

MINUTES OF

Meeting of the Board of Licensure for Professional
Engineers and Professional Surveyors held 9:00 a.m.
April 9, 2010 at Middle Rio Grande Conservancy District
Office, 1931 Second St., SW, Albuquerque, NM

Members Present Charles Atwell, Chair
 John T. Romero, PE, PEC Chair
 Salvador Vigil, PS, PSC Chair
 Gilbert Chavez, PS
 Julie Samora, PE
 Severiano Sisneros, PE
 Stevan Schoen, Public Member
 Fred Sanchez, PS
 Subhas Shah, PE
 Rola Idriss, PE

Others Present Edward Ytuarte, Executive Director, BLPEPS
 Ericca Lopez, Executive Secretary, BLPEPS
 Ray Gomez
 Russell Koger, NMSPE

1. CONVENE/ROLL CALL/INTRODUCTION OF GUESTS

Mr. Atwell convened the meeting at 9:00 a.m. Roll call was taken and it was noted that a quorum of the board was present. Mr. Ray Gomez and Mr. Russell Koger introduced themselves as guests.

2. APPROVAL OF THE AGENDA

MOTION by Mr. Sanchez, **SECOND** by Mrs. Samora, and unanimously

VOTED: To approve the agenda as presented.

3. **APPROVAL OF THE MINUTES**

3.1 **November 30, 2009**

3.2 **January 22, 2010**

3.3 **February 25, 2010**

MOTION by Mr. Sanchez, **SECOND** by Mr. Chavez, and unanimously
VOTED: To approve all the minutes as presented.

4. **CORRESPONDENCE/COMMUNICATIONS**

4.1 **NCEES Annual Meeting, Denver- Funded Delegate-** Mr. Ytuarte explains to the committee that NCEES had requested that the board submit a name for its funded delegate for the Annual Meeting in Denver. Mr. Ytuarte stated that he had asked them to wait until after the board's June meeting when the new Board Chair was elected because most likely that would be the name that would be given to them. NCEES informed him that they would wait until that time for him to submit the funded delegate.

4.2 **Patty Mamola, PE for Western Zone Vice President-** Mr. Ytuarte states that he has received information on Ms. Mamola as a candidate running for the NCEES Western Zone Vice President and it was in the meeting booklets for them to review if they would like to.

4.3 **Daniel Parker, PE for Western Zone Vice President-** Mr. Ytuarte states that he has received information on Mr., Parker as a candidate running for the NCEES Western Zone Vice President and it was in the meeting booklets for them to review if they would like to.

Mr. Ytuarte also reminded the board that Mr. Gilbert Chavez was also a candidate for the Western Zone Vice presidency and that the board members should try to gather as much support as possible for Mr. Chavez at the Western Zone meeting.

4.4 **Mary Smith Letter - Procurement Code-** Mr. Ytuarte states that in the meeting booklet was a copy of the letter written by Ms. Smith, addressed to the board, regarding the raised questions concerning the procurement code. Mr. Ytuarte states that Ms. Smith was basically supporting the statement sent out previously by Sally Malove, and had in fact, attached a copy of her previous letter to the one being written by Ms. Smith. She states that the Procurement code has not changed since the time this opinion was rendered.

Mr. Sanchez states that there are several questions that the board had raised and had not been answered in Ms. Smith's letter.

Mr. Schoen suggested that the board staff create a reference center at the board office where Attorney General's Opinion's can be looked up. Mr. Schoen also stated that one mistake that was made when this opinion was requested was that a deadline was never given for the response. He states that in the future when an opinion is requested by the board that the board should put a deadline for the response.

- 4.5 Dr. Rola Idriss- Reappointment-** Mr. Ytuarte stated that the board office has received notification that Dr. Idriss had been reappointed to serve on the board for another term which will end on July 1, 2015.

Dr. Idriss was congratulated.

5. DIRECTORS REPORT-

- 5.1 Appropriation Enacted for PEPS-** Mr. Ytuarte states that the final house bill two was signed by the governor. He enclosed in the meeting books copies of what pertained to our board. In this section it states that the two positions that were allowed to be filled the year before are now gone.

Mr. Ytuarte states that the report also shows what the budget will be and what has been approved by the legislature. He states that he is still working on what the operating budget will be and it should be right at what is shown in the report.

Dr. Idriss questions if the board would be able to try to get the two positions back once the economy improved.

Mr. Ytuarte explains that most definitely he would be seeking those positions again. Mr. Ytuarte explains that agencies were cut all across the board. It was not only our agency that was hit by the cuts and the legislature was not making any exceptions.

Mr. Shah questions the need for the office's investigator position since the case managers were now being contracted. He asks that if since the two professional licensees have been hired if there is still a need to have the investigator position on staff.

Mr. Ytuarte explains that for right now the priority would be to get all of the cases up to date and see if it would remain that way. He would like to see if this was going to be a more efficient way for the board to operate. He stated that this matter would be evaluated.

