

MINUTES OF

Meeting of the Professional Surveyors Committee of the Board of Licensure for Professional Surveyors held 11:00 a.m., April 8, 2010 at Middle Rio Grande Conservancy District Office, 1931 Second Street SW, Albuquerque, NM

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

Others Present Edward Ytuarte, Executive Director, BLPEPS
 Perry Valdez, Licensing Manager, BLPEPS
 Roman Garcia, Investigator, BLPEPS
 Mary Smith, Board Attorney
 David Cooper, PS, Case Manager
 Russell Koger

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 committee was present. Mr. Russell Koger introduced himself as a guest.

2. **APPROVAL OF THE AGENDA**

MOTION by Mr. Sanchez, **SECOND** by Mr. Atwell, and unanimously

VOTED: To approve the agenda as presented.

3. **APPROVAL OF THE MINUTES**

3.1 November 13, 2009 – Mr. Vigil states that the adjournment time on the minutes should read as 1:55 p.m. for this meeting.

Mr. Ytuarte states that he will have Ericca review her notes and the minutes since the meeting was being recorded.

Mr. Atwell states that the correction should have been made when the corrections were called in.

Mr. Vigil states that the committee did not take action and calls for a motion on this item.

Mr. Atwell states that this was already done.

No motion was made on this item.

3.2 January 21, 2010 – Mr. Vigil calls for a motion on this item.

Mr. Sanchez states that this item was also taken care of.

No motion was made on this item.

4. CORRESPONDENCE/ COMMUNICATIONS

4.1 Letter from Dugan McDonald- Mr. Ytuarte states that this is a correspondence item that has been sent to Mr. Perry Valdez.

Mr. Valdez states that Mr. McDonald sent a letter in to the office to ask the committee if the education and training that he obtained in the military as a surveyor could be considered as part of the forty five semester hours that were required for licensure at the time he was originally licensed.

Mr. Valdez states that Mr. McDonald has submitted a list of his classroom and field experience and the equipment that he used in the military along with a job description. Mr. McDonald also provided a copy of a certificate from Hawaii Pacific College which is a degree in Associate Supervisory Leadership. He also sent a copy of an evaluation report as a surveyor in the military along with a letter of recommendation on his military experience and a resume.

Mr. Atwell asks if Mr. McDonald has filed a formal application for licensure.

Mr. Valdez states no.

Mr. Atwell states that he feels that Mr. McDonald should go through the formal application process before they consider any of his experience.

Mr. Sanchez asks if any of the letters state that his training was under a licensed surveyor or a certified instructor.

Mr. Vigil notes that Mr. McDonald is currently licensed in Arizona, Colorado and Oklahoma.

MOTION to direct staff to answer this with a request for a formal application to be made in order for all of the information to be provided at which time it will be considered and an answer can be provided, by Mr. Atwell, **SECONDED** by Mr. Sanchez.

Mr. Ytuarte states that the request being presented to the committee is whether or not they will accept his military experience and education for licensure. In Mr. Mc Donald's case he is inquiring if his education and experience going to count for the forty five hours that are required since they are not ABET accredited but military. Mr. Ytuarte states that Mr. McDonald is inquiring this information so that he can know before a formal application is made.

Mr. Valdez states that at the time of Mr. McDonald's initial licensure the requirements in New Mexico were forty five semester hours or a two year associate's degree and ABET accreditation was not required.

Mr. Atwell states that he has a problem with this because he knows that the documentation is readily available from the military and can be sent in to the board for consideration.

Mr. Sanchez states that he feels by asking Mr. McDonald to make a formal application that the committee may be falsely encouraging him.

VOTING Yes: Mr. Atwell and Mr. Vigil
Mr. Sanchez abstained

5. NEW BUSINESS

5.1 ABET Certified Curriculum & Non ABET for PS- Mr. Ytuarte states that the staff receives quite a few applications from potentially qualified surveyors that are licensed in other states and have taken course work that is not necessarily military but is not ABET accredited. He explains that quite a few of them are being turned away because of this reason.

Mr. Ytuarte states that the staff would like to get a definite policy as to whether only ABET accredited education will be considered or will it be done on a case by case basis where the merits of each individual case will be considered.

Mr. Ytuarte states that all surveyor applications are currently being brought to the committee for consideration, but some are being brought stating that they meet the criteria and some of those qualifications may be education that are not ABET accredited programs.

