

Meeting of the Board of Licensure for Professional Engineers
& Surveyors held on February 6, 2004 at 1010 Marquez
Place, Santa Fe, NM.

Members Present: Severiano Sisneros, PE
Fred Sanchez, PS
Subhas Shah, PE
Gilbert Chavez, PS
Clifford E. Anderson, PE/PS
Charles Atwell, Public Member
Patricio Guerrerortiz, PE
David W. Marble, PE/PS
Stevan J. Schoen, Public Member

Members Absent: Dr. Rola Idriss, PE

Others Present: Elena Garcia, Executive Director
Diego Sisneros, PS
Edward M. Trujillo, PS
Allan S. Curtis, PS
Jeffery Ludwig, PS
Glen Thurow, PS
Scott Croshaw, PE
Hank Rosoff, PE, NMSPE
Julie P. Samora, PE, NMSPE
Chuck Cala, PS
Salvador Vigil, PS

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

2. **APPROVAL OF THE AGENDA**

It was moved by Mr. Shah, seconded by Mr. Guerrerortiz and unanimously,

VOTED: To approve the agenda as presented.

3. **APPROVAL OF THE MINUTES**

It was moved by Mr. Schoen, seconded by Mr. Shah and unanimously

VOTED: To approval the minutes of the November 7, 2003 minutes.

It was moved by Mr. Schoen, seconded by Mr. Sanchez and unanimously

VOTED: To correct the entry on item 3.2 on the agenda to read "approval of the January 27, 2004 minutes" and to approve said minutes.

4. **NEW BUSINESS**

4.1 Hank Rosoff, PE, Vice President, NMSPE

4.1.1 Invitation to hold the June Meeting in Conjunction with the NMSPE Annual Meeting - June 4, 2004 -- Mrs. Garcia indicated that she had surveyed Board members and Mr. Shah would not be able to make the meeting if it was changed. Mr. Sanchez indicated that the Board had accepted the NMPS' invitation to meet in conjunction with their convention and should also accept the NMSPE' invitation. He stated that during the NMPS meeting, the Board will end up with a two-hour long full board meeting instead of the regular three-hour meeting since the PS will be providing workshops starting at 10:00 a.m. He did not believe this was very realistic. Mrs. Garcia stated that the meeting times will need to be changed. Mr. Rosoff indicated that for the NMSPE meeting, the Board could schedule their regular meetings, however they would be at the same location as NMSPE's annual meeting. This would allow participants to attend the board

meetings. NMSPE would provide the necessary meeting rooms on Thursday & Friday. Mr. Schoen stated it would be great to be able to see and interact with its licensees. Mr. Guerrerortiz indicated he would like to see more of the public at these meetings since the agency's mandate is more for the benefit and good of the consuming public. Engineers in general should make the public more aware of what the Board does. It was voted by Mr. Marble, seconded by Mr. Chavez and unanimously,

VOTED: to accept the invitation and change the June meeting to June 3-4, 2004 and hold it in Albuquerque.

4.1.2 January 30, 2004 Correspondence - Mr. Rosoff indicated that Mr. Paul Martin had volunteered to be on the construction staking committee representing NMSPE. Mrs. Garcia indicated that she believes the committees may need to meet outside of board meetings in order to formalize its charges and the tasks before them. Mr. Sanchez indicated that Mr. Thurow from NMPS would also like to be a part of this committee. Chair Sisneros indicated that he does not want to hinder the committee if at some point he is unable to attend the committee meetings. It was agreed that an engineer from the Board should be on the Committee, therefore Mr. Anderson was also appointed to the Committee.

4.2 NMSPE - Discussion of January 27, 2004 Board of Licensure Meeting & Ensuing Legislation HB 372 - Julie Petrocco-Samora, PE, President NMSPE. - January 30, 2004

Correspondence - Chair Sisneros indicated that he had asked Mrs. Garcia to place this item on the agenda. He indicated the Board has a good opportunity to work things out between engineers and surveyors. He is aware of the conflict between engineers and surveyors and feels the board should look at the future and determine where the Board wants to go with the surveying profession. He felt both the NMSPE and the NMPS should be allowed to provide input to the Board. Chair Sisneros asked Ms. Samora to comment on her correspondence. She indicated that NMSPE explained their position during the January 27, 2004 board meeting. NMSPE was very disappointed with the Board's rushed action to introduce HB 372. Her January 30th letter was to express their disappointment. The proposed legislation is a major step and NMSPE felt the Board should have done this through its usual process, including obtaining input from the public. The board represents 6500 PEs, and they did not get an opportunity to provide input into this important decision.

Chair Sisneros stated that the Board passed an action that was not unanimous, and as Chair he would have preferred to have done this as a concerted effort, especially going to the legislature.

