

Meeting of the Professional Surveying Committee
of the Board of Licensure for Professional
Engineers & Professional Surveyors held at 11:00
a.m., November 6, 2008 at New Mexico State
University, Goddard Hall, Room 148, Las Cruces,
NM

Members Present: Salvador Vigil, PS, PSC Chair
Fred Sanchez, PS
Gilbert Chavez, PS
Charles Atwell, Public Member

Others Present: Edward Ytuarte, Executive Director, BLPEPS
Ericca Lopez, Executive Secretary, BLPEPS
Perry Valdez, Licensing Specialist, BLPEPS
Mary Smith, Assistant Attorney General, Board Attorney

Guests: Allen C. Grace, PS
Gibo Baca

1. CONVENE/ROLL CALL/INTRODUCTION OF GUESTS

Mr. Vigil convened the meeting at 11:00 a.m. Roll call was taken and it was noted that a quorum of the Professional Surveyors Committee was present. The two guests attending stood up and introduced themselves.

2. APPROVAL OF THE AGENDA

MOTION by Mr. Sanchez **SECONDED** by Mr. Chavez and unanimously

VOTED: to move item number six to item number seven and move item number seven to item number six.

MOTION by Mr. Sanchez, **SECONDED** by Mr. Chavez and unanimously

VOTED: To approve the agenda with revisions

3. APPROVAL OF THE MINUTES

3.1 Approval of the July 31, 2008 Minutes – MOTION by Mr. Atwell,
SECONDED by Mr. Sanchez and unanimously,

VOTED: To approve the July 31, 2008 PSC meeting minutes.

4. CORRESPONDENCE/ COMMUNICATIONS

None at this time.

5. NEW BUSINESS

5.1 Errors and Omissions and its Use- Mr. Vigil states that he has been approached by Senator Phil Griego several times in the last few months, to create a mandate for all surveyors to carry Errors and Omissions. Mr. Sanchez states that he feels that surveyors should be given the choice whether or not to carry professional liability insurance and he does not feel that the board should not impose such a mandate. Mr. Vigil states that he would like for a letter to be sent from the committee to Senator Phil Griego regarding their position on this issue. Mr. Chavez states that he would like a task force created to look further in to this issue and to be better informed. He would like to find out what states, if any, have mandated this by law. Mr. Chavez would like for the surveyors along with the engineers to be prepared if Senator Griego does try to bring up a mandate. The committee would like for the Executive Director to look further into this issue before any letters are drafted since the Board has not received any type of formal inquiry from Senator Griego.

5.2 Rio Arriba Land Use Department Electronic File Requirements- Mr. Vigil reported that Rio Arriba County Land Use is requesting from all surveyors an electronic copy of any plats that they are submitting for approval that would then be used for a county wide parcel map. Mr. Vigil states the reason for the concern is because surveyors are being asked to turn over their original auto cad files over to them. Mr. Vigil states that the biggest concern is that there can be modification of these files, which is copyrighted information and should not be made available to the public as far as a surveyors own personal work. Mr. Vigil stated that he was contacted by the county to go sit down and meet with them concerning this issue. Mr. Vigil states that the main concern with this issue is that they are stating that no plat will be approved without the surveyor turning over an electronic copy. Mr. Vigil also states that most surveyors will be willing to turnover a pdf file but they are not happy with being mandated to turn over an auto cad file which can be edited and makes the surveyor responsible since their names are stamped on those drawings. Ms. Smith was asked for her opinion since Mr. Vigil had sent her the information prior to the meeting. Ms. Smith states that she had done some research and what she found was some information on the Real Property Electronic Rule which had been discussed with the committee at the last meeting by Mr. Martinez. Ms. Smith states that the committee will have to look further into this rule to see if this was what the county was using as their basis for requesting these items from the surveyors. Mr. Ytuarte states that he feels that the county is requesting this for ease of them creating there GIS models. Mr. Sanchez States that he does not see a problem with turning over a non editable file. Mr. Chavez feels that this is an item that needs to be challenged. Mr. Vigil then asked that Mr. Allen Grace be allowed to speak to the committee regarding this situation.

Mr. Grace introduced himself to the committee. He stated that the Real Property Electronic Rule was voluntary and not mandated, and was created to as an attempt to preserve an electronic record for future use. He feels that this may be an issue that may cost a lot of money to the public and may cause harm if these records are altered in any way. Ms. Smith suggests that they find out if this is required by any statute. She suggests that they sit down in sort of a round table discussion and

find out what is the statute that requires them to ask for this item. She states that all sides need to be heard as to why it is necessary and why the surveyor would not like to turn over this specific kind of record but would be willing to submit a non editable file. Mr. Atwell makes a suggestion that that the committee should ask the Director to arrange a time and a place for a meeting that members of the committee, the director and members of the society could meet with the county to discuss this issue further. Ms. Smith states that she knows that the Association of Counties meets in January in Santa Fe in conjunction with the legislature and maybe this would be a good time to meet since all of the clerks from the counties will be here. **MOTION** by Mr. Sanchez, **SECONDED** by Mr. Chavez and unanimously,

VOTED: To have the Director request a meeting with the Association when they are all together in Santa Fe.

Mr. Atwell asked to amend the motion by requesting that the committee be added to their agenda to discuss this matter. Mr. Sanchez accepted the amendment to the motion.