Mr. Vigil questioned where the origin of ABET accreditation came from and how it came into place.

Mr. Ytuarte states that Mr. Valdez has done some research and gone back in the minutes from previous board meetings to find out that information. Mr. Ytuarte states that it seems to be a policy from the board but it is not stated anywhere.

Mr. Valdez stated that according to his research, it was previously approved by the legislature and in the February 4, 1999 meeting minutes the same question was raised by the executive director at the time. Mr. Valdez states that the minutes did reflect that the staff was to come up with a draft policy and it would be considered at the March board meeting but it appears that nothing was ever presented.

Mr. Valdez states that when he came on board, he was told by the previous director that it was supposed to be ABET accredited, but he was unable to find where it was stated.

Mr. Sanchez states that in his experience, since he has been on the board, it was not ABET accredited but from an accredited institution.

Mr. Sanchez states that another issue that has been given to the rules and regulations committee to come up with what is a related science degree. He states that they have come up with 'any science degree from any accredited institution' and that was taken from language used by previous board members. Mr. Sanchez states that the committee's recommendation has not yet been submitted to the board for approval so that is another situation that needs to be looked at.

Mr. Ytuarte adds for clarification that Mr. Valdez had stated that the legislature had approved it, but that the legislature had approved the way it currently reads in the act, not stating ABET accredited.

Mr. Valdez goes on to say that nowhere in the administrative code or in the practice act does it state ABET accredited. The practice act it states board approved and in the administrative code it does not even go on to say that. Mr. Valdez states that as far as a definition of what an accredited program is, it is only defined in the engineering section and not in the surveying section.

Ms. Smith cautioned the board that they could not make any decisions that they did not then reduce to writing. She states that the committee needed to be consistent in how they defined board approved, and if they were going to define it, then it must be in a rule. She warns that they cannot apply any of this immediately because it has to be noticed for a rules hearing and a rules hearing needs to be conducted.

MOTION to pursue the board approved definition of qualifications, to define board approved and make it a part of the rules as soon as possible by Mr. Sanchez,
SECONDED by Mr. Atwell,

Under Discussion:

Mr. Atwell states that he would like to see the motion shot down and wait until the rules committee brings forth what they have put together.

Mr. Sanchez states that may not happen until later in the year since there has been issues with all of the members of the rules and regulations committee getting together.

VOTE Yes: Mr. Vigil and Mr. Sanchez

VOTE No: Mr. Atwell

5.2 Discussion of Military Education as being acceptable for Licensure- Mr. Valdez states that this item went in conjunction with the previous item.

5.3 An ACT- Relating to Land Grants- Mr. Ytuarte states that the legislature enacted some language that requires a surveyor to follow a certain procedure when they are doing property boundary surveys within or adjoining land grants. Mr. Ytuarte states that he put this item on the agenda to inform the committee that it was passed and by doing so they have changed the engineering and surveying practice act because it has to be included in the engineering and practice act. Mr. Ytuarte states that there will have to be an addendum made into the act that includes that language.

Mr. Atwell questions when this will take effect.

Mr. Ytuarte states that generally all acts take effect on July 1st, but he will verify that to be sure.

Mr. Sanchez states that this only affects five certain land grants and not all land grants.

Ms. Smith asks if the act specifies a date that it will take effect. She states that there is a provision that the legislature has that she believes says legislation is effective sixty days after the adjournment of the session. She recommends that the board check with the legislative counsel to verify that effective date.

5.4 License Expiration – Rule Clarification- Mr. Ytuarte states that he is asking for clarification on the expiration date. He states that the staff has received applications for inactive status after their licenses have expired on December 31, 2009 and would like clarification on whether or not they can be accepted if they are received before the grace period ends.

Mr. Sanchez states that at the surveyor's conference when they discussed this subject, they said that the grace period was not for the licensee to practice, it was for the licensee to renew. He also states that he does not think that a license should be made inactive if it is currently in expired status. He states that the grace period is simply for renewing. Mr. Sanchez states that if the December 31st deadline has passed and your license is no longer active, you can't put an ineffective license into inactive status.

Mr. Valdez repeats for clarification purposes that after the December 31st deadline, a licensee can no longer practice surveying and cannot apply to put a license into inactive status.

The committee agrees that the license is expired period.

Mr. Sanchez states for a licensee to do anything with the license, the license does not exist until the licensee renews it after the deadline. Mr. Sanchez also states for the record that after the December 31st deadline and during the sixty day grace period, if anyone is caught practicing on an expired license they will be subject to prosecution by the board.

