

**Minutes**

**MEETING OF THE PROFESSIONAL SURVEYING  
COMMITTEE of the Board Licensure of Professional  
Engineers and Professional Surveyors held at  
9:00 a.m., Thursday, January 14, 2021,  
Virtual/Telephonic Meeting**

**Members Present-** Augusta Meyers, Public Member, Committee Chair  
Clifford Spirock, PS  
David Cooper, PS

**Members Absent-**

**Others Present-** Perry Valdez, BLPEPS, Executive Director  
Maria Ruiz, Licensing Administrator  
Valerie Joe, AAG, Legal Counsel  
Nicholas McDonald, AAG  
Chuck Cala, PS, Board Investigator  
Earl Burkholder, PEPS  
Robert Watt, PS

**1. Convene, Roll Call and Introduction of Audience**

Mr. Valdez read the meeting script regarding the virtual meeting protocols. Ms. Meyer convened the meeting at 9:06 a.m. Roll call was taken and a quorum noted.

**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. Spirock to approve the agenda as presented, **SECOND** by Mr. Cooper,

**Discussion:** Mr. Spirock asked Mr. Valdez if the item "Old Business" should always be on the agenda since it was not on this agenda. Mr. Valdez responded that he was correct and he will ensure future agendas would include an "Old Business" item.

**Roll call vote taken:**

**Voting 'Aye':** Ms. Meyers, Mr. Spirock, Mr. Cooper

**PASSED** unanimously.

**4. Approval of Minutes**

**a. Minutes November 4, 2020**

**b. Minutes November 20, 2020**

**MOTION** by Mr. Spirock to approve the Minutes of November 4, 2020 and November 20, 2020 as presented, **SECOND** by Mr. Cooper,

**Roll call vote taken:**

**Voting 'Aye':** Ms. Meyers, Mr. Spirock, Mr. Cooper

**PASSED** unanimously.

Audience introductions were made at this time. Mr. Burkholder, Mr. Cala, Mr. Watt, Ms. Joe, Ms. Ruiz, and Mr. McDonald introduced themselves.

**5. Requested Public Comment**

**a. R. Watt – Case 5-PS-09-23-2014**

Mr. Watt introduced himself and said he was going to provide an update to case 5-PS-09-23-2014.

Mr. Watt provided a brief background on the case. He stated he retained legal counsel for this matter, had several meetings with the Attorney General's office, and were unable to reach a settlement. Mr. Watt continued providing a background of the case. He noted, the Board issued Advisory Opinion 18 in 2017 and wondered if the Opinion may have been predicated specifically from his case.

Mr. Watt said he attended a meeting in January 2018 to resolve the case. He said the meeting minutes reflect the basis for a settlement agreement. Mr. Watt acknowledged the settlement agreement. He explained that throughout early 2019 he prepared a revised survey plat in accordance with the terms of the agreement. He provided the revised plat to the Committee in November 2019. Mr. Watt said he made every effort to meet the terms of the settlement agreement by completing the revised plat with the hope of closing the case.

Mr. Watt explained Taos County would not approve a survey plat as claim of exemption without the supporting deeds that conform to the plat; therefore, he could not file the revised plat.

Mr. Watt stated the Professional Surveying Committee (PSC), at the November 2019 meeting, decided to delay the settlement agreement until the civil litigation between the landowners in this matter had been resolved. He reported that in July 2020 the Committee provided another extension to the settlement agreement, so the litigation may come to a completion and he could complete a plat that would conform to the Court's decision.

Mr. Watt pleaded with the Committee to assist with helping resolve this matter. He remarked that since the last time he met with the PSC there have been some changes. Mr. Watt reported he prepared a survey plat and submitted it to the planning department for approval, so it could be filed. He explained he prepared an affidavit, that specifically stated the errors, minor typographical errors discovered on his plat, further, there was an issue that he had suggested an easement on his plat, which was not labeled; so in the affidavit he clearly stated it was a proposed easement. Mr. Watt filed the affidavit with the Taos County Clerk's Office in an effort to stem the possibility of any confusion that relate to his survey plat.

Mr. Watt reported he was named as a co-defendant in a trial by the complainant. He said the Court has not scheduled a hearing as of yet.

Mr. Watt requested the PSC clarify the proper way to approach its members to assist and mentor him in this matter. He noted the Board imposed the requirement for the preparation of the plat with the claim of exemption, the County did not request or require this, therefore, he requested the Board consider his proposal. Mr. Watt presented his proposal, for the Committee to accept the survey plat prepared and submitted in November 2019, in accordance with Advisory Opinion 18. Thus allowing him to submit the plat to the Taos County Planning Department along with the claim of exemption application and to hold it until corresponding deeds are prepared, and the plat could be filed with the deeds, and the property owners meet other requirements for the claim of exemption. He continued, or to submit the sealed plat to the PSC as the bona fide unit of Government to hold until recordation is permissible, prepare an amended settlement agreement clarifying these points. Mr. Watt further requested the PSC provide an updated Case Manager Report to assist him in disproving the allegations in the civil matter. He said he submits himself to the discretion of the Committee to resolve this matter.

