

MINUTES OF

Meeting of the Professional Engineering Committee
of the Board of Licensure for Professional
Engineers & Professional Surveyors held 2:30 p.m.,
October 29, 2009 at NMSU, Goddard Hall, Jerry
Shaw Conference Room, Las Cruces, NM

Members Present: Dr. Rola Idriss, PE, PEC Vice-Chair
Julie P. Samora, PE
Subhas Shah, PE
Severiano Sisneros, PE, Board Vice Chair

Members Absent: John T. Romero, PE, PEC Chair
Stevan Schoen, Public Member

Others Present: Edward Ytuarte, Executive Director, BLPEPS
Ericca Lopez, Executive Secretary, BLPEPS
Roman Garcia, Investigator, BLPEPS
Tony Rhodes
Carlyn Green

1. CONVENE/ROLL CALL/INTRODUCTION OF GUESTS

Dr. Idriss convened the meeting at 2:30 p.m. Roll call was taken and it was noted that a quorum of the Professional Engineers Committee was present. Mr. Tony Rhodes and Ms. Carlyn Green introduced themselves as guests.

2. APPROVAL OF THE AGENDA

MOTION by Mr. Shah, **SECONDED** by Mr. Sisneros, and unanimously

VOTED: To approve the agenda as presented.

3. APPROVAL OF THE MINUTES

3.1 September 3, 2009 Meeting Minutes - MOTION by Mr. Shah, **SECONDED** by Mrs. Samora and unanimously,

VOTED: To approve the meeting minutes of September 3, 2009 as presented.

4. CORRESPONDENCE/COMMUNICATIONS

- 4.1 FYI- “ Engineering and Land Surveying Leaders of the Future”-** Mr. Ytuarte state that he is putting on a presentation to the engineering and surveying students from 5:30 to 6:30 pm and was inviting any of the board members who would like to attend.
- 4.2 PE Certificate Presentation Ceremony-** Mr. Ytuarte states that the board was a part of the PE Presentation Ceremony that was put on by the NMSPE. Mr. Ytuarte states that it was well attended and very appreciated by the new licensees.
- 4.3 Tony Rhodes Letter-** Mr. Ytuarte gave the committee an update on the case that Mr. Rhodes was inquiring about. Mr. Ytuarte states that Mr. Rhodes, sent a letter in to the office requesting information, which at the time, could not be released to him because it was not public information and the case was still under investigation. Mr. Ytuarte states that once Mr. Rhodes received the letter from the board on the disposition of the case, he then submitted the letter that had been presented to them.

Mr. Shah questions Ms. Smith to make sure that it is okay to discuss the information on this case. Ms. Smith states that it is okay for the committee to discuss the case.

Mr. Rhodes states that he represents a group of about thirty home owners. Mr. Rhodes states that he would like for the board to answer all of the questions that he has posed in writing because he is trying to take back the answers to the rest of the group. Mr. Rhodes states that he has been given access to the information but it still does not answer specific questions that he has.

Mr. Rhodes gave a specific example, that from the website, when a licensee had a lapsed license that they were to provide a signed Affidavit of Practice. He questioned whether Mr. Burak had provided this item when he was relicensed.

Mr. Ytuarte responded, once again by stating the form was not received because Mr. Burak’s penalty form was accepted in the office even though he was a month and two days past the date. He states that he verbal had asked Mr. Burak whether or not he had practiced. Mr. Ytuarte states that Mr. Burak stated that he had not practiced during the time that his license was expired.

Mr. Rhodes states that he has spoken to other engineers and they feel that they would not have been treated the same way. Mr. Rhodes question show Mr. Burak made a living if he was not practicing engineering.

Mr. Shah asks Mr. Rhodes if he knows that engineering is the only job that Mr. Burak holds. Mr. Rhodes states that he does not know and that is what he is wanting to find out.

Mr. Sisneros states that he is not sure what Mr. Rhodes is wanting from the board. He states that the board has already taken an action on this complaint and asks if Mr. Rhodes is saying that the action was not good enough.

Mr. Rhodes states that he is asking if the rules are supposed to be followed or are they arbitrary.

Mr. Shah asked how he knows that they are not followed. He states that the board may consider other factors.

Mr. Rhodes states that he feels that a six month suspension on Mr. Burak's license seems like a light sentence.

Mr. Ytuarte explains that the committee was presented with all of the evidence that was submitted which was not very much, but it was enough to show that he was practicing engineering. He states that in Mr. Rhodes case the evidence was submitted as presented and in the case submitted by Mr. Nivens, all that was presented was a signed memo that was presented. Mr. Ytuarte explains that the documents Mr. Rhodes' was referring to were documents from the city of Las Cruces. He states that the board cannot do the work for the city of Las Cruces and they could not do the work for the board.