Mr. Shah states that they needed to evaluate whether or not this position was needed or not needed so that if it is not needed, then this person could be moved and used in some other department where the help is needed. Mr. Shah asks if the two new contracted positions were licensed professionals that are required for this job.

Mr. Ytuarte answers yes.

Mr. Sanchez asks that since the two positions were cut and the funding was there, is there any way for him to use that money to at least hire some temporary help to get things caught up.

Mr. Ytuarte answers that he is definitely looking into that possibility. He explains that it is not as simple as it seems because there are approvals that are required from DFA and State Personnel. The item that makes this difficult is the freeze that was imposed by the governor in September 2008. Mr. Ytuarte explains that in light of situations, he will be looking to get a contractual attorney for the board on a as need basis. He states that he hopes to be able to give a little better report on this matter at the next board meeting.

Mr. Atwell states that he believes Mr. Sanchez's question was since the two positions were eliminated were the funds taken from the board. Mr. Atwell states that he believes that the funds are no longer there.

Mr. Ytuarte explains that he is not aware that the funds have been taken from the board. He states that he has not received notification that the funds have been removed so he could not state that factually.

Mr. Atwell states that he was under the impression from the meeting that if they were allowed to keep the positions then they would be able to keep the funds. The idea that the board would detain the funds and spend them somewhere else does not make sense.

Dr. Idriss states that she feels there is a big difference between permanent positions and temporary help.

Mr. Atwell states that they are not talking about temporary help.

Mr. Sanchez states that he was talking about temporary help.

Mr. Atwell states that the way he understands it is that you need permission and you can't just go out and do it.

Mr. Ytuarte states that he is correct. There are many channels that need to be gone through to gain approval for things like this.

Mr. Sisneros states that the board has asked Mr. Ytuarte to do some things and the reality is there is no temporary positions, no permanent position. Anything that we need to do with personnel, it does not exist. The governor has put a freeze on it. The only way we could go about it is to go through contractual services. Mr. Sisneros states that the only thing that we need to be careful with is that we can lose the money that the fees were increased for.

Mr. Romero states that he feels that the board should request an A.G. opinion on whether or not the funds can be taken from us since the board is not a part of the general fund. He states that maybe somebody showed going I and talk to the governor.

Mr. Ytuarte states that he will be looking to some of them for help when it comes time.

Mr. Atwell states that this is an item that should be done through the executive committee.

Mr. Ytuarte explains that this is an administrative matter and when he gets an appointment to go he cannot wait for everybody to clear their schedules. It needs to be done quickly.

Mr. Sisneros expressed a concern with what was shown as the number of licensees that this board licenses.

Mr. Ytuarte states that he is not sure where they got that number from and it was certainly incorrect. He also states that this was another reason of why he wanted to do some research on this issue. He states that whoever provided these numbers to them did a tremendous injustice to our board.

5.2 Staffing Needs- This item was discussed with item 5.1

5.3 Sunset Act- Mr. Ytuarte states that he put this in because the Sunset Act will need to be done during the next legislative session. Mr. Ytuarte states that he has already been hearing rumors, that some of the candidates for governor will be looking to consolidate boards and commissions. Mr. Ytuarte states that he has heard that our agency was one of the ones that was being looked at. He states that this had happened in the past and it was a disaster and that's why this agency was once again self-sufficient. Mr. Ytuarte states that all of the board members need to become very aggressively involved, with the review and soliciting the help from the societies, NMSPE, NMSP, ASCE all need to be there to lobby when this comes up. He states that he feels that everyone needs to become aggressively involved and not wait until the legislature.

5.4 Number of Expired Licenses- Mr. Ytuarte explains that this item was placed on the agenda for informational purposes only. He states that there are a little over 700 expired licenses. Mr. Ytuarte states that he feels that it may be because we increased the fees and another part of it may be because the economy is bad. Mr. Ytuarte states that he feels that our board makes it too easy for a license to reinstate their licenses and that may be another reason that they are letting their licenses expire.

6. NEW BUSINESS

6.1 NM Board of Licensure PEPS Financials- Mr. Ytuarte states that he has placed financial records in the meeting booklets for the board review. They are the same as in the past, only in a different format.

Mr. Atwell asks what period this report covered.

Mr. Ytuarte states that this report covered from July 1, 2009 to the end of March, 2010.

Mr. Atwell asks if the figures in this report had changed from the previous report they had been given.

Mr. Ytuarte asks if he can continue to explain and goes on to explain that in the past they were being told that the 'P' represented items that had been paid. It actually stood for items that were posted. Mr. Ytuarte states that the current report shows the voucher number and the warrant number that was issued, the date and the total. Mr. Ytuarte states that the previous reports that they were given just showed that they were posted but did not show factually whether they had been paid or not. Mr. Ytuarte explains that the first list they are given is listed alphabetically and the second list that was given to them is listed by voucher number. He explains that if a voucher number is missing, it means that it has been deleted. He states that the next listing they receive will have a reason for the deletion of the voucher number if there is one missing rather than having it skip the number.

