

Meeting of the Board of Licensure for Professional
Engineers & Professional Surveyors held 8:00 a.m.
June 13, 2008 at the Ruidoso Convention Center,
111 Sierra Blanca Dr., Ruidoso, NM 88345

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
 Charles Atwell, Public Member, PSC Chair
 Subhas Shah, PE
 Severiano Sisneros, PE

Members Absent Salvador Vigil, PS
 Stevan Schoen, Esq., Public Member

Others Present Edward Ytuarte, Executive Director, BLPEPS
 Candis Bourassa, Licensing Manager, BLPES
 Roman Garcia, Investigator, BLPES
 Ericca Lopez, Executive Secretary, BLPES
 Patricia Bordenave, Administrator/CFO, BLPES arrived at 9:00 a.m.

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**

MOTION was made by Mr. Sanchez to approve the agenda, **SECOND** by Mr. Guerrerortiz. Mr. Guerrerortiz also added that he would like to have a section titled "Other Business" added to the agenda so that the Board would be able to ask the staff questions or make requests to the staff members on this section. Dr. Idriss added that this area should have no action items on it.

VOTE: Unanimously voted to approve the agenda

3. **APPROVAL OF THE MINUTES**

3.1 **April 18, 2008 Minutes – MOTION** by Mr. Sanchez to approve the minutes as presented, **SECOND** by Mr. Guerrerortiz.

VOTE: Unanimously voted to approve the minutes as presented.

4. COMMITTEE REPORTS

4.1 Professional Engineering Committee – Mr. Guerrerortiz, Chair, reported that the PEC had met on June 12, 2008 at 2:00 p.m.

Mr. Guerrerortiz noted that the Department of Transportation would be offering ethics training courses at their conferences.

A discussion followed on the Board's involvement of reviewing and accepting lists of courses offered and taken by licensees to meet their PDH requirements. It was resolved that this topic should be revisited as an agenda item specifically for the executive committee and then recommendations reported back to the board.

Mr. Guerrerortiz then reported that the committee had discussed four cases.

Case 08-07-14, the committee voted to postpone for some additional information and some additional investigation.

Case number 08-07-23, the committee voted to issue a Notice of Contemplated Action (NCA).

Case number 08-08-25, the committee voted to issue an NCA.

Case number 08-08-37, the committee voted to issue a letter of Cease and Desist.

Mr. Guerrerortiz noted that this information was made public when the committee went back into open session.

4.2 Professional Surveying Committee – Mr. Atwell, Chair, reported that the committee had met on June 12, 2008 at 11:00 a.m. and had held election of officers and that Mr. Salvador Vigil was voted the new chair of the committee for Fiscal Year 2009 and that Mr. Fred Sanchez was voted the Vice Chair of the committee.

Mr. Atwell also noted that the committee had heard four cases.

Case 08-07-12, the committee voted to dismiss as unfounded.

Case 08-07-25, the committee voted to dismiss and send a letter of warning to the surveyor.

Case 08-08-30, the committee voted to issue an N.C.A.

Case 08-08-34, the committee voted to write a caution letter to the county.

Mr. Atwell noted that they had appointed a hearing officer for Case number 08-08-30. Mr. Atwell also mentioned that the committee had tabled two items, Proper use of ILRs by Reality Companies and the Deed Check website. Mr. Atwell noted that the committee only had one application to review and it was disapproved by the committee.

4.3 Licensure Promotion & Public Information Committee- Mr. Sisneros, Chair, stated that there was nothing to report at this time.

4.4 Examination Committee – Mr. Chavez noted that there was a report in the Binders from Mr. Vigil, who is the chair of that committee. Ms. Bourassa stated that she was also at the meeting and she thought that possibly after the October exams, the committee would be wrapping it up with just one more meeting.

4.5 Fire Protection Committee- Mr. Chavez noted that there was a written report in the meeting books and asked if there was anything to add to it.

4.6 Executive Committee- Mr. Atwell, Chair, reported that the committee had not actually met but there was an item in the binder with proposed agenda items for the next meeting.

