

MINUTES

MEETING OF THE PROFESSIONAL SURVEYING
COMMITTEE of the Board Licensure of Professional
Engineers and Professional Surveyors held 9:00 a.m.,
Thursday, April 4, 2019,
Electrical Conference Room, Thomas and Brown Hall, Room 207,
New Mexico State University, Las Cruces, NM 88001

Members Present- Augusta Meyers, Public Member, Committee Chair
Cliff Spirock, PS
Glen Thurow, PS

Members Absent- David Cooper, PS

Others Present- Perry Valdez, BLPEPS, Executive Director
Miranda Gonzales, BLPEPS, Financial Assistant
Angelica Urioste, BLPEPS, Licensing Administrator
Delilah Tenorio, Legal Counsel
Chuck Cala, PS, Board Investigator
Tim Wiswell – via teleconference
Earl Burkholder, PEPS
Dr. Kurt Wurm, PS
Mikaela Hicks, NMPS Student Chapter President

1. Convene, Roll Call and Introduction of Audience

Ms. Meyers convened the meeting at 9:17 a.m., roll call was taken and a quorum noted. Ms. Meyers recognized Dr. Wurm, Mr. Burkholder, and Ms. Hicks in attendance of the meeting.

2. Meeting Notification

Mr. Valdez informed the Committee the meeting was noticed in the Albuquerque Journal as well as the Board's website.

3. Approval of Agenda

MOTION by Mr. Thurow to approve the Agenda, **SECOND** by Mr. Spirock, **PASSED** unanimously.

Discussion: Ms. Meyers suggested moving into closed session immediately following discussion with Mr. Wiswell. Mr. Spirock and Mr. Thurow expressed they would prefer to keep the agenda as written.

4. Approval of Minutes

a. Minutes of January 17, 2019

MOTION by Mr. Spirock to approve the Minutes of January 17, 2019, **SECOND** by Mr. Thurow, **PASSED** unanimously.

b. Minutes of January 29, 2019

MOTION by Mr. Spirock to approve the Minutes of January 29, 2019, **SECOND** by Mr. Thurow, **PASSED** unanimously.

5. Public Comment/Correspondence

a. T. Wiswell – Reconsideration of Application

Mr. Valdez provided a brief synopsis of the Committee’s action on Mr. Wiswell’s application. He informed the Committee of Mr. Wiswell’s request for reconsideration of his application for licensure by endorsement. Mr. Wiswell stated he provided a letter to the Committee, regarding his education and request for reconsideration. He expressed that at the time he was licensed a degree was not necessary, he contacted the Board office and was informed that when he was initially licensed in 1991 he wouldn’t need a degree. Mr. Wiswell, based on the information, submitted an application along with the required documents. He is requesting some type of leeway allowing for his continuing education and experience. He is requesting reconsideration, he stated, he is more than qualified and has the protection of the safety and welfare of the public in mind.

Mr. Thurow requested additional information regarding Mr. Wiswell’s education. He informed Mr. Wiswell of the education requirements in New Mexico for 1991. Mr. Wiswell responded by informing the Committee where he attended school. He repeated he contacted the Board office and was informed he did not need a degree. He added, if he had known he lacked the required education he may not have applied.

Ms. Meyers thanked Mr. Wiswell for his information and call. She informed him the Committee would take this under consideration. Mr. Wiswell thanked the Committee for their time.

6. Old Business

No items for discussion.

7. New Business

a. Rules Committee Report and Recommendation of Changes to the NM Administrative Code

Mr. Valdez informed the Committee this item was placed on the agenda because of the changes to the Practice Act from the Legislative Bills introduced and passed. He informed the Committee neither Bill had been signed by the Governor as of yet.

Mr. Thurow added the changes to the rules need to be done soon. There are other items which require addressing, that will become effective in 2020. This Board should be involved to make the necessary changes in a timely manner.

Mr. Spirock initially tried to have a Rules Committee meeting prior to the next day's Full Board meeting; to consider changes to the rules. Mr. Spirock mentioned the Rules Committee came up with a "Bucket List" of ideas to be incorporated into the rules, or the Act. He suggested a path forward would be for Mr. Thurow to compile an outline, if not bullet points, of those things added to the "Bucket List", so when the appropriate time comes we can discuss them.

Mr. Thurow responded it is necessary to have the Governor sign the legislation which passed. Any changes to the Administrative Code must be predicated by the changes to the Practice Act. He further added, the other documents such as the Minimum Standards, the Administrative Code, and the Practice Act will have to be reviewed in light of any changes made elsewhere in the New Mexico statutes. Mr. Spirock clarified, he suggested having an outline, or bullet points, of proposed changes, essentially to get an early jump on any changes that may need to be completed.

