

MINUTES OF

Meeting of the Professional Engineers Committee of the Board of Licensure for Professional Engineers held 10:00 a.m. January 27, 2011 at Middle Rio Grande Conservancy District Offices, 1931 Second St. SW, Albuquerque, NM

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
 Perry Valdez, Licensing Manager
 Roman Garcia, Board Investigator
 Joe Barela, PE, Case Manager
 Mary Smith, Board Attorney
 Russell Koger
 Chris Murray
 Ron Hensley
 Raymond Hensley

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

Mr. Shah convened the meeting at 10:00 a.m. Roll call was taken and it was noted that a quorum of the committee was present. Mr. Hensley, Mr. Koger, Mr. Murray, and Mr. Hensley were introduces to the committee as guests.

2. **APPROVAL OF THE AGENDA**

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

VOTED: To run the agenda as item1, 2, 3, 4, 6, 5,7and 8. Move items 6.1 into closed session, make item 6.2 into item 5.4 and place Complaint Process as item 6.2.

3. APPROVAL OF THE MINUTES

3.1 November 4, 2010-

MOTION by Mr. Sisneros, **SECOND** by Mr. Romero, and unanimously

VOTED: To approve the minutes as amended

4. CORRESPONDENCE

4.1 Chris Murray Request to Appear Before Board- Endorsement- Mr. Valdez stated that Mr. Murray had previously applied in 2002. At that time he did not get approved due to his degree. Mr. Valdez stated that Mr. Murray has now obtained a Master Degree in Civil Engineering from UNM in the fall of 2009.

Mr. Murray stated that he was currently licensed as an engineer in the state of Colorado. He stated that he started the whole process of applying in New Mexico in 1992. He stated that he had passed both the FE and PE exams in Colorado. Mr. Murray also stated that he has been practicing engineering since 1984.

Mr. Valdez stated that Mr. Murray had 17 years of experience at the time of his application in 2002. Mr. Valdez stated that the committee could evaluate his wood science and technology degree and if they found that it met the requirements at the time of application then Mr. Murray would meet the experience requirements. If the committee finds that it does not meet the requirements then Mr. Murray would be required to obtain four years of engineering experience post the master's degree.

The committee decided to continue discussing this matter during the closed session and give Mr. Murray a decision by the time the meeting came to an end.

4.2 Ron Hensley Request to Appear Before the Board- PE Exam- Mr. Valdez explained that Mr. Hensley had applied to take the PE exam in December 2010. He stated that Mr. Hensley is requesting to take the PE exam in April 2011 and that he has one year and two months of experience at the time of application. Mr. Valdez goes on to state that Mr. Hensley has twenty four years of experience prior to receiving his degree.

Mr. Hensley then began to state his interpretation of the law to the committee and asked the committee to allow him to take the April exam.

The committee decided that this was an item that they also would take into consideration during closed session and would have a decision by the close of the meeting.

4.3 Russell Koger Request for Audience Before PEC- Mr. Koger stated that he was not aware that he had been placed on the agenda since he did not receive a response.

Mr. Ytuarte stated that he did send a response to Mr. Koger, which also asked him for the subject matter of his request. Mr. Ytuarte stated that he had not received a clear answer from Mr. Koger and replied to him that the time allowance would be determined by the committee at the time of his presentation.

Mr. Koger stated that in September 2009 he had called the board regarding the matter of Mr. Raul Parra. He stated that he called again in November and once again in January to see if any complaints had been lodged against Mr. Parra. Mr. Koger stated that when he called in January he spoke to Mr. Garcia and he had insured him that there was a complaint filed against Mr. Parra.

Ms. Smith stopped Mr. Koger at this point and stated that the board had voted on an NCA pending against Mr. Parra that has not yet been referred to the attorney general's office for the issuance or for the development of the case. She stated that it would be improper for the board to hear any information at this time. Ms. Smith stated that she had a concern that the board would hear any evidence outside of the formal hearing since a decision will have to be made after the hearing. Ms. Smith stated that the committee could be making a biased decision due to evidence that was heard by them prior to the hearing.

Mr. Romero stated that had Mr. Koger submitted the information to Mr. Ytuarte per his request, Mr. Ytuarte would have been able to notify him that it was not a possibility for him to come before the committee. Mr. Romero requested that the committee not hear from Mr. Koger on this matter.

Ms. Smith advised the board not to hear anything from Mr. Koger or anyone else in the room regarding Mr. Parra.

Mr. Shah advised Mr. Koger that the committee would not hear anymore on this matter from him and asked if he had anything else to say.

