

Members Present: Dr. Rola Idriss, PE, Vice Chair
Fred Sanchez, PS
Subhas Shah, PE
Gilbert Chavez, PS (Arrived after meeting began)
Dr. Clifford E. Anderson, PE/PS
Charles Atwell, Public Member
Patricio Guerrerortiz, PE (arrived shortly after mtg. convened)
Salvador I. Vigil, PS

Members Absent: Severiano Sisneros, PE
Stevan J. Schoen, Public Member

Others Present: Elena Garcia, Executive Director
Edward Ytuarte, PE/PS, Complaint Manager
Charles Cala, Jr., PS, Co-Chair, Member of GIS, Photogrammetry & LIDAR Task Force
Glen Thurow, PS, NMPS
Hank Rosoff, PE, NMSPE
Tom Rollag, Member of GIS, Photogrammetry & LIDAR Task Force
Steve Toler, PS, Member of GIS, Photogrammetry & LIDAR Task Force
Earl F. Burkholder, PS, Professor at NMSU (Surveying program)

1. CONVENE/ROLL CALL/INTRODUCTION OF GUESTS

Dr. Idriss welcome Salvador I. Vigil, PS as the Board's the newly appointed Board Member.

2. APPROVAL OF THE AGENDA

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

VOTED: To approve the agenda as presented.

3. APPROVAL OF THE MINUTES

It was moved by Mr. Sanchez, seconded by Dr. Anderson and unanimously.

VOTED: To approve the minutes of the August 6, 2004 meeting.

4. CORRESPONDENCE/COMMUNICATIONS

4.1 Correspondence Issued by Board – For Information Purposes - Included in the meeting notebooks was a letter dated September 23, 2004 from Mary H. Smith,

Assistant Attorney General to Rep. Miguel P. Garcia on his request for an opinion on the Act and engineering surveys); letters from Ms. Garcia to (1) Rep. Jeannette Wallace regarding proposed legislation, (2) Rep. Luciano “Lucky” Varela regarding disposition and nature of surveying complaints, (3) Daniela Glick, Governor’s Office on proposed legislation, including the Agency/Department Legislation: Transmittal Report which included proposed sponsors for the proposed legislation. Copies of the Board letter to Ms. Sandra K. Perez, SPO Director in reference to the use of the title “Engineer” and her response. Copies of letters to professional engineers and members of NMSPE transmitting the NCEES Engineering Licensure—A Path of Opportunity. The correspondence was reviewed. No further actions were necessary.

Mr. Shah inquired on whether the Board requested Rep. Garcia to request an opinion from the AG’s office. Mrs. Garcia indicated that the Board had not requested this, and to her knowledge he may have made the request on his own.

4.2 NCEES – Nominations for NCEES National Awards - Mrs. Garcia presented information on NCEES national awards. It was moved by Mr. Shah, seconded by Mr. Guerrerortiz and unanimously,

VOTED: To nominate Dr. Kenneth R. White, PE for the NCEES Distinguished service award with special commendation for his work with NCEES as WZ vice-president and as a member of the Board of Directors.

4.3 NCEES- John D. Nelson, PE – 2005 Board Presidents Assembly. – Mrs. Garcia reported the 2005 board Presidents Assembly will be on February 10-12, 2005 in Kansas City Missouri. NCEES funds travel for Chair Sisneros and herself as Director to attend the meeting. Mrs. Garcia inquired whether anyone else may be interested as a delegate in the event Chair Sisneros is not able to attend. Mr. Chavez, Chair of the PSC indicated if no one else can attend he will represent the board. He attends the WZ and annual meeting as well as exam-writing workshops, so if anyone is interested they should attend.

4.4 Jimmy H. Smith, Texas Tech University – The information submitted by Texas Tech University on the revised engineering ethics courses by correspondence were reviewed. It was noted that the Board does not endorse any continuing education courses, but it was a benefit to have them on file if anyone requests information on possible providers. It was noted that the course had been required of licensees in the past in disciplinary cases. It was noted NMSU still offers an ethics course for surveyors.

4.5. Michael T. Sanders, RE: Construction Staking Services – Mr. Sanders inquired on the extent someone can provide staking for construction projects—both public and private without overstepping the bounds of a licensed surveyor. Mr. Sanchez stated that on public works project, an individual can not do it at all. If they are working for the private sector, [for example, Wal-Mart] they can use unlicensed individuals. Dr. Anderson indicated that Mr. Sanders should be apprised of the proposed legislation that will clarify the current Act. The response is to be from Dr. Idriss.

