

Meeting of the Professional Surveying Committee
of the Board of Licensure for Professional
Engineers & Professional Surveyors held at 8:00
a.m., January 10, 2008 at the Board Office, 4001
Office Court Drive, Suite 903, Santa Fe, NM
87507-4962

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

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

1. CONVENE/ROLL CALL/INTRODUCTION OF GUESTS

Mr. Atwell convened the meeting at 8:00 a.m. Roll call was taken, and it was noted that a quorum of the Professional Surveying Committee was present

2. APPROVAL OF THE AGENDA – Motion by Mr. Sanchez, second by Mr. Chavez and unanimously,

VOTED: To approve the agenda as presented.

3. APPROVAL OF THE MINUTES

3.1 Approval of the November 29, 2007 Minutes [page2] Mr. Sanchez motioned, second by Mr. Chavez and unanimously,

VOTED: To approve the 11/29/2007 PSC minutes

4. NEW BUSINESS

4.1 Order to show cause hearing – Case 06-05-44 Joseph R. Maestas 9–a.m. [page 21-25]. – Mrs. Garcia announces he has requested to reschedule due to attorney conflict. The Board notes his current suspension currently is through December 2008. Mr. Sanchez motioned, second by Mr. Chavez and unanimously,

VOTED: To reschedule for April 17, 2008 meeting and to notify Mr. Maestas that he will be expected to appear without more rescheduling because his \$2,500 fine has not been paid.

4.2 When is a Control Survey Report Required by the Standards? [page 7] Mr. Sanchez has worked with Steve Toler on the clarification of a Control Survey. Mr.

Sanchez has written “Whenever a professional surveyor undertakes control surveying as defined in 12.8.2.7 NMAC where the coordinates and elevations of the control points established by the survey may be relied upon by professionals other than the original surveyor for future phases of the work, the licensee shall prepare a Control Survey report and shall provide the report to the prime client.” He pointed out they do not need to be done all the time. Mr. Sanchez motioned, second by Mr. Vigil and unanimously,

VOTED: To accept this statement as to when a Control Survey report is required.

4.2.1 Clarify 12.8.2.7 NMAC through Advisory Opinion/Possible Changes to Rules. Mrs. Garcia has included on page 8 a request from Steve Toler to arrange the Minimum Standards for Surveying to include the attached changes on pages 9-12. These changes cover when a Control Survey Report is needed, what is done with it, and geospatial positional accuracy standards for control surveys. These changes were approved for submittal at the last NMPS meeting. Mr. Sanchez motioned, second by Mr. Vigil and unanimously,

VOTED: To present these requested changes to the rules committee. - Mr. Chavez has concerns about Control Surveys being done in southern New Mexico. A geodetic network is being done, and the county has set stations separately with no surveyor in charge. He believes licensed surveyors should do a control set that is relied on by other professionals. Vendors are selling GPS equipment, setting up stations, and developing networks with no licensure. Mr. Chavez points out while some areas are using surveyors for network development, Dona Ana County is not. Mr. Chavez at one time filed a complaint against them but does not know the status of it. There has been a separate letter sent to Dona Ana County about advertising for a “County Surveyor” position without licensure requirements. This directive has been ignored by the county. A lawsuit may be a possibility, and a follow up letter should be considered. Mr. Chavez suggests this be added to the next agenda or given to a task force.

Mr. Chavez illustrates how serious it is to use licensed surveyors as networks are popping up all over the country and are being tied together. GIS people and other professionals are relying on these. Mr. Chavez motioned, second by Mr. Vigil and unanimously,

VOTED: That the PSC investigate the possibilities of pursuing action against violators of the Control Survey Report including maintenance and system development of networks

5. **COMPLAINTS & VIOLATIONS - Closed Session**– It was moved by Mr. Vigil to go into closed session, second by Mr. Sanchez and

VOTED: To convene in closed session pursuant to NMSA 1978, Section 10-15-1(H)(1) to discuss only those cases listed in 5.1 through 5.6 of the agenda. A roll call vote was taken. Voting yes, Mr. Sanchez, Mr. Vigil, Mr. Atwell, and Mr. Chavez, motion carried unanimously.

