

Meeting of the Board of Licensure for Professional
Engineers & Professional Surveyors held 8:00 a.m.
October 30, 2009 at NMSU, Goddard Hall, Jerry Shaw
Conference Room, Las Cruces, NM

Members Present Charles Atwell, Public Member, Board Chair
Severiano Sisneros, PE, Board Vice Chair
Fred Sanchez, PS Board Secretary
Salvador Vigil, PS, PSC Chair
Subhas Shah, PE
Gilbert Chavez, PS
Julie P. Samora, PE
Dr. Rola Idriss, PE

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

Others Present Edward Ytuarte, Executive Director, BLPEPS
Ericca Lopez, Executive Secretary, BLPEPS
Roman Garcia, Investigator, BLPEPS
Glen Thurow, PS
Earl Burkholder, PEPS
Daniel J. Paulsen
Dr. Ken White, PE
Tom Moore, PS

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 board was not present. The guests, Mr. Glen Thurow, Professor Earl Burkholder and Mr. Dan Paulsen were all introduced to the board. The meeting was recessed until a quorum of the board was available.

Mr. Atwell reconvened the meeting at 8:15 a.m. Roll call was taken and it was noted that a quorum of the board was present.

2. **APPROVAL OF THE AGENDA**

MOTION by Mr. Chavez, **SECOND** by Mr. Vigil, and unanimously

VOTED: To approve the agenda.

3. **APPROVAL OF THE MINUTES**

3.1 **September 4, 2009** – **MOTION** by Mr. Sanchez, **SECOND** by Mr. Vigil, and unanimously

VOTED: To approve the September 4, 2009 minutes as presented.

4. **CORRESPONDENCE/ COMMUNICATIONS**

4.1 **Dr. Kenneth White- Dean Engineering, NMSU-** Dr. Ken White states that he is currently on the NCEES task force for licensure of faculty. He states that the task force has currently broken this up into three different sub committees. The subcommittees are requirements for licensure, policy and initiatives and status of faculty licensure in the United States.

Dr. White states that there are a lot of misconceptions as to how the “exemption ‘ applies. He states that many people do not understand that you have to be an actually employee of the company and not just a consultant.

Dr. White states that he very strongly encourages the engineering students to become licensed.

Mr. Sanchez questions Dr. White about his knowledge of the industry exemption.

Dr. White states that when he was on a NCEES committee he was given a whole history. He states that the whole thing started with the county engineers.

Mr. Shah asks if they have the same issue with surveying professors.

Dr. Burkholder states that three of the surveying professors are licensed surveyors and one is licensed as an engineer.

Mrs. Samora states that it is really sad fact but she feels that the board needs to concentrate on the things that they can control and industry exemption unfortunately is not one of them. She states that she is glad to see that the board is at least looking into the matter.

Mr. Sisneros questions Dr. White about the issue of grandfathering.

Dr. White states that Idaho and Arkansas tried to implement a grandfathering process and even with that in place, they were very disappointed because very few people even walked through the door.

- 4.2 FYI- Legal Issues for NM Professional Engineers Seminar-** Mr. Ytuarte states that he and Mr. Shah did a presentation in for engineers. They had about twenty five attendees. Mr. Ytuarte states that he, Mr. Shah and Perry worked very hard and long hours on the presentation and it was very successful.

Mr. Shah states that they had a good presentation.

- 4.3 Nominations for NCEES National Awards-** Mr. Ytuarte states that it is now time to turn in any nominations for NCEES national awards. The deadline to submit a nomination is January 31, 2010. Mr. Ytuarte has placed this object for the board's packet in case the board has any one they would like to consider to nominate. Mr. Ytuarte recommends that maybe the board could consider Dr. Ken White or Mr. Gilbert Chavez.

Mr. Chavez also recommends Dr. White. He states that he knows that Dr. White is very involved with NCEES and is much respected around the country. Mr. Chavez also makes the announcement that he will be running for Vice President of the Western Zone. He also states that he will be retiring by the end of the year and he is considering running for County Commissioner in Dona Ana County.

- 4.4 Letter from Don Hawley, PE-** Mr. Ytuarte explains that there is a letter from Mr. Don Hawley, a currently licensed professional engineer, asking the board to waive the fees for licensure for a professional with a number of years of experience.

Mr. Atwell states that the way that he reads the letter, Mr. Hawley is asking for the board to amend the rules to waive fees for professional that have been licensed for more than thirty years.

Ms. Smith states that the board could refer this item to the rules committee if this is something they would like to consider in the future otherwise this can just be taken as an f.y.i.