5. COMMITTEE REPORTS

5.1 Professional Engineering Committee- Mr. Shah reported the PEC approved minutes of two previous meetings, discussed a report from Mr. Guerrerortiz' Liquid Waste Systems Task Force which included recommendations for changes to the Board's rules that would need to go through rules hearings. The committee also considered correspondence from Mr. Dave Liebelt, Hank Rosoff and Nicholas Schiavo. The committee reviewed three cases and issued one NCA, referred a case to the next meeting and issued an informal settlement agreement. Applications for retired status, inactive status were reviewed as well as Model Law Engineer listings and applications by comity and by examination.

5.2 Professional Surveying Committee – Mr. Chavez reported the Committee had approved the minutes of the last meeting and had reviewed six cases – two were dismissed as unfounded, two were closed, an NCA was issued in another case, and a prior hearing will be continued in another case. The Committee appointed hearing officers for upcoming hearings. Correspondence from Robert B. Stannard was reviewed as well as applications for the exams. Other discussions were regarding the appointment of hearing officers and errors and omissions which is also a topic on today's agenda.

5.3 GIS, Photogrammetry, LIDAR Task Force - Fred Sanchez, PS, Chair; Charles Cala, PS, Co-Chair: Mr. Sanchez and Mr. Cala presented the written report dated 11/5/04. It was noted that the task force found GIS, Photogrammetry and LIDAR have a significant impact on the public safety and welfare since these tools are used by engineers and surveyors to generate data used in the design of public works projects and should be regulated. GIS is used for many purposes and can be used by engineers and surveyors. Users must understand the GIS (data) limits and the professional's responsibilities that come with the use of such data. Photogrammetry was found to be a surveying activity and the "ground control" needed to accomplish the required accuracy for each particular use or extrapolation and must be provided by a licensed surveyor or engineer. LIDAR is also a tool and is not sufficiently accurate to be used for any design purpose as a stand-alone tool. Specific recommendations were noted in the written report. Mr. Sanchez indicated that should the board accept the recommendations of the GIS Task Force, the words included on page 2, lines 40 through 46 of the board-approved "Proposed Changes to the Engineering and Surveying Practice Act" should be included in the Board's recommendations. Mr. Toler covered the comprehensive expansion to 12.8.2.15 Accuracy. He indicated that in the accuracy section for Topographic Mapping, the Task Force tried not to get specific on methods rather mapping skill and contour intervals. These were some the things being considered when putting together horizontal and vertical accuracy. It was felt that it was very important to put in addition there, that if a map has an alteration that is very important information to know, so that one is not mislead on the accuracy that you may have received from someone. The task force felt it had to talk about topographic map accuracy standards specific from boundary survey accuracy standards which the current Minimum standards are more focused on. Because the task force was looking at classifying control surveys as a specific survey task,

accuracy standards for control surveys were looked at without getting tied to some national standards. Since the task force did not want to get into the different tools, such as GPS, horizontal and vertical accuracies were discussed separately. It is important for people to disclose as fully as possible what they have done. In looking at how to classify the accuracy for control surveying, it is important to differentiate between your horizontal accuracy and your vertical accuracy. The new standards out there are talking about accuracy classifications with respect to 95% competence levels in those components in terms of a specific number, so it may seem a bit complicated on the chart, but in all reality it is as simple as it gets. If he gives a two centimeter horizontal classification, then 95 times out of 100 if you check that point it will be plus or minus that level of accuracy. Vertically, if you are given a one meter vertical accuracy 95 times out of 100 that point will be within one meter. Control survey report becomes very important when you are looking at boundaries because GPS is an excellent tool for boundary surveying. The problem is that the surveyor coming behind has no idea most times how that GPS survey was conducted. In control surveying, the task force is attempting to put together a minimal set of pieces of information that will allow someone to come behind you and retrace your steps. Basically, that was the focus of the work by the task force: accuracy, classifications for control surveying, and reporting to allow people to follow you in the future.

Mr. Sanchez indicated that the task force also is recommending where the changes should be inserted in the paragraph in the statute and also in the minimum standards. He reiterated that if the Board accepts the recommendations as presented today, then paragraph (4) should be incorporated into the recommendations sent to the Legislature before final action is made. All the rest can be done by this board over a period of time, but the very small changes to paragraph (4) can not. Without these small changes, the Board will not be able to enforce properly the recommendations.

Mr. Shah inquired whether these recommendations should not go to the rules committee for public hearings, etc. to insure the Board is following due process.

