

Meeting of the Professional Surveying Committee  
of the Board of Licensure for Professional  
Engineers & Professional Surveyors held at 1:00  
p.m., April 17, 2008 at the Middle Rio Grande  
Conservancy District Office, 1931 Second St., SW,  
Albuquerque, NM

Members Present: Chuck Atwell, PSC Chair  
Salvador Vigil, PS, PSC Vice Chair  
Fred Sanchez, PS  
Gilbert Chavez, PS, Board Chair

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

Guests Joseph R. Maestas, PS  
Orlando Marquez, Jr.  
Tom Moore, PS

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

Mr. Atwell convened the meeting at 1:00 p.m. Roll call was taken, and it was noted that a quorum of the Professional Surveying Committee was present

2. **APPROVAL OF THE AGENDA** – Mr. Vigil motioned, second by Mr. Chavez and unanimously,

**VOTED:** To approve the agenda as presented.

3. **APPROVAL OF THE MINUTES**

3.1 Approval of the January 10, 2008 Minutes - Mr. Sanchez motioned, second by Mr. Vigil and unanimously,

**VOTED:** To approve the 1/10/2008 PSC minutes

4. **NEW BUSINESS**

4.1 Order to show cause hearing – Case 06-05-44 Joseph R. Maestas 1:00–p.m. – Mr. Maestas appeared before the Board. He stated regret that his attorney has not been available to appear with him. Mr. Maestas has prepared a packet in his defense for the Board members. Mr. Atwell pointed out that Mr. Maestas was only here to “show cause”. If he wished he could deliver his packet, but he needed to address the issue. Mr. Maestas stated that he has not paid the \$2,500 fine was because when the Board suspended his license, they took his livelihood and he could not work. It has been a struggle to make ends meet and care for his family members. His hands have been tied to pay the fine. The last letter he received from the Board was dated January 19, 2008, and

it stated there would be hearing January 1, 2008. If the letters dates had been correct he would have come to the February 1, 2008 meeting. He feels the penalty has been excessive for the charges against him. In review of similar cases on the website, they were given probations and asked to correct and re-record their plats. His 1-year suspension and \$2,500 fine does not seem fair. He requested for the fine be reduced or eliminated and for the Board to reduce the additional suspension so he can work. Mr. Atwell stated the Board would consider what he has said. None of the PSC members requested his packet.

4.2 Construction Staking – Tom Moore – 1:30 p.m. – Mr. Moore's issue was regarding the advisory opinion of the PSC pertaining to electronic signatures. Dona Ana County has been very accepting of these signatures, but Luna, Sierra, and Otero Counties, Sierra in particular, have legal staff advising their clerks to decline the plats with electronic signatures. His small firm of four people primarily works the surrounding area of Las Cruces. He finds himself trying to teach the statutory requirements to the clerks. He has contacted the New Mexico Association of Counties to try to expedite acceptance of electronic signatures. He requested that the legal staff of the Board back him up through the NM Association of Counties. He is referring to NMAC 16.39.3.12 and 16.39.5.11. Mr. Sanchez reported these rules do not force the county clerks to do anything. In Rio Arriba County for example, all they have to do is comply with the county statutes. The Board has no authority over county statutes. Mr. Vigil clarifies that NMAC 16.39.3.12 is for engineers and NMAC 16.39.5.11 is all the surveying seal information and has nothing on electronic stamping. Surveyors only have the advisory opinion issued. Mr. Moore then discussed control surveys in NM. He believes it is to be done under the supervision of a licensed surveyor. Mr. Moore asked if complaints could be filed against the National Geodetic Surveyors and their out of state subcontractors? Mr. Vigil explained that federal government is sovereign from licensure, but contractors are subject to licensure. Mr. Sanchez added that the Board controls the surveying that affects the public including the public works projects. Mr. Moore finds it perplexing the professors, as Dr. Riley, are not licensed. Mr. Chavez knows that Dr. Riley lacks the required boundary experience. The issue of separating survey specialties, as mapping sciences, has been reviewed and at that time, there was no demand by the public to license such individuals. Mr. Moore has concerns about the 3-D laser scanners for mapping surveying. He had three contracts from an eastern company for port of entry with GPS RTK. He could have done better with 3-D laser for boundaries, utilities, and buildings. He is worried about non-licensees scanning with the 3-D. Mr. Vigil concluded that this would still have to be signed off by a licensed surveyor. Surveyors can always file complaints. Mr. Chavez added that it is a tool often used by professional agencies not associated with surveying.

## 5. CORRESPONDENCE

5.1 Letter of Support for Engineering Surveying – Mr. Valdez explained this is for information only.

- 5.1.1 Montana Board of Registered Land Surveyors
- 5.1.2 Western Federation of Professional Surveyors
- 5.1.3 California Land Surveyors Association

5.2 Review of website: Deed-Check – Mr. Valdez has included it was sent to Mrs. Garcia about a website that may be in violation of advertising for surveying. Mr. Chavez does not see this being any different from any other desktop software. Bottom line is that any work that is generated needs to be certified by a licensed surveyor.

6. **COMPLAINTS & VIOLATIONS - Closed Session**– It was moved by Mr. Sanchez to go into closed session, second by Mr. Vigil and unanimously,  
**VOTED:** To convene in closed session pursuant to NMSA 1978, Section 10-15-1(H) (1) to discuss only those cases listed in 6.1 through 6.9 of the agenda. A roll call vote was taken. Voting yes, Mr. Sanchez, Mr. Vigil, Mr. Atwell, and Mr. Chavez, motion carried unanimously.