Mr. Shah asked who had to attend the exit interview with the auditors. Mr. Ytuarte stated that in the past, it had been the Chair of the Executive Committee and the Executive Director. In the future he would inform all Board Members of the next auditors exit interview so that those who would like to attend can be present.

4.7 Joint Practices Committee- Mr. Sanchez, Chair, reported that the Joint Practice Committee had met at the Board office on May 29, 2008. He stated that there was a report in the meeting booklet that summarized what had happened at the meeting. Mr. Sanchez noted that he had brought up a concern at the end of his report, that some agencies and some home rule entities throughout the state are abusing the non-bid language that is in the procurement code. The committee elected to look further into this matter and bring up their findings at the next meeting.

Mr. Sanchez additionally reported that the City of Albuquerque is requiring electronic filing with submittals for record drawings and that the electronic sheets shall bear a seal but a signature shall not be incorporated. The JPC committee is going to request in writing, from the City of Albuquerque, a clarification of the record drawing criteria and why it is out of synchronization with the state licensure acts.

4.8 Rules and Regulations Committee-Dr. Idriss, Chair, first congratulated Mr. Romero on being elected the Chair of the PEC. She also noted that she was elected the Vice-Chair. Dr. Idriss reported that the committee had a meeting scheduled for July 11, 2008 in Albuquerque and that a report would be available after that meeting. Dr. Idriss also stated that in the last meeting before Ms. Garcia retired, the committee had looked at a draft document based on the NCEES Model Code and the current New Mexico code. Based on these two, the committee had come up with a draft document of the Rules of Professional Conduct that is ready for presentation to the full Board.

4.9 Landfill Gas Committee- Mr. Shah, Chair reported that this committee's work was done and could be retired. Mr. Chavez stated that since this committee's work was complete the board could now retire the committee.

4.10 Legal Enforcement Committee- Mr. Chavez stated that there was no report from Mr. Vigil on this committee at this time.

5. NEW BUSINESS

5.1 Election of Officers for FY '09- Chair, Vice Chair and Secretary- Mr. Chavez called for nominations for the Position of Board Chair. Mr. Sanchez nominated Mr. Atwell and Mr. Romero nominated Mr. Shah.

Both candidates presented statements, and then Mr. Chavez called for the vote. Mr. Shah received four votes and Mr. Atwell also received four votes.

A ballot vote was then called for by Mr. Chavez and he suggested that if a tie came up once again that a coin toss could be used to determine the winner. Mr. Guerrerortiz also suggested that the candidate who lost the vote would become the vice-chair. The board members all agreed on this. The ballot vote was conducted and once again there was a tie.

The candidates then agreed to a coin toss that Mr. Shah prevailed at. Mr. Shah was pronounced Board Chair and Mr. Atwell pronounced Vice-Chair.

Mr. Chavez then called for nominations for Board Secretary. Mr. Romero nominated Mr. Sisneros. Mr. Chavez then called for other nominations. None were called out. Mr. Romero then made a motion for nominations to cease and Mr. Sisneros to be elected by acclamation. Mr. Chavez then announced that Mr. Sisneros was elected Board Secretary. Mr. Romero questioned who would be the new members of the Executive committee since the officers had now changed. It was established that the incoming Chairman would make those appointments to the committee at a later date.

- 5.2 Western Zone Meeting- Bismarck, ND-** Mr. Chavez reported that no actions were taken. He mentioned that there was a resolution submitted that was the B plus thirty and he believed that the PEC had some discussion on it the day before at their meeting. Mr. Chavez also mentioned that the Guidelines committee has 45 resolutions that they are submitting. Mr. Chavez mentioned some of the more controversial ones as being the removal of the word expert witness from the definition of the practice of engineering and the practice of surveying. Another issue that Mr. Chavez noted was the business card issue, which the state of North Carolina seems to think that handing out a business card there is the offering of services and they are opposed to it. They are requiring that if you hand out a business card that you have all of the jurisdictions that you are licensed in on that card, if you are going to hand them out.

