

MINUTES OF

Meeting of the Professional Surveying Committee
of the Board of Licensure for Professional
Engineers & Professional Surveyors held at 10:00
a.m., April 16, 2009 at Workers Compensation
Administration Building, 2410n Centre Ave.,
Albuquerque, 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
Roman Garcia, Investigator, BLPEPS
Mary Smith, Assistant Attorney General, Board Attorney

Guests: Glen Thurow, PS
David Cooper, PS

1. CONVENE/ROLL CALL/INTRODUCTION OF GUESTS

Mr. Vigil convened the meeting at 10:00 a.m. Roll call was taken and it was noted that a quorum of the Professional Surveyors Committee was present. Mr. Glen Thurow and Mr. David Cooper introduced themselves as guests.

2. APPROVAL OF THE AGENDA

Mr. Vigil noted that an additional agenda item number 6.6 Complaints and Western Zone Discussion needed to be added to the agenda and would be on there just for discussion purposes.

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

VOTED: To approve the agenda with the addition of item number 6.6.

3. APPROVAL OF THE MINUTES

3.1 Approval of the January 8, 2009 Minutes – MOTION by Mr. Sanchez, **SECONDED** by Mr. Atwell and unanimously,

VOTED: To approve the January 8, 2009 PSC meeting minutes.

4. NEW BUSINESS

- 4.1 **Glen Thurow- Presentation on GIS-** Mr. Thurow stated that he is back to complete his job as part of the photogrammetry task force. Mr. Thurow stated that the 2006 committee chairs final report stated that there was no examination by which photogrammetrists could be tested for licensure, that there was no public demand, benefit or justification for changing the methods of regulating photogrammetric practice. But new developments now warrant reconsideration of this matter.

Mr. Thurow stated that he has learned that NCEES now has an exam that is currently owned by the colonial states, but is administered by NCEES. Mr. Thurow stated that NMPS passed a motion that requested that the board/ PSC once again reconsider the issues of licensing of GIS and Photogrammetry in New Mexico.

After a lengthy discussion **MOTION** by Mr. Chavez, **SECONDED** by Mr. Atwell, (three voting yes, Mr. Sanchez voting no)

VOTED: For the PSC to reconsider the matter of licensing GIS and Photogrammetry.

- 4.2 **David Cooper- FEMA Elevation Certificates-** Mr. Cooper stated that he is requesting an advisory opinion on FEMA Elevation Certificates. He is concerned that once he has signed and sealed FEMA Certification forms that he has become responsible for the base flood elevations as determined by others (PE). He feels that he has no control over what methods the engineer has used to determine these elevations that he is now responsible for.

Mr. Chavez stated that he has a personal opinion and cannot speak for the rest of the committee but he feels that when a surveyor signs off on that form, he is only certifying to what they are authorized to by law in New Mexico. Mr. Cooper then stated that he would like something in writing to provide his clients when they ask him why it is necessary for them to hire an engineer.

MOTION by Mr. Chavez, **SECONDED** by Mr. Atwell, Unanimously

VOTED: to take this matter into consideration and have an answer for Mr. Cooper by the next board meeting.

- 4.3 **C- Fed Course/ Program-** Mr. Vigil stated that he had asked to have this item put on the agenda. He stated that he had been approached by several people who were wondering if the board would accept the C-Fed course as education towards licensure as a Professional Surveyor.

After a short discussion it was decided that the C-Fed course could not count as education towards licensure because it is not ABET accredited. It was also noted that as a prerequisite to take the course, you already have to be a licensed surveyor. It was decided by the committee that the course could be used for professional development hours (PDH) if a licensee would like to do so.

4.4 Informal Agreements/ Stipulated Agreement Process/ Authority to Stream Line- Mr. Ytuarte stated that the boards' prosecuting attorney is requesting that the board try to work out a stipulated agreement where possible prior to issuing an NCA.

Ms. Smith stated that the board has a provision in their statutes in 27.11 D. that allows them to settle matters informally. She stated that it sounds like the prosecutor is asking the board to consider pre-NCA settlements in cases where they are possible. Ms. Smith stated a concern with charging the licensee with a cost because according to the uniform licensing act, they are only responsible for paying for the proceedings if they are found guilty, and in most stipulated agreements they are usually not admitting any guilt.

Ms. Smith stated that staff could track costs of the investigation and charge them for those costs.

Ms. Smith stated that the committees have already been doing this. She stated that after considering a case that they could vote for an NCA with a proposed early resolution with terms. If the licensee then decided not to take the early resolution, then they do not have to bring it back to vote to issue an NCA because it has already been done. Ms. Smith explained that they will need to be prepared to have all the terms ready to state in their motion; this cannot be left up to staff. The responsibility lies with the board when it comes to dealing with the licensees.