Ms. Meyers questioned Mr. Watt about the affidavit, regarding the typographical errors. She asked if those errors were on the revised plat. Mr. Watt responded the typographical errors were on the 2012 survey plat.

Mr. Spirock clarified he was the author of Advisory Opinion 18 and it was not created because of Mr. Watt's case, as he suggested. He asked if there was someone with Taos County who could be contacted. Mr. Watt replied, Edward Vigil, the head of the Taos Planning Department. Mr. Spirock asked if either counsel had, a similar experience of a Board action be requested that certain items be done. Ms. Joe and Mr. McDonald responded they had not experienced this type of request.

Mr. Watt asked if it was appropriate to contact a Board member to resolve this matter. Ms. Meyers replied that it would not be appropriate to reach out to a Board member because the members are bound by statute and rules not to engage with individuals involved in a disciplinary case. Mr. Valdez expressed it would be better to contact himself and he would speak to the Board members.

Mr. Cooper asked Mr. Watt to express his proposed solution again. Mr. Watt responded for the Committee to accept the November 2019 plat, he would submit it to the Taos County with the claim of exemption, and the County hold it until the deeds and other requirements were met, and then file the plat.

Mr. Cooper sought clarification of Mr. Watt's proposal. He asked Mr. Watt if he understood his proposal that Mr. Watt wants, that the Board accept the November 2019 plat he prepared and settle the case, allowing him to continue with his legal case problems. Mr. Watt answered that was correct.

Ms. Meyers asked if the Board's investigator, Mr. Cala, had any comments. Mr. Cala inquired of Mr. Watt, if it was correct that the exemption plat he proposed to be recorded effectively sub-divided the property without the acknowledgement, and consent, of the underlying property owners. Mr. Watt responded he was not sure how to respond, he said the plat showed his opinion where the boundaries are and it would be up to the property owners to acknowledge that with proper vesting deeds.

Mr. Cala said he recalled Mr. Watt's objective was to interpret the intentions of a will. He recounted how one of the parties objected as to the manner in which Mr. Watt made his interpretation. Mr. Cala noted that property owner felt his property rights were abridged when the plat was created and sub-divided the property without the owner's express consent. Mr. Cala asked Mr. Watt if he obtained the approval of the parties involved on the manner on which he sub-divided the property.

Mr. Watt replied that there was no will involved in this matter. He explained there were deeds transferred in 1993. Mr. Cala expressed concern of asking consent of the PSC to submit and record the plat without the approval of the underlying property owners. Mr. Watt agreed with Mr. Cala's concern.

Mr. Watt explained there are 37-year-old deeds that he tried to interpret. He said the deeds were prepared without benefits of a survey. Mr. Watt continued explaining, the grandfather, or father, prepared the deeds. He said it is his humble opinion the deeds and underlying survey plat referred to in the deeds, are so old that they precede the Taos County Planning Department. Mr. Watt added the Taos County did not require a claim of exemption on the plat.

Ms. Meyers thanked Mr. Watt for appearing before the Committee.

**6. New Business**

**a. Investigative Services and Contract – C. Cala**

Mr. Valdez introduced the item. He informed the Committee Mr. Cala’s contract is in the process before it expires in March.

Mr. Cala stated Mr. Valdez is working to extend his contract for another year. He reminded the Committee in the past there have been stops and breaks which created a backlog, and hopes to avoid that. Mr. Cala said he would like to see a mechanism where a termination is both way, where he also could terminate the contract, if necessary.

Ms. Meyers asked if the object was to extend the contract to avoid a gap in service, since Mr. Cala’s contract ends in March. Mr. Valdez responded in the affirmative that was the objective.

Mr. Spirock asked Mr. Valdez, asked if any other individuals have submitted a request. Mr. Valdez responded the office has not received any requests. Mr. Spirock voiced his concern and the contract be done expeditiously as possible, even as an emergency. He said we should avoid any gap in service and praised Mr. Cala for the work he has performed.