Mr. Chavez also noted that he ran for Vice President of the Western Zone, and that he was elected as the Assistant Vice President of the Western Zone for the next two years.

He reported that Dr. Whitman, representing the Western Zone, had entered the race for NCEES National President.

Mr. Sanchez added that the election was very close and that he was proud to see New Mexico being recognized as a driving force. Mr. Sanchez also mentioned that there was another jurisdiction that was allowing non-licensed surveyors to do surveying in rural areas.

- 5.3 FS and FE Examination Fees-** Mr. Ytuarte requested that the Board rescind prior board action that allows payment (subsidizing) of \$55 for the fundamentals of engineering and \$70 for the fundamentals of surveying, that is approximately 1/2 the \$120 cost charged by NCEES to administer the exams.

Mr. Ytuarte told the board members that subsidizing has been costing the Board anywhere from \$18,000 to \$20,000 per year. Mr. Ytuarte mentioned that since the Board had put a high priority on staff salary and position upgrades that these funds could better be used for funding these upgrades.

Mr. Romero made a **MOTION** that the Board quit subsidizing the fee for FE and FS Examinees and that the money be put to use for the employee salaries and position upgrades, **SECONDED** by Mr. Sanchez.

After some discussion, Mr. Chavez called for the question: **VOTE:** 5 For and Sisneros, Shah and Guerrerortiz Against, to rescind subsidizing the FE and FS Exam fees.

Mr. Sisneros and Mr. Guerrerortiz expressed concern that this may cause more harm than good if the board completely cuts off the subsidizing of the exam fee. Mr. Chavez states that the Board could rescind its actions at the next meeting if they so choose. Mr. Sisneros made a **MOTION** that statistics be tracked over the next three years to see the effects that they will have, **SECONDED** by Mr. Shah.

More discussion followed and Mr. Sisneros withdrew his Motion with the understanding that this issue would be brought up again.

- 5.4 Approval of the Fiscal Year 2009 Meeting Schedule-** Mr. Guerrerortiz made a **MOTION** to approve the calendar to allow discussion, **SECONDED** by Mr. Shah. After some discussion and corrections on the dates and times of the scheduled meetings, a calendar was agreed upon with exception to the location of the June meeting. Mr. Romero made a **MOTION** to have the June meeting in Ruidoso, **SECONDED** by Mr. Sisneros.

VOTE: 7 For, Guerrerortiz Against, to keep June meeting in Ruidoso

Mr. Romero made a **MOTION** to approve the calendar as amended, **SECONDED** by Mr. Atwell.

VOTE: 7 For, Guerrerortiz Against, to accept the calendar as amended.

- 5.5 NCEES to develop a PE Exam for Software Engineering- Review of ABET accredited courses-** Mr. Chavez states that he has handed out copies of some correspondence between himself, Jerry Carter, David Whitman and Tim Miller regarding NCEES' standpoint on the Software Engineering. Mr. Ytuarte informed the board that the PEC had discussed this topic at a prior meeting and had asked to be shown a curriculum that was ABET accredited to review.

Mr. Chavez states that NCEES has had three letters requesting that NCEES develop an exam for software engineering but they have all been problematic and watered down by attorneys.

Mr. Guerrerortiz stated that the PEC had decided to go ahead and send a letter in support of this item the day before. Mr. Chavez requests that the Executive Director go ahead and write a letter to NCEES expressing New Mexico's interest in supporting this movement.

- 5.6 Open Meeting Resolution- MOTION** was made by Mr. Guerrerortiz to accept the Open Meetings Act for Fiscal Year 2009, **SECONDED** by Mr. Romero.

VOTE: Unanimous, to accept the Open Meetings Act.

5.7 **NCEES Annual Meeting-** Mr. Ytuarte explains that the staff is required to send in a form by July 3, 2008 informing NCEES of the NCEES funded delegate that will be attending and representing the New Mexico Board. **MOTION** was made by Mr. Sanchez to open discussion, per staff request, one attendance at the NCEES Annual Meeting in Minneapolis, MN, **SECONDED** by Mr. Sisneros.

