

Members Present Subhas Shah, PE, PEC Chair
 John T. Romero, PE
 Severiano Sisneros, PE
 Rola Idriss, PE
 Julie Samora, PE
 Stevan Schoen, Public Member

Others Present Edward Ytuarte, Executive Director, BLPEPS
 Ericca Lopez, Executive Secretary, BLPEPS
 Roman Garcia, Investigator, BLPEPS
 Joe Barela, PE, Case Manager
 Mary Smith, Board Attorney
 Isaac Chavez, PE
 Robert Rivera, PE
 Gregory Krenik, PE
 Elaine Pacheco, PE, OSE

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

Mr. Shah convened the meeting at 10:08 a.m. Roll call was taken and it was noted that a quorum of the committee was present. Isaac Chavez and Robert Rivera were introduced as guests.

2. **APPROVAL OF THE AGENDA**

Mr. Shah stated that since item six was put on the agenda after it was made official the board would be able to discuss this item, but no actions would be taken at this time. If the committee decided that there needed to be action, it would be taken at the November meeting.

Mr. Ytuarte also stated that items 4.1 and 4.3 may have to be delayed since the people who were supposed to be there for those items had not yet arrived.

MOTION by Mr. Romero, **SECOND** by Dr. Idriss, and unanimously

VOTED: To approve the agenda as amended.

3. **APPROVAL OF THE MINUTES**

3.1 **Meeting Minutes of August 12, 2010**

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

VOTED: To approve the minutes as presented.

Mr. Sisneros stated that he would like to make one friendly amendment, which was that his son was Severiano IV and not Severiano III. He asked that this be corrected.

4. **CORRESPONDENCE**

4.1 **Gregory Krenik, PE-** Delayed for later on in the meeting.

4.2 **Turner Update-** Ms. Smith stated that Mr. Turner has filed a Statement of Appellant issues. At the court hearing, Mr. Turner was ordered by the judge to file a more adequate Statement of Appellant Issues in accordance with the rules. Mr. Turner basically filed what he had filed originally. Ms. Smith stated that she filed her reply and that Mr. Tuner had not filed his reply in the manner that was prescribed by the court. Ms. Smith stated that it is now up to the judge to make a decision on the matter. The judge did state that she was not going to allow oral argument in the appeal.

Mr. Shah asked how long it may take for a decision to be made.

Ms. Smith stated that it can take up to four months, possibly longer, for the board to hear the decision. She stated that she expects that they may hear something towards the end of the year or early next year.

4.3 **OSE Rule Hearing Jurisdiction Issue-** Delayed for later on in the meeting.

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

MOTION by Dr. Idriss, **SECONDED** by Mr. Schoen 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 5.16 on the agenda. A roll call vote was taken.

Voting Yes: Shah, Idriss, Samora, Sisneros, Schoen and Romero

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

At 11:00 a.m. Mr. Shah stated that the executive session of the meeting would be going in to recess to hear items 4.1 and 4.3 at this time.

4.1 Gregory Krenik, PE- Mr. Krenik made a plea to the committee stating that his not renewing his license on time was done in error. Mr. Krenik stated that he and his wife were going through a financial hardship at this time and he was afraid that he would be unable to pay the fine that the board was imposing on him.

Mr. Romero asked Mr. Krenik what he felt would be a sufficient solution to the matter.

Mr. Krenik stated that a fine of \$500 might be easier for him to pay.

The committee had a short discussion on what they felt could be a solution to Mr. Krenik's issues.

MOTION by Mr. Romero, **SECONDED** by Dr. Idriss and unanimously,

VOTED: To lower the fee on Mr. Krenik's Informal Settlement Agreement to \$500 and forty hours of community service which must be preapproved by the committee chair and Mr. Schoen. The community service must be done within a one year time period.

4.3 OSE Rule Hearing Jurisdiction Issue- Mr. Ytuarte stated that Mr. Easterling had sent an email regarding concerns with the rulings of the Office of the State Engineer and its rules with regards to Dam Safety. Mr. Ytuarte then introduced Ms. Elaine Pacheco who works for the Office of the State Engineer in the Dam Safety Bureau.