Mr. Sanchez indicated that there is not much to it. Mrs. Garcia indicated that the changes to paragraph (4) of the statutes does not need to go through Board rules hearings. If the board wishes to approve the minor revisions today (about seven words added to the sentence), it can do so. The other recommendations are changes to the rules and they will need to go through rules hearings. The Task Force is asking for approval to add the words in bold to the following paragraph in the Act. The other changes were the ones already approved for submittal to the Legislature:

“(4) the establishment of horizontal and vertical controls for surveys for design, topographic surveys, including photogrammetric methods, construction surveys of engineering and architectural public works projects which will be the basis for **all geospatial data used for future design surveys, including** construction staking surveys, surveys to layout horizontal and vertical alignments, topographic surveys, **control surveys to control for** aerial photography for the collection of topographic and planimetric data using photogrammetric methods, construction surveys of engineering and architectural public works projects; and”

Mr. Guerrerortiz indicated that in his opinion this change should also be forwarded to the Legislature for debate there.

Mr. Sanchez made the following motion which was seconded by Mr. Atwell:

MOTION: that the changes to the Act that are outlined in the written report on paragraph (4) page 2 of the Task Force Report (page 72 in the meeting books) be adopted by the Board so that we can proceed with the recommendations of the Task Force.

Discussion: It was noted that one of the Task Force members was a professional engineer whose name was submitted by Margaret Keller, Executive Director from NMSPE. Mr. Rosoff indicated that he does not see a problem with the changes to paragraph (4).

Mr. Gilbert Chavez indicated that the changes were to include geospatial data. Dr. Anderson indicated that he did not see any problems with the language to paragraph (4) in its face value. Dr. Anderson indicated that he does not have a problem with this particular process even if it is being done under perhaps extraordinary circumstances, but again state law does not require that changes to the law go through the Board's rules hearing process because the public hearings are held by the legislature.

VOTE: Motion passed unanimously.

Dr. Idriss thanked the Task Force for the extensive amount of work completed.

5.4 Liquid Waste Systems Task Force – Patricio Guerrerortiz, PE, Chair – Mr. Guerrerortiz indicated that the task force has completed its task. On page 75 of the meeting books are the changes being recommended to the Rules Committee of the Board. It is believed that these recommendations will alleviate the concerns of the New Mexico Environmental Department has regarding the expertise of those individuals who design small waste water treatment systems. The recommended language will not limit the board's ability to enact more rules on subspecialties since specific procedures are also being recommended. Dr. Idriss thanked this Task Force for their work.

Mrs. Garcia indicated that Mr. Rollag was present today and had submitted a letter to the Board which she received yesterday, too late to include on this agenda for formal action. However, copies of the letter had been distributed to board members. Mr. Rollag indicated that the letter was to apprise the Board of the American Society for Photogrammetry and Remote Sensing (ASPRS) which strongly supports the licensing of photogrammetrists in New Mexico. Mr. Rollag commented that he would like the Board to consider proposing legislation for the licensing of photogrammetrists.

Mr. Sanchez reminded the Board that it had discussed this topic during the August meeting, but it was too late to study the matter before the upcoming legislative session. Mr. Sanchez indicated that this topic could be studied at a later time by another task force. Dr. Idriss indicated that perhaps the full board might want to consider this matter.

Dr. Burkholder indicated if the board appoints a task force he would be interested in participating. It was moved by Mr. Sanchez, seconded by Dr. Anderson and unanimously

VOTED: that during the next meeting a Task Force may be created to look into the photogrammetry issue that was raised by Mr. Rollag.

It was determined that the Board if asked by the Legislature could not support any additional changes to the Act regarding photogrammetry.

Mr. Shah asked Mr. Rollag if he had any objections to the language that was just approved that would change paragraph (4) of the Act. Mr. Rollag indicated he did not.

Members of the Task Forces were recognized by the Board and certificates of appreciation were being signed by all members of the Board. Task Force members recognized included from the GIS, Photogrammetry, LIDAR Task Force: Fred Sanchez, Chiar, Charles Cala, PS, Co-chair, Gilbert Chavez, PS, David Jordan, PE, David King, PE, Steve Toler, PS, Tom Rollag, and Allan Benham, PE/PS. On the Construction Staking Committee: Fred Sanchez, Chair; Paul Martin, PE; Dr. Clifford Anderson, PE; Stevan Schoen; Stephen Harris, PE, DOT; Salvador Vigil, PS and Glen Thurow, PS. On the Liquid Waste Systems Task Force: Patricio Guerrerortiz, PE, Chair; Dr. Richard Rose, PE, NM Environment Dept.; