

MINUTES OF

Meeting of the Professional Surveying Committee  
of the Board of Licensure for Professional  
Engineers & Professional Surveyors held at 11:00  
a.m., September 3, 2009 at Board Office, 4001  
Office Court Drive, Ste. 903, Santa Fe, 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  
Perry Valdez, Licensing Manager, BLPEPS

Guests: Allen Grace, PS  
Randy Delbridge, PS

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. Mr. Allen Grace introduced himself as a guest.

2. **APPROVAL OF THE AGENDA**

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

**VOTED:** To approve the agenda as presented.

3. **APPROVAL OF THE MINUTES**

3.1 **Approval of the June 11, 2009 Minutes – MOTION** by Mr. Sanchez,  
**SECONDED** by Mr. Chavez and unanimously,

**VOTED:** To approve the June 11, 2009 PSC meeting minutes.

#### 4. CORRESPONDENCE

- 4.1 Letter to Board from Stephanie Beninato-** This item was placed on the agenda for informational purposes. Mr. Ytuarte states that Ms. Beninato was a complainant on a case that was brought before the committee. It was a case where the surveyor had mislabeled title of a topographic survey and the certificate. The certificate was labeled as a boundary survey. The case was dismissed against the surveyor.

Mr. Ytuarte explains that Ms. Beninato is not happy with the committee's decision and it has been played out at city hall and other venues.

Mr. Atwell explains that he believes that this is also a matter that is now in court. Mr. Ytuarte explains that Ms. Beninato was trying to use Mr. Ytuarte and Mr. Garcia as witnesses in her case but that was a motion that was squashed with the help of the board's attorney. Mr. Ytuarte explained that the surveyor had complied with the committee's request and that the matter was now closed as far as the board was concerned.

- 4.2 Letter from Frederick Mowrer- Case 07-06-17-** Mr. Ytuarte states that this is a letter sent from the attorney for Mark A. Williams. He explains that Mr. Williams has completed all of the terms of his stipulated agreement, but we missed telling him to go ahead and record the plat. Mr. Williams has now completed all of the items including filing the plat. Mr. Ytuarte explains that staff was working directly with the surveyor and does not know why the surveyor did not communicate with his attorney. Once again this was just for informational purposes since a letter by Mowrer had been written to the board.

- 4.3 Letter from Rep. Thomas Taylor- Re: M. Deleon-** Mr. Ytuarte explains that this letter was on for informational purposes also. This letter was concerning an out of state applicant who has applied for licensure in New Mexico and who did not meet the qualifications. The applicant is using Representative Thomas Taylor to try to try to get the committee to make an exception and accept him for licensure. A letter was sent to the Representative advising him that the board was following the laws of New Mexico and the Board could not make any exceptions.

#### 5. NEW BUSINESS

- 5.1 Instructions to Prevent Open Meetings Violations -** Mr. Ytuarte explains that Ms. Smith was going to make a short presentation regarding this matter, but since she was unable to attend the PSC meeting, this item would be discussed at the full board meeting on Friday morning.

- 5.2 Office of the State Engineer Permits- Certifications-** Mr. Ytuarte explains that the State Engineers office has their own set of rules and regulations. In certain parts of these rules there are items that are contradictory to what this board's rules and regulations allow. These items were brought to the attention of the committee by Mr. Sanchez.

Mr. Chavez states that items like this are the reason that the committee had asked to meet with the association of counties, because there is a lot of housecleaning that needs to be done on statutes that are obsolete, outdated, or need to be brought current

Mr. Ytuarte met with John Romero Jr. to discuss these items. Mr. Romero explained to Mr. Ytuarte that the state engineer office currently has a person on staff that is reviewing and rewriting items such as this, to be brought up to current standards. Mr. Ytuarte asked Mr. Romero to inform him of when they would go to public hearing with these matters so that the board could attend and state their input. Mr. Romero stated that he would keep them informed.

- 5.3 Briggs Letter- Requesting Opinion on FEMA-** Mr. Ytuarte explains that the committee has previously dealt with this issue and it is being brought back to them, this time from an engineer. Mr. Briggs is also requesting that the committee issue an advisory opinion with regards to the flood zone certificates that are used by FEMA.