Mr. Sanchez stated this was different since it was not something that the Board initiated. It was something that the Governor requested, and he felt it was a good opportunity to fix some things that need to be fixed. He added that some of the items in Ms. Zamora's letter were incorrect, e.g. the Board does not exist to protect licensees. It exists to protect the public. He felt her letter actually supported the surveyors' point of why the surveying profession needs parity. Mr. Sanchez indicated that if the Governor wanted to expand the Board, he must have had a reason. He also stated that if two dual licenses were to be added on the PSC, the board would have solved nothing. In the past those votes have been traditionally two more votes for the PEs on the Board. He would like to see some spirit of cooperation and willingness to work toward fairness. The main point is that the Board is requiring a four-year degree for surveyors; the declining numbers began after this requirement and there is too little exclusivity to the role that surveyors are allowed in their entire practice. It is not worth it for a young person to invest the time and money to get a four-year degree for the sole purpose of being able to provide boundary surveying and easements. Everything else can be done by a licensed engineer (unlicensed as a surveyor). He believed that if this proposed legislation passed, then the Board could start working on the sunset legislation with surveyors on an equal level.

Mr. Guerrerortiz stated that this was a divisive issue and the worst that can happen is that the board exist for the licensees. It exists for the public. In his opinion engineers and surveyors cannot live without one another. What is best for the public--not engineers, not surveyors is the important issue. Both sides,

engineers and surveyors, pull for their side and that is wrong. He voted in favor of pursuing this legislation because he felt that the two main reasons presented by surveyors at the special meeting, seemed to have the same things in mind as he did. The surveying and engineering professions need to come back to working together. Each decision should be done with the best interests of the public in mind, not the PEs, not the PSs. If the best interest of the public is getting the NMSPE and NMPS involved we will do it.

Mr. Schoen indicated that in the short time he has been on the board, he has seen the surveyors and engineers on the Board work very well together, there has not been a partisan contention. He indicated that the board was given short notice by the Governor. The Board approved the introduction; it did not endorse the bill. He stated that now it is in the hands of the legislature. If someone has a problem with it, they can discuss it with their legislators. He added that when the number of PEs and PSs on the Board are the same and if their is a split vote, the deciding vote will be up to the public members.

Mr. Anderson stated there will be some real intense discussions in the future. Surveyors feel that certain activities are best served by the surveyors and engineers feel that there are certain activities that are traditional practices and can be done by engineers. There is a fairly large overlap in practice, and it is significant enough that it will be extremely delicate to arrive at a mutual understanding. He hopes that in the next year the board can hear both sides and hopefully come to some understanding and the public members can serve as mediators. The decisions made by the board will affect how people use engineers' and surveyors' services, how public agencies use their funding and how they issue contracts. All this is a very complicated issue.

Mr. Marble stated that he had been unaware that the surveying committee believed that he could not represent them on the board and felt a little uncomfortable serving on the PSC. He would like the board to have some discussion on this matter. Mr. Sanchez indicated that he had no problem with the present board or with Mr. Marble serving on the PSC. His comments come from historical data and not from anything that has happened on the current board. What was said is that traditionally a licensee with a dual license has not practiced surveying as a main activity, usually his main practice has been in engineering.

Mr. Chavez indicated that there is no use arguing the point since the proposed legislation is outside of the Board's hands at this time.

Mr. Thurow indicated that he looks forward to discussions by the board, but he takes offense to the comments in Ms. Zamora's letter that indicate surveyors do not have neither the training, nor the practice experience to protect the interest of the public. Surveyors, as do engineers, must follow the Board's code of conduct established for both professions.

Mr. Rosoff added that NMSPE is aware of the decline in the number of active surveyors and would like to offer its assistance to the surveyors.

It was noted that the Board will be holding discussion/input sessions during its public meetings on all the issues before the board prior to the next legislative session.

5. CORRESPONDENCE/COMMUNICATIONS

5.1 William J. Edwards, President, Wyoming State Board of Reg. For PE & PLS - Nomination of Martin A. Pedersen as 2004-2005 NCEES President-Elect - Mrs. Garcia presented Wyoming's nomination of Mr. Pedersen as well as his background. The information was accepted, but the endorsement will be left to the New Mexico delegation at the meeting.

5.2 NCEES Appointment of Associate & Emeritus Members - It was noted that associate members must be Board employees and emeritus members must have been former board members. It was moved by Mr. Guerrerortiz, seconded by Mr. Sanchez and unanimously

VOTED: To submit a nomination for Jeremy Del Valle as associate member of NCEES and Mr. Charles Cala, PS as emeritus member of NCEES.

