

MINUTES OF

Meeting of the Professional Surveyors Committee of the Board of Licensure for Professional Surveyors held 11:00 a.m., January 21, 2010 at Board Office, 4001 Office Court Drive, Ste. 903, Santa Fe, 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
 Ericca Lopez, Executive Secretary, BLPEPS
 Roman Garcia, Investigator, BLPEPS
 Mary Smith, Board Attorney
 LeRoy Smith, 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 board was present.

2. APPROVAL OF THE AGENDA

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

VOTED: To approve the agenda.

3. APPROVAL OF THE MINUTES

3.1 October 29, 2009 – MOTION by Mr. Sanchez, **SECOND** by Mr. Chavez, and unanimously

VOTED: To approve the October 29, 2009 minutes as presented.

3.2 November 13, 2009 – MOTION by Mr. Sanchez, **SECOND** by Mr. Chavez, and unanimously

VOTED: To approve the November 13, 2009 minutes as presented.

4. CORRESPONDENCE/ COMMUNICATIONS

- 4.1 Metropolitan State College of Denver- ABET Accreditation Ending-** Mr. Ytuarte explains that the board staff had received a letter from a student who is currently attending this school and received a notice that the school was losing their ABET accreditation for the surveying program. The student wrote in to the board to find out if he continued to work on his degree at this particular college if his degree would be accepted by the board if the college loses its accreditation.

Mr. Vigil asks the committee for their thoughts on the matter. He wanted to find out if the committee had any thoughts on how or if they would be able to help this student.

After a short discussion it was decided that there was nothing that the committee could do to help due to the fact that it was clearly stated in the rules that the degree had to be from an ABET accredited university.

Correspondence will be prepared and sent with an explanation from the chair of the committee.

- 4.2 Western Zone State Report-** Mr. Ytuarte states that each year NCEES asks for a state report with regards to important events that are taking place within individual states. He asks for help from the committee members to prepare a report from the surveying side of the board. He also states that he will be asking the engineers to contribute from the engineering side.

Mr. Sanchez states that he has recently learned some information about computer controlled construction staking. Mr. Sanchez states that he is very concerned that no one is in responsible charge for public safety and welfare.

Mr. Chavez states that he feels that a task force should be created to look further into this matter.

Mr. Vigil then asks Mr. Chavez if he would like to lead this task force. He also asks Mr. Sanchez if he would assist Mr. Chavez. They both accept the task.

Mr. Ytuarte asks that they prepare a report for consideration at the next board meeting so that it can be reviewed and prepared for submission.

- 4.3 Larry Sterling- Letter on GIS Issues- F.Y.I.-** Mr. Ytuarte explains that this was a last minute addition to the agenda and is for informational purposes only.

Mr. Sterling was unable to make the meeting and the matter will be discussed at another meeting if Mr. Sterling makes his submission.

Mr. Leroy Smith enters the meeting at this point.

5. **NEW BUSINESS**

5.1 Legislative Land Grant Committee- November 25, 2009 Hearing- Mr. Sanchez states that he and Mr. Ytuarte had attended a hearing at the legislature. He states that the committee made accusations that surveyors were going in and “stealing” land by causing it to change hands when a survey is done. Mr. Sanchez states that he was very upset by the statements and accusations that were being made.

Mr. Ytuarte states that he has provided the committee with a copy of the proposed bill that had been voted for and passed for them to review. He states that he believes it was going to be presented at this legislative session.

Ms. Smith states that a coworker of hers contacted her and it has been introduced as Senate Bill 41. She states that the committee does not have to wait to be asked to do a bill analysis to have some input. She states that they could certainly do that and submit it.

5.2 Newsletter Articles- Mr. Ytuarte asks for volunteers to submit articles for the board newsletter. He state that the staff was unable to put out a newsletter in December because of renewal season and would like to put a new one out by March. He asks that if they would like to submit an article to be put into the newsletter to please have it in to board staff by no later than February 15th so that the staff will have time to put the newsletter together.

6. **COMPLAINTS & VIOLATIONS- CLOSED SESSION**

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

VOTED: To convene in closed session pursuant to NMSA 1978, Section 10-15-1 (H) (1) to discuss only the case listed as 6.1 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.

OPEN SESSION

MOTION by Mr. Chavez to go back into open session and further noted that during closed session only case listed as items 6.1 was discussed, **SECONDED** by Mr. Sanchez.

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

6.1 05-04-05- Leroy Smith- Order to Show Cause- Mr. Smith was asked to reenter the room. Mr. Vigil reminded Mr. Smith of the terms of the action taken against him by the board.

Mr. Vigil then asked Mr. Smith if he had conducted any plats of survey during the nine months that he was supposed to be on supervised probation.

Mr. Smith responded that he had not recorded any plats during that time. He also stated that he did continue to work on some previous existing projects. He states that he did not recall recording any plats during that time.

Ms. Smith asks Mr. Smith if he signed and sealed any documents during the eighteen months that he was placed on probation by the board.

Mr. Smith responded that he did not believe so.

Ms. Smith asked for a better clarification of his answer and Mr. Smith responded no he had not.

Mr. Vigil says that the committee has been shown that Mr. Smith had completed paying his fines. He asks Mr. Smith if he has completed the ethics course that the board had mandated that he complete.

Mr. Smith states that this was the only item that he had not completed that was required by the board.

Ms. Smith questions why.

Mr. Smith states that as a result of the economic situation, he was unable to generate the income to pay for the course.

Ms. Smith asks Mr. Smith if he made any contact with the board director to inform them that he was going to be unable to complete the course.

Mr. Smith states that he had seen Mrs. Garcia and they had talked about it.