**7. Application Review – Recommended Approval**

**a. Recommended for Approval List (Exhibit A)**

**MOTION** by Mr. Spirock to approve Exhibit A, dated November 4, 2020, the recommended for approval applications, **SECOND** by Mr. Cooper,

**Roll call vote taken:**

**Voting ‘Aye’:** Ms. Meyers, Mr. Spirock, Mr. Cooper

**PASSED** unanimously.

**b. Inactive Application(s)**

**MOTION** by Mr. Spirock to approve the inactive status application, **SECOND** by Mr. Cooper,

**Roll call vote taken:**

**Voting ‘Aye’:** Ms. Meyers, Mr. Spirock, Mr. Cooper

**PASSED** unanimously.

c. **Retired Application(s)**

**MOTION** by Mr. Spirock to approve the retired status applications, **SECOND** by Mr. Cooper,

**Roll call vote taken:**

**Voting 'Aye':** Ms. Meyers, Mr. Spirock, Mr. Cooper

**PASSED** unanimously.

8. **Executive Session**

**MOTION** by Mr. Spirock 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. Cooper,

**Roll call vote taken, voting 'Yes':** Ms. Meyers, Mr. Spirock, Mr. Cooper

9. **Action on Items Discussed During Executive Session**

Ms. Meyers brought the Committee back into open session and affirmed that while in closed session it 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 9-PS-06-28-2019 – Complaint Manager's Report**

**MOTION** by Mr. Spirock to accept the complaint manager's report and refer for an NCA for this complaint, including, but not limited to, prior cases listed in the complaint manager's report, **SECOND** by Mr. Cooper,

**Roll call vote taken:**

**Voting 'Aye':** Ms. Meyers, Mr. Spirock, Mr. Cooper

**PASSED** unanimously.

2) **Case 2-PS-01-30-2020 – Complaint Manager's Report**

**MOTION** by Mr. Spirock to accept the complaint manager's report, refer for an NCA, with a cease and desist order for violations of unlicensed practice, **SECOND** by Mr. Cooper,

**Roll call vote taken:**

**Voting 'Aye':** Ms. Meyers, Mr. Spirock, Mr. Cooper

**PASSED** unanimously.

**3) Case 5-PS-10-18-2017(B) District Court Memorandum Opinion**

**MOTION** by Mr. Cooper to impose the maximum fine for each individual violation the District Court recognized. For the Board's Legal Counsel to draft a response with the specific violations enumerated, which are NMAC 12.8.2.9 J. 6. a. – for three violations of the plat not adequately demonstrating the basis of bearing, for a fine of \$500 for each violation; 12.8.2.9 J. 7., - the survey plat showing discrepancies, where the survey did not clearly demonstrate significant disparities between the survey and other plats of record, there are three violations for a fine of \$500 for violation; 12.8.2.9 J. 14 – the survey did not adequately demonstrate the relationship of the boundaries of the ad joiners, there was one violation for a fine of \$500 and that the plat should be corrected, **SECOND** by Mr. Spirock,

**Roll call vote taken:**

**Voting 'Aye':** Ms. Meyers, Mr. Spirock, Mr. Cooper

**PASSED** unanimously.

**4) Case 5-PS-09-23-2014**

**MOTION** by Mr. Spirock that after consideration of the testimony by the respondent to continue with the referral for an NCA, **SECOND** by Mr. Cooper,

**Roll call vote taken:**

**Voting 'Aye':** Ms. Meyers, Mr. Spirock, Mr. Cooper

**PASSED** unanimously.

**5) Case 8-PS-11-01-2018**

**MOTION** by Mr. Spirock to continue with the NCA process, acknowledge receipt of the email from the respondent, and for the Executive Director to seek an outside hearing officer, **SECOND** by Mr. Cooper,

**Roll call vote taken:**

**Voting 'Aye':** Ms. Meyers, Mr. Spirock, Mr. Cooper

**PASSED** unanimously.

**6) Case 7-PS-05-20-2019**

**MOTION** by Mr. Spirock to continue the Pre-NCA process, directing the Executive Director to contact the complainants with the respondent's offer as a settlement of the case, if not accepted to proceed to the next action, **SECOND** by Mr. Cooper,

**Roll call vote taken:**

**Voting 'Aye':** Ms. Meyers, Mr. Spirock, Mr. Cooper

**PASSED** unanimously.

**b. Status Review of Complaints and NCA Referrals**

The status review of complaints and NCA referrals was deferred until the next scheduled meeting.

**c. Applications for Review**

**1) PS Endorsement**

**a) Anderson, M.**

**MOTION** by Mr. Cooper to approve for licensure, **SECOND** by Mr. Spirock,

**Roll call vote taken:**

**Voting 'Aye':** Ms. Meyers, Mr. Spirock, Mr. Cooper

**PASSED** unanimously.

**10. Next Scheduled Meeting Date:** April 15, 2021 – Santa Fe or Virtual

**11. Adjourn**

**MOTION** by Mr. Cooper to adjourn the meeting, **SECOND** by Mr. Spirock,

**Roll call vote taken:**

**Voting 'Aye':** Ms. Meyers, Mr. Spirock, Mr. Cooper

**PASSED** unanimously.

Meeting adjourned at 12:04 p.m.



**Submitted by:**

s/Perry Valdez

Perry Valdez, Executive Director

**Approved by:**

s/Augusta Meyers

Augusta Meyers, Committee Chair

April 15, 2021 **Approved Date**