5A **OPEN SESSION** – Action on cases on the agenda 5.1 through 5.6 – [*...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 5.1 through 5.6 on the agenda, Mr. Chavez seconded the motion. It was unanimously,

VOTED: To convene in open session.

5.1 Case 07-06-22 [page 13-20] – Timothy Oden [Did not request hearing]
Mr. Sanchez motioned, second by Mr. Chavez and unanimously,

VOTED: To notify the DA's office to move ahead with the hearing.

5.2 Case 06-05-44 Joseph R. Maestas [page 21-27] – Mr. Sanchez motioned, second by Mr. Chavez and unanimously,

VOTED: To postpone the show cause hearing until the April 17, 2008 meeting.

5.3 Case 08-07-09 – Mr. Sanchez motioned, second by Mr. Vigil and unanimously,

VOTED: To dismiss the case as unfounded.

5.4 Case 08-07-10 [page 28] – Mr. Sanchez motioned, second by Mr. Vigil and under discussion the sections of violation within the act for unlicensed practice and public works projects will be added to the NCA

VOTED: To issue an NCA based on a ongoing construction staking practice by an engineering firm unlicensed to do construction surveying.

5.5 Case 08-07-11 [page 30] – Mr. Sanchez motioned, second by Mr. Vigil and unanimously,

VOTED: To dismiss the case as unfounded.

5.6 Case 08-07-07 – new case [page 31] Mr. Sanchez motioned, second by Mr. Vigil. and under discussion the sections of violation within the act for unlicensed practice and public works projects will be added to the NCA

VOTED: That an NCA be issued with the intent to have the licensee correct the surveys recorded that have caused damage. This must be done even though the licensee has sold the firm.

6. OLD BUSINESS

6.1 FEMA Flood Certificates - Mr. Sanchez reads from the minutes of the PEC meeting 11/1/07 [page 2]... "*As stated can be signed by engineers, architects or surveyors. The Architectural Board has shown no interest in their members signing this*

form. The form states that one of these authorized by law to do elevations. Mr. Guerrerortiz states he believes the statutes in New Mexico say this would only be surveyors. Motion Mr. Romero, second by Dr. Idriss that engineers could sign a flood certificate as the government FEMA form reads. In discussion, Mr. Romero, Mr. Shah, and Dr. Idriss believe this is easily within the skills of a licensed engineer.” Mr. Sanchez sees several things wrong with that. It is a surveying matter and should not have been on the PEC agenda. Mr. Sanchez believes they are the board of licensure and not a board to evaluate individual skills. Dr. Idriss has said the government says they can sign this but the government is not in charge of surveying and engineering in this state. Therefore, he deems this needs to be corrected. Mr. Sanchez continued to point out this matter was never taken to the standing committee that deals with conflicts between engineers and surveyors. The engineers are fast to protect against others doing engineering and should not be making motions about letting engineers practice surveying. Mr. Sanchez wants Mr. Toler’s letter emailed 1/8/08 in support entered into the record. He is a practicing surveyor with a degree in civil engineering from NMSU, but is not a PE. Mrs. Garcia just received the letter the day before and sent it to all the PSC. Mr. Atwell asks staff to find out who the district representative of FEMA might be. Mrs. Garcia updated the committee that it had been discussed and this matter decided in an earlier PSC meeting. Mr. Chavez suggests the matter be sent to the joint engineering and surveying standing committee [JES] or put on the next full board agenda. Mr. Sanchez believes this is not a conflict and the PEC can surely discuss it, but it is a violation for them to make a motion on it. Mr. Vigil motioned, second by Mr. Chavez and unanimously,

VOTED: For the PSC chairman to send a letter to the PEC chairman directing that the PEC stop and desist taking action on surveying issues in reference to the motion made at the 11/1/07 PEC meeting, item 4.13, dealing with FEMA certificates.

7. REVIEW OF APPLICATIONS

7.1 Applications for Retired Status & Inactive Status [page33] – Mr. Sanchez motioned, second by Mr. Vigil and unanimously,

VOTED: To approve retired and inactive applications [total two retired]

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

7.2.1 Delegation of review of Applications

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

Submitted by:

Approved by

Perry Valdez, Acting Executive Director

Mr. Charles Atwell, PSC Chair

April 17, 2008
Approval Date