5.3 NCEES 2002-2003 Fiscal Year Financial Statements - Presented for information only.

5.4 NCEES Proposed Amendment to Constitution & Bylaws 1/28/04 - The Special Committee on Constitution and Bylaws provided proposed language clarifying the following: 1) the Committee on Examination for Professional Engineers and the Committee for Examinations for Professional Surveyors are authorized to prepare examination development procedures, and 2) in the Constitution, to align the two-year term of the Treasurer with the election schedule. No formal action was taken by the Board.

Mrs. Garcia also presented a January 30, 2004 memorandum from Victoria Hsu, Executive Director of the Texas Board wherein they propose amendments to the NCEES Constitution and Bylaws. The Texas Board was unaware of an existing Committee on the Constitution and Bylaws. It sent a memo to all Boards sixty days prior to the first zone meeting as required with three proposals. Proposal I would add the following to Article 3 Membership: "Cancellation of a member board's membership privileges and contract including access to examinations, paid attendance to meetings, and other services as supplied by NCEES and its subsidiaries shall be by majority vote of the Council present and in good standing at the annual or a special meeting." Proposal II would be a housekeeping item to carry out the major intent of the added language. Proposal III also includes a housekeeping item as well as the following language: "Board of Director action items shall be presented for ratification by the Council at the annual or a special meeting. A majority vote of the Council at the annual or a special meeting shall accept or overturn a Board of Directors action. Board Director action items that are not approved by the Council shall be rescinded, suspended, or otherwise resolved as moved by the Council." This matter will be discussed during the WZ and Annual NCEES meetings. No formal action was taken by the Board.

6. COMMITTEE REPORTS

6.1 Professional Engineering Committee- Mr. Shah reported that the Committee met with Dr. Richard Rose from the NM Environment Department and set up a task force. It discussed the correspondence from NMSPE covered earlier during this meeting. It also met with two applicants regarding the exams. It reviewed communications from the Washington Board and from an attorney regarding quality control engineering/construction management services. Three cases were reviewed. The Committee also considered "model law engineer" applications [], Inactive status applications [23], retired status applications [17], and applications by comity [34]and by examination [44].

6.2 Professional Surveying Committee – Mr. Chavez, reported that the Committee had reviewed information on the gradual decline of active NM professional surveyors, including a response sent to Senator John Arthur Smith and correspondence to Mr. Greg Shouts as well as in-coming correspondence from interested parties. Discussions were held on needed legislation such as alternative avenues for licensing. These items will be taken up by the Board's rules and regulations committee. The PSC determined that these issues would also be covered during the April meeting in Ruidoso. The Committee accepted an invitation to attend the Registration Boards Forum Meeting (RBF) on April 16, 2004 in Tennessee and an invitation to send a presenter to the Southwest Chapter of the Prof. Land Surveyors of Colorado (SCPLS) 2004 Four Corners Area Surveying Seminar. Mr. Chavez will represent the Board at the RBF meeting and Mr. Sanchez will represent the Board at the SCPLSC. Eleven cases were considered and the PSC would need to reconvene after today's meeting to continue the meeting and finish the agenda items.

6.3 Arch./Eng./Landscape Arch. JPC - Mrs. Garcia presented draft minutes of the JPC meeting held October 15, 2003. She indicated that staff from the three individual boards will be compiling information on cases involving incidental practice and the disciplines taken by the respective boards. The JPC would like to recommend uniformity to the licensing boards on cases involving infractions of the incidental practice rules. She will be inviting Michael Bodelson from Property Control to make a presentation to the JPC on the selection of professional services.

6.4 Professional Development Committee - Mr. Chavez indicated the committee had not met. Mrs. Garcia stated that she had a few requests for waivers of professional development hours due to medical reasons. It was moved by Mr. Sanchez, seconded by Mr. Chavez and unanimously,

VOTED: to authorize Mr. Shah and Mr. Marble to act on behalf of the board in reviewing these request and taking the appropriate actions.

6.5 Rules & Regulations Committee - Mr. Shah stated the committee will be meeting shortly since they have quite a few things to evaluate and make recommendations.

6.6 Executive Committee - The executive Committee had not met. Mrs. Garcia indicated Mr. Guerrerortiz had participated in the Board's FY 03 audit exit interview with the independent auditors and board staff.

6.7 Examination Committee - Dr. Idriss was not in attendance. Mrs. Garcia indicated that the exam scores had been approved by committee members and the exam rates were also mailed to all members and posted on the web site. A list of candidates who passed the exams were sent to all board members.

6.7.1 Pass Rates - New Mexico Exam Pass Rates for the October 2003 - PE exams by disciplines and broken down into first time takers and repeat takers was provided. The national exam pass rates were also provided for first-time takers and repeat takers. New Mexico pass rates for civil, electrical, and mechanical were below the national pass rates for first-time takers. The surveying pass rates were above the national rates.

