

**MINUTES OF**

Meeting of the Professional Surveyors Committee of the Board of Licensure for Professional Surveyors held 11:00 a.m., July 19, 2010 at State Engineers Office, District One Conference Room, 5550 San Antonio Dr., NE, Albuquerque, NM

Members Present      Fred Sanchez, PS, PSC Chair  
                                 Gilbert Chavez, PS  
                                 Salvador Vigil, PS

Member Absent        Augusta Meyers, Public Member

Others Present        Edward Ytuarte, Executive Director, BLPEPS  
                                 Mary Smith, Board Attorney  
                                 David Cooper, PS, Case Manager

**1.      CONVENE/ROLL CALL/INTRODUCTION OF GUESTS**

Mr. Sanchez convened the meeting at 11:13 a.m. Roll call was taken and it was noted that a quorum of the committee was present.

Mr. Sanchez stated that he would like to make a formal request that when the committee members receive information on cases from the staff investigator that they be presented in an orderly fashion to include the case number, the date, assigned investigator, a synopsis of the case, a synopsis of the response, status of the investigation, if a plat was involved- was it recorded or not, any violations of the standards and the investigators recommendations followed by the copy of the complaint and all of the usual information that is submitted to them for review. Mr. Sanchez stated that Mr. Garcia had been sending them items which seems like they were just thrown in the envelope and it has taken him a while to get the information in an organized manner to be reviewed. He stated that it would be more helpful if all of the information was in an orderly fashion and that he had discussed this with Mr. Cooper and he had no problem with the request.

**2.      APPROVAL OF THE AGENDA**

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

Under discussion Ms. Smith stated that the location of the meeting had been left off of the agenda that she had pulled from the board's website over the weekend. She stated that the minimum the agenda needed to have the location and the time of the meeting on it as per the Open Meetings Act. Ms. Smith also cautioned Mr. Ytuarte and Mr. Sanchez that those items

needed to be on all of the agendas or the meeting would be invalid if the board was in violation of the Open Meetings Act.

Mr. Sanchez stated that Mrs. Lopez had made the correction as soon as she had read the email that was sent by Ms. Smith and that the error was quickly corrected and the corrected agenda was also quickly placed on the board's website. Mr. Sanchez also stated that he would watch for that more carefully in the future.

The committee unanimously

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

### **3. APPROVAL OF THE MINUTES**

**3.1 June 10, 2010 Minutes** – MOTION by Mr. Vigil, **SECONDED** by Mr. Chavez, unanimously,

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

### **4. CORRESPONDENCE/ COMMUNICATIONS**

**4.1 Tom Moore Record-** Mr. Sanchez stated that Mr. Moore wrote a document which seemed like he was asked for an opinion from another surveyor. Mr. Sanchez stated that when he receives phone calls from others, that he quickly refers them to contact the board office because if it is an item that may potentially lead to a complaint, he would have to recuse himself from the matter if he had heard too much. Mr. Sanchez stated that he also noticed that Mr. Moore had recorded his report. Mr. Sanchez stated that he felt a letter should be sent to Mr. Moore addressing this situation.

Mr. Ytuarte stated that this was the reason that he had brought it to the board's attention.

Mr. Sanchez stated that when he first read it that he became very upset and felt that Mr. Moore was actually doing Ms. Smith's job. Mr. Sanchez would like a letter to go out to Mr. Moore strongly advising him against doing this. He asked that Ms. Smith look at the item and advise the committee on how to proceed.

Mr. Vigil stated that he felt this was a violation of the of the ethics standards. It is an unethical practice for him to impose his legal opinions. Mr. Vigil stated that he didn't feel that Mr. Moore was practicing surveying in this situation, but that he was practicing law. Mr. Vigil states that not only a strong letter be sent out to Mr. Moore but also stating that he is in violation of the ethical standards.

Ms. Smith stated that she had not seen this item prior to the meeting, but she would be happy to take a look at it with Mr. Sanchez and try to come up with something to be sent to Mr. Moore.

Mr. Sanchez stated that would be fine but he would like for it happen fairly quickly.

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

**MOTION** by Mr. Vigil, **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 cases listed as 5.1 to 5.5 on the agenda. A roll call vote was taken.

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

Mr. Sanchez 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 cases listed as items 5.1 to 5.5 were discussed, **SECONDED** by Mr. Vigil.

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

**5.1 10-10-27-**

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

**VOTED:** To issue an NCA, with a proposed early resolution to include investigative costs, fine of \$5000, probation of one year to include peer review, correction of all pertinent plats and a letter of reprimand.

Staff was also directed to file a complaint in this matter against the company.

**5.2 10-10-34-** Mr. Sanchez stated that this case was over ten years old and that the board had no jurisdiction.

**5.3 10-10-49-**

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

**VOTED:** To dismiss due to this being out of their jurisdiction, possibly a civil matter.

**5.4 10-10-60-**

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

**VOTED:** To issue an NCA with possibility of an early resolution to correct the plat to Mr. Cooper's satisfaction.

**5.5 10-09-02-**

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

**VOTED:** To dismiss as unfounded.

**5A. COMPLAINTS & VIOLATIONS- OPEN SESSION**

**5A.1 Appointment of Hearing Officers (if required) for New Cases-**

For item 5.1 Case # 10-10-27 Hearing officers will be Salvador Vigil with Fred Sanchez as a backup.

For item 5.4 Case # 10-10-60 Hearing officers will be Gilbert Chavez with Fred Sanchez as a backup.

**6. OLD BUSINESS**

**6.1 Sunset Review-** Mr. Ytuarte explains that he put some information that needed to go to the Legislative Finance Committee just for their information. They will be going to the LFC- Sunset Review subcommittee on September 28<sup>th</sup> tentatively. Mr. Ytuarte asks that all of the members of the board be prepared and try to be able to attend this hearing in case there are questions that need to be addressed.

Mr. Sanchez stated that it appears to him that the engineers may be making a move to separate the board.

Mr. Ytuarte stated that this is an item that they could bring up for discussion at the workshop. He stated that he hopes that this would not be something that would be happening at this setting.

Mr. Ytuarte goes on to say that he would like to have all of the board members attend this meeting with the subcommittee and they should all try to put this on their schedules.

**6.2 Complaint Log-** Mr. Ytuarte stated that the complaint log was still out of date because there are some cases that have been closed and are still not reflected that way on the log. He stated that it should be up to date soon.

**6.3 Board Workshop-** This item was discussed shortly with item 6.1

**7. REVIEW OF APPLICATIONS**

None to be reviewed at this time.

**9. ADJOURNMENT**

Mr. Sanchez adjourned the meeting at 2:00 p.m.

Submitted by:

s/ Edward Ytuarte  
Mr. Edward Ytuarte, Executive Director

Approved by:

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

August 12, 2010 Approved Date