Mr. Sisneros states that to suspend an engineer's license and fine them is a pretty tragic thing. Mr. Sisneros states that the bigger question should be: was the engineer's work not adequate and could it have caused harm to the public. He states that it sounds like Mr. Rhodes' is asking the board to do a witch hunt. He states that the board investigated and considered the case. Mr. Sisneros states that what needed to be done was done.

Ms. Smith asks Mr. Ytuarte if Mr. Burak submitted an application for reinstatement. Mr. Ytuarte replies no. Ms. Smith then states that Mr. Burak should be asked to submit an application for reinstatement of licensure as provided by statute. It should be brought to the committee at the next meeting and it will be acted on at that time. Ms. Smith states that a letter should be sent to Mr. Burak stating that upon further review of the facts, he had received a license contrary to statute and an application for reinstatement must be submitted. Ms. Smith also states that in the letter Mr. Burak must be asked to surrender his seal and his wallet card until such time that his suspension is over.

Mr. Rhodes asks in closing that Mr. Ytuarte respond to his letter in writing so that he can take the answers back to his group.

Ms. Smith asks Mr. Rhodes if he has made a request to inspect the records through the Inspection of Public Records Act.

Mr. Rhodes responds yes.

Ms. Smith states that he may review the records and get his answers from there.

5. NEW BUSINESS

5.1 PDH Company Complaint- Mr. Ytuarte explains that this was previously discussed with to the PSC. He states that he gave examples of a company that is offering pdh to licensees. For a course that was nine pages long in study material was getting the same pdh that a course that was a hundred pages long.

Mr. Ytuarte states that this item is being referred to the rules and regulations committee for further review. The members of the committee agreed with the PSC decision.

5.2 Dustin Davis- Endorsement Application- Tabled until the January meeting. Mr. Davis mixed up his dates and will be rescheduled.

6. COMPLAINTS AND VIOLATIONS-Closed Session

MOTION by Mr. Shah, **SECONDED** by Mr. Sisneros 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 and 6.2 on the agenda. A roll call vote was taken.

Voting Yes: Shah, Idriss, Sisneros and Samora

Dr. Idriss declared that the committee was in closed session.

6A.1 COMPLAINTS AND VIOLATIONS- Open Session

MOTION by Mr. Sisneros to go back into open session and further noted that during closed session only cases listed as items 6.1 and 6.2 were discussed, **SECONDED** by Mr. Shah,

Dr. Idriss declared that the meeting was back in open session.

6.1 08-07-23- MOTION by Mr. Sisneros., **SECONDED** by Mr. Shah, and unanimously,

VOTED: To accept the Attorney Generals recommendation to close due to lack of evidence.

6.2 07-07-35- Meeting will be recessed until 10:00 am on Friday, October 30, 2009 when a quorum of the committee was available. Mr. Shah has recused himself from this matter.

7. OLD BUSINESS

7.1 Formal Complaints Log- Mr. Ytuarte explains to the committee that this is an updated version from the last meeting. He states that the PSC has requested that they receive a copy of the log every month rather than at every meeting. This will be the new process.

8. REVIEW OF APPLICATIONS

7.1 Review of Applications- Applications will be reviewed at a later date.

7.2 New EI/ PE- This list was placed in the book for informational purposes.

7.4 Retired & Inactive Requests- **MOTION** by Mr. Shah, **SECONDED** by Mrs. Samora, unanimously

VOTED to accept Mr. James Haugen and Mr. William Scheel's request to put their licenses into retired or inactive status.

8. ADJOURNMENT

Dr. Idriss recessed the meeting until 10:00 am on Friday, October 30, 2009 at 5:15 p.m.

The meeting of the Professional Engineers Committee reconvened at 10:18 am on Friday October 30, 2009. Mr. Stevan Schoen joined the meeting by teleconference.

MOTION by Mr. Sisneros, **SECONDED** by Mrs. Samora 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 6.2 on the PEC agenda. A roll call vote was taken.

Voting Yes: Schoen, Idriss, Sisneros and Samora

Mr. Shah has recused himself from this matter. Dr. Idriss declared that the committee was in closed session.

MOTION by Mr. Sisneros to go back into open session and further noted that during closed session only case listed as item 6.2 was discussed, **SECONDED** by Mrs. Samora,

Dr. Idriss declared that the meeting was back in open session.

6.2 07-07-35- MOTION by Mr. Sisneros, **SECONDED** by Mrs. Samora, unanimously

VOTED that the board will excuse Mr. Schoen from this matter for cause to avoid indication of bias.

The meeting was then adjourned by Dr. Idriss at 10:30 a.m.

Submitted by:

s/ Edward Ytuarte
Mr. Edward Ytuarte, Executive Director

Approved by

s/ John T. Romero, PE
John T. Romero, PE, PEC Chair

April 8, 2010 Approved Date