4.5 Kurt Temple- Request PSC Forum at Assoc. of Co. Meeting in June – Hobbs- Mr. Ytuarte notified the committee that Mr. Temple has invited the committee to do a presentation at the Association of Counties meeting in June. He stated that the dates are from June 2nd through June 5th. There is concern that some of the board members will be getting back from the Western Zone meeting and timing is an issue for the members. They would like for Mr. Ytuarte to check on the date and times and will make a final decision once the information is relayed back to them.

5. COMPLAINTS AND VIOLATIONS -Closed Session

MOTION by Mr. Sanchez, **SECONDED** by Mr. Atwell 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 5.1 through 5.5 on the agenda. A roll call vote was taken.

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

5A. OPEN SESSION

MOTION by Mr. Sanchez to go back into open session and further noted that during closed session only cases listed as items 5.1 through 5.5 were discussed, **SECONDED** by Mr. Atwell.

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

5.1 08-08-38- MOTION by Mr. Sanchez, **SECONDED** by Mr. Atwell, and unanimously

VOTED: To make contact with the licensee to answer the complaint himself. They would like to know who authorized the survey and they would also like for the surveyor to define his responsible charge.

5.2 08-08-41- MOTION by Mr. Sanchez, **SECONDED** by Mr. Chavez, Unanimously

VOTED: To issue an NCA with a proposed early resolution. Contact needs to be made with the surveyor to clarify issues that are being brought up. These issues being basis of bearing, more detail on the portions that he is surveying, put the record dimensions against his measured dimensions, and project the sections throughout and detail the portions that are contained within his survey. Mr. Ytuarte is designated to review the revised plats, along with consulting with at least one committee member.

5.3 08-08-42- MOTION by Mr. Sanchez, **SECONDED** by Mr. Atwell, and unanimously

VOTED: To dismiss as unfounded.

5.4 07-07-39- MOTION by Mr. Sanchez, **SECONDED** by Mr. Atwell, and unanimously

VOTED: Due to the matter being heard in court, the case is to be tabled until a decision is made by the courts.

5.5 05-05-03- MOTION by Mr. Chavez, **SECONDED** by Mr. Sanchez, and unanimously

VOTED: Dismiss due to expiration on the statute of limitations.

5A.1 Appointment of Hearing Officers (if required)

Mr. Sanchez was appointed as the hearing officer in case number 08-08-41, with Mr. Chavez as a backup.

6. OLD BUSINESS

6.1 08-08-30 Clower NCA Hearing- Mr. Roman Garcia stated that Mr. Clower has agreed to a settlement agreement imposing a fine of \$1,000 and a cease and desist letter. Once the settlement agreement is complete, it will need to go before the committee for approval.

6.2 07-06-17 Williams Settlement Agreement- Mr. Ytuarte stated that Mr. Williams did revise and record the plat as directed by the committee. A stipulated agreement was presented to the committee to review. The agreement states that the licensee will receive a letter of reprimand, correct and record the plat and pay a fine of \$500. **MOTION** by Mr. Chavez, **SECONDED** by Mr. Sanchez, and unanimously

VOTED: To accept the Stipulated Agreement as presented.

6.3 08-08-44 Noonan- Early Resolution- MOTION by Mr. Chavez, **SECONDED** by Mr. Sanchez, and unanimously

VOTED: To table this item until the Stipulated Agreement is available.

6.4 09-08-01 Greiner- MOTION by Mr. Chavez, **SECONDED** by Mr. Atwell, and unanimously

VOTED: To table this item until the Stipulated Agreement is available.

6.5 08-08-43 Beninato vs. Armijo- MOTION by Mr. Chavez to table this item until the Stipulated Agreement is available.

6.6 Western Zone Discussion- Mr. Ytuarte requested a special meeting on May 15th mainly to review cases. The committee approved a special meeting for May 15th.

7. REVIEW OF APPLICATIONS

7.1 Review of Applications- Mr. Perry Valdez asked the committee if they would like to delegate the authority of application review and approval to Mr. Ytuarte as the Engineering committee has done.

After a short discussion, the committee decided that they would like to continue to review the applications themselves during the meeting.

Applications were reviewed on an individual basis.

7.2 New PS and SI Report- It was reported to the committee by Mr. Valdez that between December 30, 2008 and April 15, 2009, one surveyor intern had been certified.

7.3 Approval of Retired/ Inactive Status Applications- MOTION by Mr. Sanchez, **SECONDED** by Mr. Atwell, and unanimously

VOTED: To accept the Mr. Kobylarz application to go into inactive status.

8. ADJOURNMENT

Mr. Vigil declared the meeting adjourned at 1:10 p.m.

Submitted by:

s/ Edward Ytuarte
Mr. Edward Ytuarte, Executive Director

Approved by

s/ Salvador Vigil, PS
Salvador Vigil, PS, PSC Chair

June 12, 2009

Approved Date