VOTE: Unanimous, to open discussion on the NCEES Annual Meeting
Mr. Chavez explains that in the past the Board Chairman was the funded delegate for the Board, because Mr. Chavez is now a Committee Chairman for the NCEES, NCEES covers all of his expenses. The Board's funded delegate would be Mr. Guerrerortiz since he is the Vice Chairman of the board. The delegate form was circulated around to each member to write their name on if they were planning to attend.

6. **OLD BUSINESS**

6.1 **Engineering Surveys- Presentation of the NM Resolution at Meeting for the Deletion of Engineering Surveys from the Practice of Engineering in the Model Law (July 23, 2007 letter, Formal Motion, and Case/ Justification)** - Mr. Chavez explains that after the August 2007 meeting there was some action to rescind the action of the board. It was an improper action and it had been brought up to correct. In the April meeting the board voted to rescind that action and so now the board is back at square one. Mr. Chavez explains that the motion at the national level is now dead and he would like to know if the board would like to reconsider the rescission. **MOTION** was made by Mr. Romero to table this item for further discussion, **SECONDED** by Dr. Idriss. Mr. Chavez suggested that a committee be formed that would contain 2 surveyors, 2 engineers, 2 public members and possibly two outside practicing professional members to review this item once again.

7. **DIRECTOR'S REPORT**

Staff Activities - Mr. Ytuarte stated that staff is very aggressively pursuing implementation of online renewals. Mr. Sanchez also added that the Landscape Architects Board is beginning the process of online renewals this year and they have offered to work with our board to share the information they have so that we are not starting from square one. He also states that the staff is working on a newsletter that will also be available on the Board's website.

Mr. Ytuarte stated that Perry Valdez has been given the task of working on updating the website and making it a more active website.

Mr. Ytuarte also informed the board that staff has been very active in archive training and working on getting many of the office's boxed items to the archives center for retention.

Mr. Ytuarte also stated that the board has been assigned Eric Miller, Asst. Attorney General as our prosecutor.

Financial Reports- Ms. Bordenave began to give the board a presentation on how budget process works. Mr. Romero questioned the actions that needed to be taken on the staff position and salary upgrades. Ms. Bordenave explains that the upgrades will be a lengthy process. Mr. Romero was concerned that staff was being given false hopes on a pay increase.

Mr. Ytuarte stated that he would look into getting staff an in-pay band increase during this fiscal year, and then will take the process further by pushing for position upgrades. Position upgrades will take a longer time to achieve than the in band pay raises.

Mr. Romero would like for the executive director to let LFC and DFA know that the board will be increasing its licensure fees and that the money is to be used for staff salary increases.

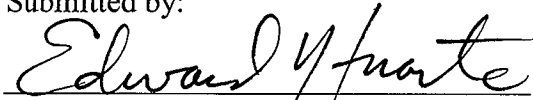
Mr. Ytuarte informed the Board that he will schedule a meeting of the executive committee to begin working on this process.

Ms. Bordenave informed the board that she has a letter that was written by State Representative Larranaga to DFA and the Budget division stating his recommendation for staff salary increases. Both Mr. Sanchez and Mr. Romero have offered to be a part of the executive committee, if the Chair would like to appoint them, so that they could help work on the process of getting this process done. Mr. Ytuarte notes that Ms. Bordenave will continue her presentations on the budget process at the next board meeting and future board meetings so that they will be better informed as to how things work.

8. ADJOURNMENT

Mr. Chavez adjourned the meeting at 11:25 a.m.

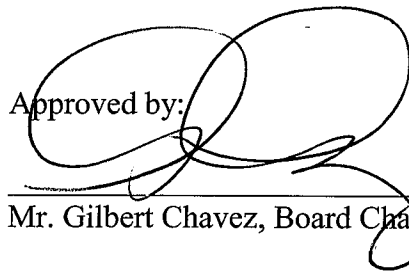
Submitted by:



Mr. Edward Ytuarte, Executive Director

Aug. 1, 08 Approved Date

Approved by:



Mr. Gilbert Chavez, Board Chair