Ms. Smith then asks if he submitted written documentation to the board's executive director informing them that he would be unable to take the course that he was required to take within one hundred and eighty days after he received the Decision and Order.

Mr. Smith states that he did not submit anything in writing.

Ms. Smith then asks Mr. Smith if he had corrected the errors on the 2002 boundary survey/ lot split as ordered by Judge Timothy Garcia.

Mr. Smith states that he had done that and it was exhibit twenty one.

Ms. Smith states that the exhibit was not the correction. The board had found that there was errors on the plat and Judge Garcia had also found that the survey had errors on it. Ms. Smith then asks Mr. Smith if he had completed the items that he was order to do by the court.

Mr. Smith states that he has completed those items. He also states that he submitted a copy of the dismissal from the court on June 6' 2009 at a meeting with Mr. Garcia and Mr. Ytuarte.

Mr. Sanchez questioned if Mr. Smith read and understood the Decision and Order that was given to him by the board.

Mr. Smith states that he has read it many times and is very concerned about it.

Mr. Vigil asks Mr. Smith if the board required him to complete the ethics course within thirty days if he would be able to do it.

Mr. Smith requests that the board allow him forty five days to complete the requirement.

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

VOTED: To allow Mr. Smith forty five days to complete the ethics course.

Mr. Vigil states to Mr. Ytuarte that the committee is concerned because they only had one case on the agenda for review. He asks Mr. Ytuarte if all the complaints had been issued numbers.

Mr. Ytuarte responds that he thinks that they have gotten to the point to where they have been issuing case numbers immediately when they reach the office. He states that the staff has been overwhelmed and that he has made attempts to find out what the situation with the contracts for the contracted case managers was and he is continually being ignored by the staff member that he is checking with. He states that the last contact he had with that staff member that he was told that Ms. Smith had the contracts and was reviewing them. Mr. Ytuarte states that he had Ms. Lopez contact Ms. Smith on January 18th and at that point Ms. Smith had not received those contracts.

Ms. Smith then stated that she had now received those contracts.

Mr. Ytuarte stated that he had received copies of those contracts under the door of his office on January 20th. Ms. Smith looks at the date on the contracts and also states that she also received them on that day.

Ms. Smith gave a short explanation of the process for contracts to the committee.

Mr. Ytuarte gives a short explanation to the committee of what is going on in the office and statewide regarding the positions that the board was allowed to hire and the two contracted positions for case managers. He asks the committee for help in the technical review of cases until they are able to bring in the two case managers.

Mr. Atwell questions Mr. Ytuarte as to when he was the contracted case manager, who was the person in charge of assigning numbers to the cases when they entered the office.

Mr. Ytuarte responded by saying Ms. Garcia and prior to that was Jeremy Del Valle the staff investigator until his passing.

Mr. Atwell then asks Mr. Garcia if he is currently the in house investigator and if he is doing the investigation now.

Mr. Garcia answers some.

Mr. Sanchez states that he is very concerned and hopes that the current situation ends soon. He states that the board staff either needs to be a productive team or there needs to be drastic actions.

Mr. Garcia states that Mr. Ytuarte was, is, and continues to be the complaint manager, which puts an unfair burden on him. He states that they need to take a serious look and decrease Mr. Ytuarte's load.

Mr. Chavez states that the committee would like for Mr. Garcia to continue issuing a case numbers and moving forward to do whatever is necessary for the current cases. He also states that if within three weeks the case managers' contracts have not been finalized then the committee will move forward to do whatever is necessary to assist in technical review of the cases.

6A. COMPLAINTS & VIOLATIONS- OPEN SESSION

6A.1 Appointment of Hearing Officers (if required) for New Cases- None were required at this time.

7. OLD BUSINESS

7.1 Formal Complaints Log Update- Mr. Garcia states that he mails out the complaint log to each of them at the beginning of each month.

Ms. Smith asks if the cases are numbered chronologically.

Mr. Garcia states that they are numbered in the order they are received. The committee directed Mr. Garcia to work on the issue of updating the case log and making everything current. Mr. Sanchez states that Mr. Garcia should go to Mr. Ytuarte for help and not the other way around.

- 7.2 March NMPS Conference Forum-** Mr. Ytuarte explains to the committee that the committee had decided to do a presentation at the NMPS March conference and he would not be able to put a presentation together because the entire staff was over whelmed. He asked for help from the committee to put the presentation together because he and Mr. Valdez, who usually helps him put these things together, just do not have the time.

It was decided that the committee would work together to put the presentation together.

- 7.3 Rules and Regulations-** Mr. Sanchez states that the committee has not been able to meet because they cannot set a date.

Mr. Ytuarte states that the reason it makes it harder to set a date is because there is a quorum of the surveying committee.

Ms. Smith states that they could hold a special meeting with three days notice and does not require the purchase of a legal advertisement. She states with a committee this will be okay to do but not with the board.

8. REVIEW OF APPLICATIONS

8.1 Retired & Inactive Requests-

MOTION by Mr. Sanchez, **SECONDED** by Mr. Chavez and unanimously,
VOTED: To accept the request for Inactive licensees.

MOTION by Mr. Sanchez, **SECONDED** by Mr. Chavez and unanimously,
VOTED: To accept the request for Retired licensees.

- 8.2 New PS Licensees-** Listing was placed in meeting books for informational purposes.

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

9. **ADJOURNMENT**

Mr. Vigil adjourned the meeting at 1:55 p.m.

Submitted by:

s/ Edward Ytuarte
Mr. Edward Ytuarte, Executive Director

Approved by:

s/ Fred Sanchez, PS
Mr. Fred Sanchez, PS, Committee Chair

November 4, 2010 Approved Date