Mr. Koger once again began to speak about Mr. Parra's pending case.

Ms. Smith once again interceded and stated that the board voted on an NCA against Mr. Parra. It was now one hundred percent in the hands of the attorney general's office. She stated that it may have not been given to them yet, but only the administrative prosecutor will ask for evidence in building the case or in doing the investigation. Ms Smith directed the board not to hear anymore from Mr. Koger regarding this case at this point.

4.4 David Beene Medical Exemption Request- Mr. Valdez stated that this item needed to be removed from the agenda due to the fact that Mr. Beene has passed away.

6. OLD BUSINESS

6.1 Turner Case Update- Mr. Shah stated for the record that he was recusing himself from this matter.

Ms. Smith stated that since there was going to be attorney client information being discussed that she would like for this item to be discussed during the closed session.

6.2 Complaint Log- The compliant log was discussed during the close session of the meeting.

Mr. Sisneros stated that he would like to get two volunteers to work on the issue of working on the complaint process.

Mr. Ytuarte stated that per a conversation that was had between Mr. Sisneros and himself a task force or committee was going to be created to look further into amending the complaint process and possibly make some modifications to the process that is already in place. Mr. Ytuarte stated that there have already been two surveyors that have volunteered and now only needed two engineers to volunteer to help the process along.

Mr. Romero and Mr. Shah volunteered

6.3 Independent Auditor's Report- Mr. Ytuarte stated that he had distributed copies of the auditor's report to all of the board members at the full board meeting with the exception of Mr. Sisneros who was not in attendance. Mr. Macias was not able to attend to answer any questions, but did state that all of his findings are in the report.

Mr. Romero stated that at the full board meeting there was a report given by Mr. Ytuarte stating that at least one board member, Ms. Ulibarri and himself were in attendance at the exit audit. Mr. Romero stated that the report that was given to the full board should be good enough.

Mr. Ytuarte stated that there were four findings and that it is also indicated in the report what is going to be done to address those issues. Mr. Ytuarte stated that when the new contract is drawn up for the auditor they will make sure to include as part of the contract that the auditor will give a report to the full board.

Mr. Hensley asked to speak to the committee. Mr. Hensley inquired about the fire protection rules and the status.

Mr. Ytuarte stated that he has assigned those rules to be followed up on by Ms. Bourassa and she will be directed to put this item on the front burner.

Mr. Hensley asked about the raised fees and how they are being used. Mr. Ytuarte stated that they are going to go before the state legislature to see if there is a possibility of the agency getting the two permanent staff members.

5. COMPLAINTS & VIOLATIONS- CLOSED SESSION-

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

VOTED: To convene in closed session pursuant to NMSA 1978, Section 10-15-1 (H) (1) to discuss the cases listed as 5.1 to 5.3 on the agenda, item 4.1, 4.2 6.1 and 6.2. 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.

5A. COMPLAINTS & VIOLATIONS- OPEN SESSION-

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

VOTED: To go back into open session and that o items listed as 5.1 though 5.3, 4.1, 4.2 and 6.1 and 6.2 were discussed at this time.

5.1 10-10-29-

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

VOTED: To dismiss as unfounded, letter of caution to the respondents stating that their business card could be misleading to the public.

5.2 10-10-30-

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

VOTED: To dismiss as unfounded.

5.3 10-10-48

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

VOTED: To dismiss as unfounded.

4.1 Chris Murray

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

VOTED: To grant licensure Mr. Murray by endorsement but not as a structural engineer.

4.2 Ron Hensley- Mr. Hensley will be notified by letter as to the decision that was made on his request.

6.1 Turner Case Update- Mr. Romero stated that Ms. Smith would petition for Writ of Cert on behalf of the board.

Mr. Shah once again stated for the record that he did not participate in any of the discussions and had recused himself from the matter.

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

None were required at this time.

7. REVIEW OF APPLICATIONS

7.1 Retired and Inactive Applications-

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

VOTED: To approve all retired and inactive status applications as presented.

7.2 PE & EI Licensure and Certification- Mr. Valdez stated that this item was for information purposes only.

7.3 National Licensing Exam Results- Mr. Valdez stated that this item was for information purposes only.

7.4 Review of Applications- This was done on an individual basis

8. ADJOURNMENT- Mr. Shah adjourned the meeting at 2:00 p.m.

Submitted by:

s/ Liz Montoya

Ms. Liz Montoya, Acting Executive Director

Approved by:

s/ Subhas Shah, PE

Mr. Subhas Shah, PE, Chair

_____ May 12, 2011 _____ Approved Date