Mr. Chavez explains that this item was discussed at the Western Zone meeting in Canada. He states that the board's statutes are clear and he feels that an advisory opinion is not necessary because the flood zone certificate says an engineer, architect or surveyor can certify the elevation information as allowed by law. In New Mexico it has been defined as a surveyor and only a surveyor can certify elevation information. Mr. Chavez goes on to say that what some surveyors in other states are doing and that is that they are using a continuation of this certification that is on the next page and in that area they are stating specifically to what they are certifying. That way they can only be held responsible as to what they are certifying.

Mr. Sanchez requests that Mr. Chavez draft a letter be sent to Mr. Briggs explaining that the form clearly states as applicable by law and to also refer him to the New Mexico law. The letter is to be sent to all members of the committee for comment and then will be sent to the staff to be finalized and mailed.

- 5.4 Randy Delbridge Appearance before the Board –** Mr. Ytuarte explains that Mr. Delbridge has requested to be heard by the committee regarding his application for licensure.

Mr. Valdez states that Mr. Delbridge, at the time of initial application, did not meet the educational requirements for licensure. Mr. Valdez states that Mr. Delbridge has the experience necessary, has taken and passed the fundamentals of

surveying and principles and practices of surveying exam in Arizona. He also states that Mr. Delbridge is currently licensed in Arizona and has been since nineteen eighty five.

Mr. Delbridge states that the transcripts that he originally requested to be sent to our office had never been sent. He states that they have now been sent to our office. Mr. Delbridge states that he now believes that he does meet the requirements with the additional information that has been provided.

Mr. Valdez states that based on the new information that was sent in, Mr. Delbridge does now qualify. The education provided was done prior to 1985 and he does have the educational requirements.

Mr. Sanchez states that he will now sign in acceptance of Mr. Delbridge's application.

Mr. Chavez suggested that Mr. Delbridge create an NCEES council record to avoid having this hassles every time he applies with a state.

**5.5 Future City Competition-** Mr. Chavez states that he would like to have this item on the full board meeting since this program deals mostly with engineering. He states that he would like to have endorsement of the board.

**5.6 Computer Based Testing-** Mr. Chavez reports that this item was meant to be on the full board agenda. He states that he has been looking in to computer based testing for the New Mexico two hour exam.

Mr. Chavez states that Utah does currently have computer based testing for their state specific exam and is still doing some research on this topic. Mr. Chavez states that he will continue to do his research and bring it back to the full board when it is complete.

**5.7 NCEES Annual Conference Report-** Mr. Chavez reports that a new secretary/ treasurer was elected, Mr. Dave Curtis from Idaho, who replaced Mr. George Twiss. Mr. Chavez also states that he made a presentation on the standardization of the educational requirement across the nation.

Mr. Vigil states that they did have short discussions on tier licensure, particularly on photogrammetry and GIS.

Mr. Vigil also reports that the new BLM manual that is coming out on September 24<sup>th</sup>. Mr. Vigil states that the manual will be an item that the board will have to review to see if any major changes were made that will affect the current New Mexico law. Mr. Vigil states that this is also item number 5.8 on the agenda.

Mr. Atwell states that the B+30 was another item that was mentioned during the meeting. Mr. Chavez states that it has been moved from becoming effective in 2015 to 2020.

**5.8 BLM Manual- State Law-** This item was also discussed in item 5.7. Mr. Sanchez states that he reviewed the Act and the Minimum Standards and he does not feel that they will require any changes.

Mr. Ytuarte states that New Mexico is covered because New Mexico laws are general and refer to the BLM manual without specifying a year (i.e. 1973) of effect.

Mr. Chavez states that the two hour exam may have to be brought up to date. He also states that the board, once the changes are implemented, will have to notify the examinees that the new manual is now being referenced in the questions so that they will know what needs to be studied.

A short recess was called.

**6. COMPLAINTS AND VIOLATIONS -Closed Session**

**MOTION** by Mr. Chavez, **SECONDED** by Mr. Sanchez 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 6.15 on the agenda. A roll call vote was taken.