- 5.3 Real Property Electronic Rule-** Discussed along with item 5.2. Rule became effective September 15, 2008 and was on a voluntary basis. Open to all Counties and currently only three counties are participating.

6. OLD BUSINESS

- 6.1 Marquez Update-** Ms. Smith reported that on August 28th she filed a response to his Statement of Appellant Issues. Mr. Marquez did not respond. Ms. Smith states that her guess is that Judge Hall will wait for six months and will dismiss it.

- 6.2 Advisory Opinions Changed to Rules- Consideration-** Mr. Ytuarte explains that he had discovered several items in the previous Director's computer that had been worked on by the Rules and Regulations Committee and were ready to go to public hearing pending approval by the Board. Mr. Ytuarte explains that these items are being proposed at the full board on Friday but would like for the committees to review prior to the Friday meeting. Ms. Smith expresses to the committee that they need to consider making the advisory opinions into rules because they will not be able to enforce them if they are only advisory opinions, but can do that if they become rules. She states that the committee takes the advisory opinions very seriously, as well they should, but they need to be able to enforce them and that will only happen when they become rules.

During the discussion of item 6.2.3 through 6.2.5, Mr. Atwell suggests that they just send it back to the Rules and Regulations Committee. Ms. Smith then intervened and noted to the committee that the item they were now looking at would have to wait until Friday because it was a Full Board matter and not just a PSC issue. Mr. Ytuarte explains that he brought these forward because he did not want them to sit around for another year. Mr. Chavez states that he would support sending them to public hearing so that they would be able to get in their opinions to the changes.

While discussing item 7.3.2, Mr. Ytuarte explained that the Rules and Regulations Committee directed back to the PSC to consider when using the title of surveyor was

unlawful. Mr. Chavez stated this item was also discussed at the NCEES Annual meeting. Mr. Sanchez stated that it is unlawful to use the word surveyor when you are implying that you are offering the services of a surveyor. Mr. Ytuarte asked if this would require a rule, and all answered no. This item requires no more attention.

The next item discussed needs clarification and uniformity in the requirements for licensure by endorsement. The clarification needed is for language in the administrative code to define what the requirements are and set up as a formal rule so that no one could question the requirements. The committee then stated that they had no problems with this item.

Item Number 8 Height Modernization- Mr. Chavez stated that he would have liked to have had Professor Burkholder at the meeting. He stated that this process is very involved and a very costly process. The task force part of studying and reviewing it has been done. He believes that the board does not have the resources or the funding to proceed with implementing height modernization in New Mexico. Mr. Chavez stated that Professor Burkholder is the President of NMPS and NMPS has invited the PSC to attend and participate in their conference meeting in March, and he believed that this topic is going to be discussed further at that conference.

6.3 Pending/ Past Rules before the Rules and Regulations Committee- These items were discussed with item 6.2

7. COMPLAINTS AND VIOLATIONS-Closed Session

MOTION by Mr. Sanchez, **SECONDED** by Mr. Chavez and unanimously,

VOTED: To convene in closed session pursuant to NMSA 1978, Section 10-15-1 (H) (1) to discuss only the cases listed as 6.1 through 6.4 on the agenda. A roll call vote was taken.

Mr. Vigil declared that the committee was in closed session.

7A. COMPLAINTS AND VIOLATIONS -Open Session-

MOTION by Mr. Sanchez to go back into open session and further noted that during closed session only cases listed as items 6.1 through 6.4 were discussed, **SECONDED** by Mr. Chavez.

Mr. Vigil declared that the meeting was now back in open session.

7.1 Review of Stipulated Agreement- Case # 07-06-18 – MOTION by Mr. Sanchez, **SECONDED** by Mr. Chavez, unanimously

VOTED: To approve the stipulated agreement as presented.

7.2 Case 08-08-44- Tabled until the next meeting.

7.3 Case 07-06- 20 Recommend Closing- **MOTION** by Mr. Sanchez, **SECONDED** by Mr. Chavez, unanimously

VOTED: To close the case due to the licensee being deceased based on the obituary that is contained in the file.

7.4 Case 07-06-23- Doug Smith Ethics Requirement from Decision and Order- MOTION by Mr. Sanchez, **SECONDED** by Mr. Chavez, unanimously

VOTED: To allow Mr. Smith sixty (60) more days to complete the ethics portion of his Decision and Order.

7A. Appointment of Hearing Officers- None needed to be appointed at this time.

8. OTHER BUSINESS

None at this time.

9. REVIEW OF APPLICATIONS

9.1 Applications for Retired / Inactive Status and approval of the Exam Scores for the NM 2 hour Exam- MOTION by Mr. Sanchez, **SECONDED** by Mr. Chavez, passed unanimously

VOTED: To approve retired application per staff request

9.2 Applications for FS, PS and Endorsement- Applications were reviewed on an individual basis.

10. ADJOURNMENT

MOTION by Mr. Chavez, **SECONDED** by Mr. Sanchez, unanimously

VOTED: To adjourn the meeting

Mr. Vigil declared the meeting adjourned at 1:30 p.m.

Submitted by:

s/ Edward Ytuarte

Mr. Edward Ytuarte, Executive Director

Approved by:

s/ Salvador Vigil, PS

Salvador Vigil, PS, PSC Chair

January 8, 2009

Approved Date