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

VOTED: to refer Mr. Hawley's letter to the rules committee for consideration.

5. NEW BUSINESS

- 5.1 Industrial Exemption Statute- How Started-** Mr. Sanchez states that he had asked to get more information on how the industrial exemption was started and how it has

evolved since this will be an issue that will taken up by the rules committee at its first meeting.

Mr. Chavez states that this is a national issue. That cannot be corrected only in New Mexico. He states that the federal government does not recognize engineers and their classifications. He states that from what he understands, it was started from the automobile industry way back when.

Mrs. Samora states that she has a friend who is and has been very involved with this issue and she would be happy to bring some information from him to the rules committee meeting to be studied further.

Mr. Sanchez states that they will leave this issue for the rules committee and he welcomes information from anyone in the audience.

5.2 Cost vs. Qualification Based Request for R.F.P.'s - Mr. Ytuarte states that the board has been approached to try to come up with some definition, explanation or opinion to stop entities from requesting request for proposals that have as a part, requests for costs. Mr. Ytuarte states that previously the board had requested an opinion from the attorney generals office in 1995. Mr. Ytuarte states that enclosed in their packets was a copy of that letter. He also asked Dr. White if he could shed some light on this matter, since he was a part of the board at the time that this letter was written to the board.

Dr. White states that, as he could recall, there were some state agencies that had stated that they were going to go about it that way. The board, at that time informed the agencies that they would go after the individual's licenses and they backed off.

After some discussion Mr. Sanchez states that when the second letter was requested in 2005 to the attorney generals office for an opinion, there were home ruled communities claimed that this did not apply to them and were always mentioning the procurement code.

Ms. Smith states that Mr. Sanchez is correct and the board has no authority to enforce the procurement code. Ms. Smith states that the question has been asked and answered in 1995. There has been no change since that time and she will not ask for a new opinion. She states that if any individual has an issue with any county or entity then that individual needs to take it up with the entity themselves. This board cannot do that for them.

Ms. Samora then asks if this means that the board will not receive an answer to the opinion it requested in 1995.

Ms. Smith states that she has discussed this item with her division director, and it was decided that there will not be another request for an opinion because there has been no changes and the questions have already been asked and answered. Ms. Smith states that if the board would like a letter stating this that she would issue a letter to put this request to rest.

It was decided that the board would like a letter stating what they were told by Ms. Smith.

5.3 Practice with Expired License- Affidavit- Mr. Ytuarte explains that this was an item that went before both committees and it was decided that it would be sent to the rules committee for consideration.

5.4 Sunset Act- Mr. Ytuarte states that the Sunset Act will need to be looked at soon and he would like for the board to be prepared to make any changes and prepare ahead of time for any changes that may need to occur instead of waiting until next October.

Mr. Atwell states that that this is an item that should also be sent to the rules committee. He states that if the rules committee has too much to under their belt to review he can appoint a subcommittee for this purpose.

Mr. Sanchez states that he feels that the board should be fully ready for sunset.

6. DIRECTOR'S REPORT

6.1 Board of Licensure PEPS Financials- FY 2010 September Pay Vouchers- Mr. Ytuarte states that the page sin their meeting books show all of the payment vouchers for the month of September for their review and approval.

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

VOTED: To approve the September payment vouchers as presented.

6.2 Post Card Renewals- Mr. Ytuarte updated the board by informing them that the post cards informing the licensees that renewals form are now available online had been sent out for this renewal season. The post card also informs licensees that do not have access to the internet that they can call into the office and request that the form be mailed to them. Mr. Ytuarte explains that payment still cannot be done online.

6.3 PDH Audits- Mr. Ytuarte states that this item was talked about during the committee meetings on Thursday.

6.4 Staff Positions (New)- Mr. Ytuarte states that the deadline to apply for the two new positions opening up in the office is Friday, October 30th. He states that he will begin soon to review those applications and prepare to begin interviews shortly.

After a short discussion, it was decided that the executive committee would be sitting in on the interview process.

- 6.5 Newsletter Articles-** Mr. Ytuarte states that the staff will be putting out another newsletter on December 1st. He is requesting that any one who would like to submit an article do so by the second week in November so that we can put it all together and post it.

7. COMMITTEE REPORTS

- 7.1 Photogrammetry/ GIS Task Force- Glen Thurow-** Mr. Thurow states that previously this issue had been put to rest until an examination was available for photogrammetrists. He states that the issue is once again being brought to the board because there is currently an exam being housed at NCEES but is not being administered because they do not have the ten states that are required to begin to do so.