6A **OPEN SESSION** – Action on cases on the agenda 6.1 through 9.6 – [*...All charges, unless dismissed as unfounded, trivial, resolved by reprimand, or settled informally shall be heard in accordance with the provisions of the ULA, 61-23-27.11(D), NMSA 1978*]. Mr. Sanchez motioned to reconvene the meeting in open session and states that the discussions in closed session were limited to those cases listed under item 6.1 through 6.9 on the agenda, Mr. Vigil seconded the motion. It was unanimously,

**VOTED:** To convene in open session.

6.1 Case 07-06-22 – Timothy Oden, NCA currently issued December 27, 2007 and license suspended – Mr. Chavez motioned, second by Mr. Sanchez and it went to a vote.

**VOTED:** Three “yes, one abstain. Motion passes to take the action per the terms of the NCA and permanently revoke Mr. Oden’s licensure.

6.2 Case 06-05-44 - Joseph R. Maestas – Mr. Chavez motioned, second by Mr. Sanchez. Mr. Sanchez’s amendments to the motion are accepted and unanimously,

**VOTED:** To suspend the license for one year if he pays the fine from the earlier judgment of \$2,500 within 60 days of notice. If fine is not paid, the license will be permanently revoked and the Board will petition District Court to follow through with the fine collection.

6.3 Case 07-06-23 – Douglas Smith, PS – Decision and Order - Mr. Sanchez motioned, second by Mr. Chavez and unanimously,

**VOTED:** To issue - 1. A \$5,000 fine within 60 days of notice; 2. To pay proceedings cost within 60 days; 3. A formal reprimand submitted to licensee’s file; 4. Four hours of ethics class, beyond the regular 30 PDHs, within 6 months; 5. To correct plats within 90 days and have them reviewed by Mr. Ytuarte. 6. One-year suspension starting in 90 days.

6.4 Case 05-04-05 LeRoy Smith, PS– Mr. Sanchez motioned, second by Mr. Vigil and unanimously,

**VOTED:** Upon notice of decision, payments of \$500.00 per month will be due by the 15<sup>th</sup> of each month to pay off his fine. If payment is missed, licensure will be permanently revoked pursuit of judicial action.

6.5 Case 08-07-17 – Mr. Sanchez motioned, second by Mr. Vigil and unanimously,

**VOTED:** To issue a NCA. Resolution is possible if: 1. Corrections be made to the plat to fit the dimensions of the lots; 2. It will include a note for each owner advising them that the owner is granting easement access; 3. Plat must show who will be responsible for maintenance of the easement, owner or county; 4. Plat must meet minimum standards and be approved by Mr. Ytuarte. Hearing officer appointed is Mr. Chavez with Mr. Vigil as backup.

6.6 Case 08-07-21 – Mr. Sanchez, second by Mr. Vigil and unanimously,

**VOTED:** To table case 08-07-21 at the request of the investigator until June meeting.

6.7 Case 08-07-22 - Mr. Sanchez, second by Mr. Vigil and unanimously,

**VOTED:** To table case 08-07-22 at the request of the investigator until June meeting.

6.8 Case 08-07-24 - Mr. Sanchez, second by Mr. Vigil and unanimously,

**VOTED:** To table case 08-07-24 at the request of the investigator until June meeting.

6.9 Case 08-08-28 - Mr. Sanchez, second by Mr. Vigil and unanimously,

**VOTED:** To dismissed as unfounded case 08-08-28

Appointments of Hearing Officers for the cases heard at the January 10, 2008 meeting: 08-07-07 Albuquerque, Mr. Sanchez with Mr. Atwell backup; 08-07-12. Bosque Farms/Los Lunas, Mr. Sanchez with Mr. Atwell backup; 08-07-10, Santa Fe, Mr. Vigil with Mr. Atwell as backup.

7 **OLD BUSINESS**

8. **REVIEW OF APPLICATIONS**

8.1 Applications for Retired Status & Inactive Status – Mr. Sanchez motioned, second by Mr. Vigil and unanimously,

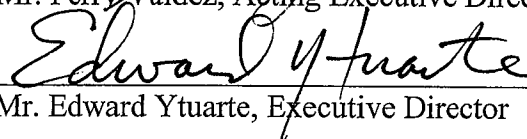
**VOTED:** To approve retired and inactive applications

8.2 Review of Applications by Exam [Includes Comity Applications] applications were reviewed with decisions posted in the individual applicant folder.

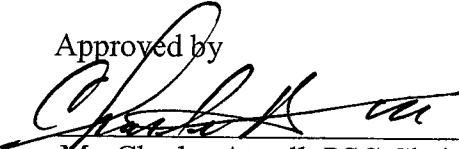
9. **ADJOURNMENT** – Having no further business Mr. Atwell adjourned the meeting

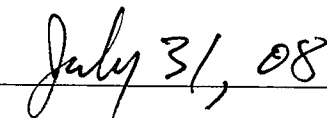
Submitted by:

  
Mr. Perry Valdez, Acting Executive Director

  
Mr. Edward Ytuarte, Executive Director

Approved by

  
Mr. Charles Atwell, PSC Chair

 Approved Date