Ms. Pacheco stated that the issue was brought up to her by Mr. Ytuarte, expressing that the office of the state engineer does, within their rules and regulations require the qualifications of the engineer supervising construction be submitted to them for their acceptance as part of their process. They get the authority from section 72.5-9. Ms. Pacheco states that they do have statutory authority to review those qualifications.

Ms. Pacheco states that this is a specialized field and it does involve public safety. She stated that they have been very reasonable on how they apply this statute. This statute has also been applied to their rules and regulations in 2005. Each case is reviewed on an individual basis.

Ms. Pacheco answered a few questions that she was asked by the board members regarding their review process. Several board members stated that they really liked the process that was used by the office of the state engineer and it really addressed the concerns for the safety of the public.

The committee decided that if Mr. Easterling had a concern with the process that was used by the state engineer's office that they should attend the rules hearing that is going to be held on October 29th to voice his concerns.

The committee reconvened into executive session at 12:10 p.m.

5A. COMPLAINTS & VIOLATIONS- OPEN SESSION-

Mr. Shah stated that the committee was in open session that only cases listed as 5.1 to 5.16 were discussed.

5.1 04-04-07-

MOTION by Dr. Idriss, **SECONDED** by Mr. Romero and unanimously,

VOTED: To close cases 04-04-07, 04-04-29, 04-04-40, 04-05-11 and 04-04-16.

5.2 04-04-29- Taken care of on Motion for item 5.1

5.3 04-04-40- Taken care of on Motion for item 5.1

5.4 05-05-11- Taken care of on Motion for item 5.1

5.5 09-08-03- No action was necessary on this item, only a signature by the Chair.

5.6 09-09-11-

MOTION by Dr. Idriss, **SECONDED** by Mr. Romero and unanimously,

VOTED: To issue a Default Order to revoke the license and a \$5,000 penalty fine.

5.7 10-09-10-

MOTION by Ms. Samora, **SECONDED** by Mr. Romero and unanimously,

VOTED: To dismiss as unfounded.

5.8 10-10-36 A & B-

Mr. Sisneros recused himself from this matter.

MOTION by Dr. Idriss, **SECONDED** by Ms. Samora and

VOTED: To dismiss as unfounded.

Mr. Romero abstained from voting in this matter. The Chairman stated that they had four I's and that the motion was passed.

5.9 10-10-32-

MOTION by Mrs. Samora, **SECONDED** by Mr. Romero and unanimously,

VOTED: To dismiss.

5.10 10-10-40-

MOTION by Mrs. Samora, **SECONDED** by Mr. Romero and unanimously,

VOTED: To dismiss.

5.11 10-10-47- Item postponed until November board meeting

5.12 11-10-10-

MOTION by Mrs. Samora, **SECONDED** by Mr. Romero and unanimously,

VOTED: To issue an NCA- possible Informal Settlement Agreement with a \$150 fine and a cautionary letter.

5.13 11-10-11-

MOTION by Dr. Idriss, **SECONDED** by Mr. Romero and unanimously,

VOTED: To issue an NCA- possible Informal Settlement Agreement with a \$500 fine and a cautionary letter.

5.14 11-10-12-

MOTION by Mr. Romero, **SECONDED** by Mr. Schoen and unanimously,

VOTED: To issue an NCA- possible Informal Settlement Agreement with a \$1500 fine and a cautionary letter.

5.15 Turner Update- given earlier in meeting.

5.16 04-04-16- Taken care of on Motion for item 5.1

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

MOTION by Mr. Romero, **SECONDED** by Mr. Schoen and unanimously

VOTED: To make the full PEC hearing officers for all cases that NCA's were issued.

6. **OLD BUSINESS**

6.1 **Donna Dietz-** No action or discussion on this matter.

6.2 **Joseph Shain-** No action or discussion on this matter.

Mr. Robert Rivera stood up and thanked the committee for hearing his case.

Mr. Isaac Chavez also stood up thanked the committee and asked some questions concerning the matter that was filed against him. The committee explained the actions that were taken against him and addressed his concerns.

7. **ADJOURNMENT**

Mr. Shah adjourned the meeting at 2:15 p.m.

Submitted by:

s/ Edward Ytuarte
Mr. Edward Ytuarte, Executive Director

Approved by:

s/ Subhas Shah, PE
Mr. Subhas Shah, PE, Chair

November 4, 2010 Approved Date