Ms. Meyers recognized Mr. Burkholder. Mr. Burkholder stated his understanding is that input from the society of NMPS is critical. He stated he is serving as the local Chapter President for NMPS, and Mr. Marrujo, the NMPS President, is aware of the 2022 NGS new Realization (State Plane) issue and is encouraging discussion to address this issue. Mr. Burkholder suggested the Board collect input from NMPS, and he personally would be happy to work and consult with the Board on a fee basis. Mr. Thurow asked Mr. Burkholder, to clarify if for his participation to the Board a fee be made? Mr. Burkholder responded that he is a member of the State Society and contributes his talent there freely and as much as he can, and if that input comes to the Board then that is fine. He further responded, there are issues that need to be addressed at a pretty high level. He has over 40 years of professional experience with these issues, and the Board secures the services of consultants for advice in various ways. Mr. Burkholder stated, as a retired academic, he has been in business and his services are available as a consultant to the Board, a formal input to the Board will be on a fee basis.

Mr. Spirock stated it must be made clear, if the individuals presenting, do they represent an opinion or an action by the NMPS, or is it an individual as a member of the organization? Also, Mr. Spirock asked the Executive Director, Mr. Valdez, if a fee proposal by Mr. Burkholder should follow the State Procurement Act. Mr. Valdez responded that it did and it would have to be advertised and processed as any RFP.

8. Application Review – Recommended Approval

a. Recommended for Approval List (Exhibit A)

PS Exam Application(s) – (2)

PS Endorsement Application(s) – (5)

MOTION by Mr. Spirock to approve Exhibit A, the recommended for approval applications, **SECOND** by Mr. Thurow, **PASSED** unanimously.

b. PS Retired Status Request(s)

MOTION by Mr. Thurow to approve the request for PS Retired Status from Dr. Steven Frank, **SECOND** by Mr. Spirock, **PASSED** unanimously.

9. Executive Session

MOTION by Mr. Thurow that the Committee enter into closed Executive Session to discuss the items listed on the agenda pursuant to NMSA 1978, Section 10-15-1 (H) (1) and (3), to discuss matters pertaining to the issuance, suspension, renewal or revocation of a license and to deliberate on pending cases. **SECOND** by Mr. Spirock, **PASSED** unanimously.

Roll call vote taken, voting ‘Yes’: Ms. Meyers, Mr. Spirock, Mr. Thurow.

10. Action on Items Discussed During Executive Session

Ms. Meyers brought the Committee back into open session and affirmed that while in closed session the Committee discussed only those matters specified in the motion to close the meeting and listed on the agenda under executive session, in accordance with NMSA 1978 Section 10-15-1 (H) (1) and (3).

a. Disciplinary Cases

1) Case 8-PS-11-01-2018– Complaint Manager’s Report

MOTION by Mr. Thurow to attempt to enter into a pre-NCA settlement agreement and that if no agreement is executed within 30 days, the matter will be automatically referred to the Attorney General’s Office for the issuance of an NCA, **SECOND** by Mr. Spirock, **PASSED**.

2) Case 7-PS-09-04-2018

MOTION by Mr. Thurow to close and take no further action, **SECOND** by Mr. Spirock, **PASSED** unanimously.

3) Case 1-PS-05-27-2015

MOTION by Mr. Thurow to direct staff to issue a letter to the respondent stating that he is still not in compliance with the agreement and still needs to provide notarized statements concerning the reviewers that they have reviewed his plats and have found no deficiencies, and he needs to confirm that he has taken the formal 4-hours ethics course that were stipulated in the agreement, **SECOND** by Mr. Spirock, **PASSED** unanimously.

b. Status Review of Complaints and NCAs

Mrs. Gonzales provided a report to the Committee on the status of pending cases and referrals for Notice of Contemplated Actions.

c. Applications for Reconsideration

1) PS Endorsement

a) Burdeaux, D.

MOTION by Mr. Thurow to not approve his application, **SECOND** by Mr. Spirock, **PASSED** unanimously.

b) Ferguson, A.

MOTION by Mr. Thurow to not approve his application, **SECOND** by Mr. Spirock, **PASSED** unanimously.

c) Kelly, L.

MOTION by Mr. Thurow to approve his application, **SECOND** by Mr. Spirock, **PASSED** unanimously.

d) Meche, A.

MOTION by Mr. Thurow to approve his application, **SECOND** by Mr. Spirock, **PASSED** unanimously.

e) Mollenkopf, H.

MOTION by Mr. Thurow to approve for the PS exam, **SECOND** by Mr. Spirock, **PASSED** unanimously.

f) Thatcher, L. - Reconsideration

MOTION by Mr. Thurow to accept his application to take the PS exam, **SECOND** by Mr. Spirock, **PASSED** unanimously.

g) Wiswell, T. - Reconsideration

MOTION by Mr. Thurow to not approve the reconsideration of his application, **SECOND** by Mr. Spirock, **PASSED** with one nay vote from Mr. Spirock.

7. **Next Scheduled Meeting Date:** June 6, 2019 – Santa Fe, NM

8. **Adjourn**

MOTION by Mr. Thurow to adjourn the meeting, **SECOND** by Mr. Spirock, **PASSED** unanimously.

Meeting adjourned at 12:18 p.m.

Submitted by:

Approved by:

s/ Perry Valdez
Perry Valdez, Executive Director

s/ Augusta Meyers
Augusta Meyers, Committee Chair

May 30, 2019 **Approved Date**