**Voting Yes:** Chavez, Vigil, Sanchez and Atwell

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

**6A. 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 6.15 were discussed, **SECONDED** by Mr. Chavez.

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

**6.1 08-08-32 MOTION** by Mr. Atwell, **SECONDED** by Mr. Chavez, unanimously

**VOTED:** To dismiss both cases, 08-08-32 and 08-08-33, as unfounded.

**6.2 08-08-33** - Discussed with previous motion.

**6.3 08-07-07- MOTION** by Mr. Sanchez, **SECONDED** by Mr. Chavez, unanimously

**VOTED:** To allow the respondent to complete the plat and record it when possible and close the case because it has been resolved.

**6.4 08-07-17- MOTION** by Mr. Sanchez, **SECONDED** by Mr. Chavez, unanimously

**VOTED:** To close with an acknowledgement in the file.

**6.5 09-09-10- MOTION** by Mr. Sanchez, **SECONDED** by Mr. Chavez, unanimously,

**VOTED:** To dismiss as trivial.

**6.6 09-09-08- MOTION** by Mr. Sanchez, **SECONDED** by Mr. Chavez, unanimously,

**VOTED:** To dismiss as unfounded.

**6.7 07-06-23- MOTION** by Mr. Sanchez, **SECONDED** by Mr. Chavez, unanimously,

**VOTED:** To close due to completion of settlement agreement and withdraw the Order to Show Cause.

**6.8 07-06-17- MOTION** by Mr. Sanchez, **SECONDED** by Mr. Chavez, unanimously,

**VOTED:** To close the case since all conditions were met.

**6.9 09-08-01- MOTION** by Mr. Sanchez, **SECONDED** by Mr. Chavez, unanimously

**VOTED:** To give an extension to September 30<sup>th</sup>, 2009 to complete the revision of the plat.

**6.10 08-08-30- MOTION** by Mr. Chavez, **SECONDED** by Mr. Atwell, unanimously

**VOTED:** To allow the Executive Director to make a payment arrangement with the respondent to pay his fines.

**6.11 08-07-10- MOTION** by Atwell, **SECONDED** by Mr. Chavez, unanimously

**VOTED:** To withdraw the vote to issue NCA.

- 6.12 George Marquez Jr. - Application for Reinstatement- MOTION** by Mr. Chavez, **SECONDED** by Mr. Atwell, unanimously

**VOTED:** To deny application to reinstate licensure based on past disciplinary actions, failure to respond to the board and other complaints and issue an NCA for denial.

- 6.13 08-08-39- MOTION** by Mr. Sanchez, **SECONDED** by Mr. Atwell, unanimously

**VOTED:** To close based on withdrawal.

- 6.14 08-08-34-** Previously closed.

- 6.15 05-04-05- MOTION** by Mr. Sanchez, **SECONDED** by Mr. Chavez, unanimously

**VOTED:** To issue an Order to Show Cause directing him to complete before the January meeting, or attend the January meeting to show cause.

**6A. OPEN SESSION**

**6A.1 Appointment of Hearing Officers ( if required) For New Cases**

The full committee will be hearing officers for the George Marquez Jr. case.

**7. OLD BUSINESS**

- 7.1 Update – Formal Complaints Case History-** Mr. Ytuarte explains that Mr. Garcia has done a lot of work updating the list that is being presented to them as a status update for all of the cases. He explains that the lists reported to the committees currently do not list any names but once the cases are completed or have actions taken on them, they will have names listed. Mr. Ytuarte states that a log report that will be given to the committee at every meeting so that they will know and the status of cases that they are considering.

- 7.2 Photogrammetry Task Force-** Mr. Vigil states that the photogrammetry and the GIS task force will be combined. A meeting of this committee is scheduled for October 8<sup>th</sup>. Mr. Glen Thurow will be the chair of the committee. Mr. Jeff Ludwig and Mr. Fred Sanchez are also members of this committee.

- 7.3 GIS Task Force-** Combined with item 7.2

**8. REVIEW OF APPLICATIONS**

**8.1 Review of Applications-** Reviewed on an individual basis.

**8.2 New SI/PS** – List provided for informational purposes.

**8.3 Exam Results- FY 2009-** List provided for informational purposes.

**9. ADJOURNMENT**

Mr. Vigil Adjourned the meeting at 1:50 p.m.

Submitted by:

s/ Edward Ytuarte  
Mr. Edward Ytuarte, Executive Director

Approved by:

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

October 29, 2009 Approved Date