Mr. Thurow states that the committee feels that if photogrammetrists being licensed any errors would be on the photogrammetrist and not the engineer or the surveyor. Mr. Thurow states that the committee would like to make sure that they have all of their ducks in a row before they go to the legislature.

Professor Burkholder stated that he would be presenting a seminar on December 5th at NMSU. The money for the seminar will be donated to the students to attend a competition in Arizona.

- 7.2 Professional Engineering Committee- Dr. Rola Idriss, PE, Vice Chair-**Dr. Idriss reported that the committee met on Thursday at 2:00 p.m.

Mr. Rhodes came to the committee concerning a complaint that he had filed.

PDH company complaint had been discussed and it was agreed that it was an honor system and if there was any question it always comes back to the board

Mr. Dustin Davis did not make his appointment with the committee so it will be rescheduled for the January meeting.

Three cases were reviewed by the committee. The committee had to recess due to there not being a quorum because Mr. Shah has recused himself from the case, so it was completed this morning.

Review of applications was not done but it is to be done later on in Albuquerque.

Dr. Idriss states that the committee also discussed the PE presentation ceremony.

7.3 Professional Surveying Committee- Salvador Vigil, PS, Chair- Mr. Vigil states that the committee met on Thursday morning at 11:00.

The committee discussed participation in the 2010 NMPS annual conference on March 12-13, 2010.

The committee received Cooper Aerial newsletter for informational purposes.

Dr. Steve Frank spoke to the committee about the professional surveying curriculum.

The committee also discussed the PDH company complaint and decided that it should go to the rules committee.

The committee had three cases that were reviewed. Mr. Vigil and Mr. Atwell were appointed as hearing officers for the cases as necessary.

The committee also got an update on the case log. It was decided that an updated copy would go out every month rather than waiting for the board meetings.

The committee reviewed applications.

The committee also was informed of one new surveyor intern and approved one application for inactive status.

7.4 Licensure Promotion and Public Information Committee- Gilbert Chavez, PS- Mr. Chavez states that the committee has not met yet but a meeting will be scheduled shortly.

7.5 Joint Practices Committee- Fred Sanchez, PS- Mr. Sanchez states the committee as not met so there was no report to be given.

7.6 Rules and Regulations Committee- Fred Sanchez, PS- Mr. Sanchez states that the committee will be meeting on November 13th at 9:00 a.m. in Albuquerque.

7.7 Executive Committee- Salvador Vigil, PS- Mr. Vigil reports that the committee has not met but will be assisting in the interview process for the new office staff.

7.8 Licensure of Professors Committee- John T. Romero, PE- Mr. Romero was not present.

8. OLD BUSINESS

8.1 Washington Accord Update- Mr. Ytuarte explains that one of the two licensing managers have been telling the foreign applicants that an evaluation is necessary on foreign transcript from ECEI which is a division of NCEES. The other is just saying an

evaluation. Mr. Ytuarte asks for clarification on the requirement of an evaluation for foreign engineering applicants.

After a short discussion, it was decided that if the transcript is translated, then the board could evaluate the course work. If the transcript was not translated then that's when an evaluation would be required and it did not have to be from ECEI.

- 8.2 Faculty Licensure- Special Meeting-** Mr. Ytuarte asks the board to have a special meeting on the issue of licensure of teaching faculty because it is a subject that could be discussed at length.

After a short discussion it was decided that the board would wait to schedule any meeting until the national meeting at NCEES had taken place in December so that the information could be brought to the board.

- 8.3 Future Cities Competition- Gilbert Chavez-** Mr. Chavez apologized and states that he had no report at this time.

- 8.4 Reports from Exam Observers- Dr. Idriss** reported that she attended the exam sessions in Las Cruces and that all went well there were no problems.
Mr. Sanchez states that he was unable to attend this time around in Albuquerque.

- 8.5 Closing Out Terms of Board Members-** Mr. Chavez states that he has been unable to obtain any information and would bring it back to the board once he has obtained it from NCEES.

9. OTHER BUSINESS

Mr. Shah stated that he has been invited to attend the world conference in India in December and that he would be gone for the whole month of December.

10. ADJOURNMENT

Mr. Atwell adjourned the meeting at 11:15 a.m.

Submitted by:

s/ Edward Ytuarte
Mr. Edward Ytuarte, Executive Director

Approved by:

s/ Charles Atwell, PE
Mr. Charles Atwell, Board Chair

January 21, 2010 Approved Date