6.7.2 Requests to Sit for the Exams More than Three Consecutive Times - Authorize Dr. Idriss and Mr. Marble to act on behalf of the Board on these requests.

6.7.3 NCEES Calculator Policy/ELSES 10/03 Survey - Information posted on the ELSES web site regarding the calculator policy was provided. It provided examples of calculators accepted in the exam rooms and examples of those not permitted. A copy of ELSES October 2003 survey was also discussed. It was noted that the exam site (facilities) was one of the concerns of applicants completing the questionnaire. The other was the process of applying to the state board prior to registering for the exam. She added that anytime there are changes to administrative processes, there is some confusion. As far as the sites, NCEES contracts directly with the facilities. Sometimes it is difficult to find adequate facilities in certain areas. NCEES is also responsible for the training of all its exam proctors.

6.8 Fire Protection Engineering Committee - The Committee has not met.

6.9 Committee on Consumer Information Publication - The Committee has not met.

6.10 Committee on Construction Staking

6.10.1 Correspondence form Mary Smith, Assistant Attorney General - Mr. Sanchez reported he had not received comments on his report; however, Ms. Smith had provided written comments on the subject of construction staking which were included in the meeting books. Mr. Schoen stated he would also review Mr. Sanchez report and provide comments.

7. DIRECTOR'S REPORT

7.1 Executive Director's Report

7.1.1 Report on Exam Administration by ELSES - Mrs. Garcia stated she had been an observer at the administration of the October 2003 examinations. The exam site at UNM's continuing education was not the best since candidates were unable to spread out their reference material.

7.1.2 Proctor Requests - Canada: Mrs. Garcia indicated that she had received a request from a jurisdiction in Canada wondering if New Mexico would proctor their exam for one of their candidates. She had denied the request and indicated there were some concerns with logistics and security. She would like, however, to be able to provide this service in the future.

7.1.3 Board's Proposed Records Retention Schedule - Mrs. Reported on the "General Government Administration/Executive Record Retention and Disposition Schedules" that staff

has been working on with the State Records Center and Archives staff. It was noted that one of the major changes includes the retention of the passage of the intern examination for longer than ten years. There have been instances where individuals have sought licensure after ten or more years, so there is a need to retain these records.

7.1.4 FY 03 Audit Report - Mrs. Garcia indicated that the audit report was completed; however, not in time for public distribution prior to this meeting. Copies will be made available to the Board members.

7.2 **FY 05 Appropriation Request/Budget Hearing** - Strategic Plan/Performance Measurements (copies mailed in September)

7.2.1 **High Turnover of Staff** - Mrs. Garcia reported that there has been a significant turnover in staff members. During a legislative subcommittee hearing on the budget she was asked by Representative Larranaga if the Board had sufficient staff. Although she responded that there were sufficient positions, keeping a well-trained and qualified staff was a real challenge. Since the Board is a small agency with six classified employees, many of its employees leave the agency for career-ladder opportunities within bigger agencies. The Boards & Public Safety Subcommittee of the House Appropriations and Finance Committee has sent a letter to the State Personnel Office regarding the Board's staffing problem and requesting SPO to assist the Board in reviewing the position classifications.

7.2.2 **Financial Status Report** - August, September, October, November & December 2003 Reports - Mrs. Garcia discussed the financial reports, including a list of all vouchers payable and cash balance.

7.2.3 **Disposition of Obsolete Computer Equipment** - Staff also requested authorization to dispose of computers that have been replaced. It was moved by Mr. Shah, seconded by Mr. Anderson and unanimously,

VOTED: To approve the financial reports and to authorize Mrs. Garcia to properly dispose of the computer equipment that was acquired in 1998 and replaced in 2003 as provided in the list presented by staff.

7.3 **New Regulations Governing the Per Diem & Mileage Act** - Copies of the new rules (effective July 1, 2003 as amended January 15, 2004) governing travel and per diem were discussed and provided in the meeting briefing books.

7.4 **Texas Communication RE: Reciprocal Registration** - Mrs. Garcia reported on communications from the Texas Board regarding suggestions for reciprocal agreements for the licensing of professional engineers between states. The agreements were not feasible due to New Mexico's statutory requirements.

8. **OLD BUSINESS**

8.1 **Letter to Senator John Arthur Smith** - Mrs. Garcia indicated she had mailed a response to Senator Smith after speaking to Mr. Sisneros. Earlier today and during the PSC the content of the letter was discussed. No further action was taken.

9. **CLOSED SESSION** [A closed session was not held.]

10. **ADJOURNMENT** - Having no further business, it was moved by Mr. Marble, seconded by Mr. Sanchez and unanimously,
VOTED: To adjourn the meeting.

Submitted by:

Approved by:

Executive Director

Severiano Sisneros, III, PE, Board Chair

Approval Date