Mr. Ytuarte also states that they are also given a list that is presented by date.

MOTION by Mr. Romero, **SECONDED** by Mr. Shah, unanimously

VOTED: To accept the financials as presented.

Mr. Chavez states that he would like to compliment they staff on the work they have done. He states that it is a big improvement and it makes it a lot easier to read.

Mr. Ytuarte states that at the tail end of the lists is a report for informational purposes on the expired licenses. He states that the report shows how many licenses are actually expired and how many are in state and how many are out of state. He also states that it reflects how many are PE licenses, how many are PS licenses and how many are dual licensees.

- 6.2 ABET Certified Curriculum & Non-ABET-** Mr. Ytuarte states that this was discussed at length at the PS committee. Mr. Ytuarte states that he believes that PS committee was going to work aggressively at making changes as necessary to be prepared to be ready at sunset.

7. OLD BUSINESS

- 7.1 Inactive Status Applications/ During Expired Grace Period-** Mr. Ytuarte explains that this item was also discussed prior and it was decided that staff received the direction it was looking for which was inactive status applications would not be accepted after the December 31st deadline.

8. COMMITTEE REPORTS

8.1 **Professional Engineering Committee- John T. Romero, PE, Chair-** Mr. Romero states that the committee met at 2:00.

Mr. Romero states that the committee received a letter from general services department requesting volunteers for a selection committee.

Mr. Romero states the committee had also received letters from Mr. Raul Parra and Mr. Julian Paco requesting that different considerations be made concerning their licensure. Actions on all of these items were tabled.

Mr. Romero states that Ms. Diane Dietz reported herself for practicing with an expired license.

Mr. Romero reports that Mr. Raymond Hensley was there to ask questions of the board regarding fee increases. Mr. Hensley seemed to be satisfied with the explanation and stated that he would take the answer back to the NMSPE.

Mr. Romero also states that they had a lengthy discussion on license expiration and rule clarification.

Mr. Romero States that the committee reviewed three cases and all three were dismissed as unfounded and one would be referred to CID.

Mr. Romero reports that they had a discussion on Mr. Ralph Montoya and it was decided that the committee could not do anything at this time.

Mr. Romero also informed that board that the discussed the fact that Mr. Turner had decided to appeal the decision of the board to district court.

The Complaint log was discussed.

The Western Zone State Report was also discussed.

Applications were reviewed and the committee also accepted the application for retirement.

Mr. Sisneros states that Mr. Parra had asked the board for leniency on his license. Mr. Sisneros states that direction was given to the staff to bring forth to the May PEC meeting all of the information concerning Mr. Parra to be considered at that time.

8.2 **Professional Surveying Committee- Fred Sanchez, PS, Vice-Chair-** Mr. Sanchez reports that the committee met at 11:00.

Mr. Sanchez reports that Mr. Dougan McDonald sent a letter to the board requesting that the committee consider his military training as experience. He was asked to file a formal application and give all possible information that he could regard his military experience.

Mr. Sanchez also reported that the committee also discussed the new land grant bill that had been passed by the legislature which actually changed the Act.

Mr. Sanchez states that the committee also discussed rule clarification and license expiration.

Mr. Sanchez states that the committee also reviewed five complaints.

Mr. Sanchez states that the case against Leroy Smith was now closed due to completion.

The complaint log was discussed.

The Western Zone State report was also discussed.

Mr. Sanchez also states that there was a discussion of the creation of the construction surveys task force.

8.3 Licensure Promotion and Public Information Committee- Gilbert Chavez, PS Chair- Nothing to report at this time.

8.4 Joint Practices Committee- Fred Sanchez, PS, Chair-Mr. Sanchez states that the joint practice committee met in Santa Fe.

Mr. Sanchez states that they also discussed the issue of the procurement code and as soon as letter from Ms. Smith he informed all of the members and sent them copies.

Mr. Sanchez also reports that the court house fiasco was also discussed at the JPC and it was stated that all of the licenses of the other gentlemen involved had been revoked with the exception of Mr. Parra.

8.5 Rules and Regulations Committee- Fred Sanchez, PS, Chair- Mr. Sanchez reports that the last meeting was cancelled due to none of the members showing up for the scheduled meeting. Mr. Sanchez stated that he would be willing to schedule another meeting if all of the members would commit to a date and make sure they are in attendance.

8.6 Executive Committee- Salvador Vigil, PS, Chair- No report at this time.

8.7 Licensure of Professors Committee- John Romero, PE, Chair- No report at this time.

9. **OTHER BUSINESS**

10. **ADJOURNMENT**

Mr. Atwell adjourned the meeting at 10:42 a.m.

Submitted by:

Mr. Edward Ytuarte, Executive Director

Approved by:

Mr. Charles Atwell, Public Member, Chair

_____ Approved Date