6. COMPLAINTS & 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 6.1 to 6.5 on the agenda. A roll call vote was taken.

Voting Yes: Vigil, Sanchez and Atwell

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

OPEN SESSION

MOTION by Mr. Atwell to go back into open session and further noted that during closed session only cases listed as items 6.1 to 6.5 were discussed, **SECONDED** by Mr. Chavez.

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

6.1 10-09-06

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

VOTED: To dismiss the case because the matters had been resolved by the participants.

6.2 10-09-11A

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

VOTED: To dismiss, the board has no authority and this is a civil matter.

6.3 10-09-11B

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

VOTED: To issue and NCA with a possibility of an early resolution directing the surveyor to provide a plat up to code.

6.4 10-10-19B

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

VOTED: To issue an NCA for unlicensed practice.

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

VOTED: That the overlap is a civil matter.

6.5 10-09-03

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

VOTED: To withdraw the NCA that was issued due to the death of the person that it was issued for.

6A. COMPLAINTS & VIOLATIONS- OPEN SESSION

6A.1 Appointment of Hearing Officers (if required) for New Cases-

For item 6.3 Case # 10-09-11B Hearing officers will be Salvador Vigil with Charles Atwell as a backup.

For item 6.4 Case # 10-10-19B Hearing officers will be Fred Sanchez with Mr. Gilbert Chavez as a backup.

7. OLD BUSINESS

7.1 Leroy Smith- Case 05-04-05- Mr. Garcia reported to the committee that Mr. Smith submitted a letter to the board that stated that he has complied with all conditions of his disciplinary actions.

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

VOTED: To close the case since Mr. Smith has completed all of the requirements.

7.2 Complaint Log- Mr. Sanchez asks if the committee was up to date or caught up on all of the cases now.

Mr. Ytuarte states that they are not completely caught up on the cases but are aggressively working towards that. He states that there are several cases that are rapidly approaching the two year statute of limitations and will have to be brought to the committee to be closed. Mr. Ytuarte states that he and Roman are working on getting responses from the complaints that need them to get them out to the complaint managers.

Mr. Sanchez states that if there are some cases that are running close to the deadline he would like for the director to contact the chairman of the committee and request a special meeting to consider those cases before it is too late.

Mr. Garcia states that just by looking at the list right now there are at least five cases that need to be closed due to the statute of limitations running.

Ms. Smith states that if there are any cases that have at least two months left on them before the statute of limitations runs on them then they need to be brought to the board immediately for consideration.

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

VOTED: To have the staff notify the committee of any cases that are close to the two year date by April 13th and give specific dates.

Mr. Ytuarte states that he and Roman will get together next week and see what cases need to be closed and which are on the verge of running out of time and provide a list to the committee members.

7.3 Western Zone State Report- **MOTION** by Mr. Sanchez, **SECONDED** by Mr. Atwell and unanimously

VOTED: To support Gilbert Chavez nomination for Western Zone Vice President.

Mr. Chavez states that he believes that Mr. Ytuarte has asked for items to be placed on his state report that will be presented at the Western Zone.

Mr. Ytuarte states that he had asked for items that the board members submit items that the board members submit suggestions to be put on the report. He would like items that are of importance to them to include in the report. He states that he has not received anything from any of the board members.

7.4 Construction Surveys Task Force- Mr. Valdez states that at the last meeting that Mr. Chavez and Mr. Sanchez were going to take up a task force on this subject and that is the reason it is on the agenda.

Mr. Sanchez states that he feels that there should be other members on this committee besides the two committee members.

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

VOTED: To pursue a construction survey task force to investigate matters that are of interest to the board in construction surveys and the chair be authorized to appoint others members to the task force other than Mr. Sanchez and Mr. Chavez to assist.

8. REVIEW OF APPLICATIONS

8.1 Retired & Inactive Requests- None at this time

8.2 New PS Licensees- None at this time.

8.3 Review of Applications- Applications were reviewed on an individual basis.

9. ADJOURNMENT

Mr. Vigil adjourned the meeting at 1:40 p.m.

Submitted by:

s/ Edward Ytuarte
Mr. Edward Ytuarte, Executive Director

Approved by:

s/ Salvador Vigil, PS
Mr. Salvador Vigil, PS, Committee Chair

June 2, 2010 Approved Date