can be presented with the Board's stand during their own meetings. A stronger stance can be presented to them. Motion is withdrawn and Mr. Ytuarte will write a initial request letter for the AG's office.

## 6. OLD BUSINESS

6.1 Engineering Surveys – Rescindment of Resolution to NCEES – 8/16/07 Letter [NM Resolution and Case for Resolution] – Motion to withdraw letter and motion at NCEES annual meeting

6.1.1 Letters of Support of Engineering Surveys resolution – Mr. Chavez explained the vote to over ride the use of this letter was done improperly as it was not advertised as a vote item and the full board was not able to act on it. Mr. Sanchez asked for the specific reasons the letter of support was rescinded. Mr. Guerrerortiz asked if the NCEES meeting has already happened why the Board would take action on it today. Mr. Chavez explained he just wanted to clear up the invalid vote that was taken at that time and rectify the record. Mr. Chavez stated they were never given the opportunity to present it at the NCEES meeting. Mr. Chavez would like to make it a proper vote and see if the Board was in favor of rescinding it again. Motion by Mr. Romero, second by Dr. Idriss and unanimously,

**VOTED:** To rescind the vote to withdraw letter of support and resolution to NCEES and consider the original resolution letter of support at the next regular Board meeting.

6.2 Procedures for Agenda Items on Committees & Board Agendas  
No discussion was done on this item.

6.3 Advisory Opinion No. 16 [supplemental surveying]  
no discussion was done on this item.

## 7. DIRECTOR'S REPORT

7.1 Staff Activities Report – Mr. Valdez reported we were busy as usual

7.1.1 Hiring new accounting Tech. Melissa Schelley was hired beginning April 7<sup>th</sup>. April. Mr. Romero asked if it was advertised at the rate hired and how many applicants were there. Valdez only was told there were a few. Mr. Romero asked who authorized the hiring, and Mr. Atwell said he and Mrs. Bordenave handled it. Mr. Atwell explained the hiring was approved to begin salary adjustments with this new position. Mr. Romero asked how the salary fits with the others already there, and Mr. Valdez said the new tech earns more than existing staff. Mr. Romero asked if staff knew the tech was being hired above them, was salary posted at the hire rate, and were there in house applications. Mr. Valdez said he did not think so. Mr. Guerrerortiz asked if it was changed after advertised. Mr. Valdez thought it was reclassified in-house higher by Mrs. Bordenave after being advertised. Ms. Bourassa reported there is another Board of exactly the same size to use for comparison salaries. Mr. Ytuarte said he would address this and bring the other staff up to the standard scales for their positions.

#### 7.2 Financial Reports

Mr. Valdez explained Mrs. Bordenave was asked to be present, but could not make it. He has copies of the report. The Board had questions only Mrs. Bordenave could answer so no action was taken.

#### 7.3 FY 09 Budget Request – Ratified at 1/10/2008 meeting

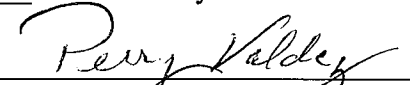
7.4 Approval of FY 07 Audit Report - Motion by Mr. Romero, second by Mr. Guerrerortiz in discussion Mr. Sanchez and other members would like a representative of the auditor present to answer any questions and point out the exceptions in the future. Mr. Ytuarte explained that in the future Mrs. Bordenave or representation would be present. Today, she felt she needed to work on the 2010 budget preliminaries due May 1, 2008. Motion came to a vote.


**VOTED:** To approve the Audit Report FY 07

7.5 Proposed Fee Increases – Mr. Valdez has presented just for information some possible rate increases to increase funds for staff salaries and other upgrading. When the cost of the need is determined, action can be presented for Board review.

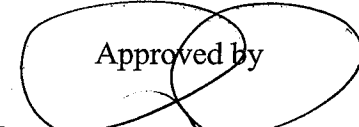
#### 8. ADJOURNMENT—Having no further business Mr. Chavez adjourned the meeting

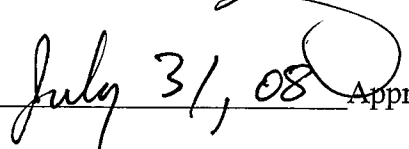
Submitted by:

  
Mr. Perry Valdez, Acting Executive Director

  
Mr. Edward Ytuarte, Executive Director

Approved by

  
Mr. Gilbert Chavez, Board Chair

  
Approved Date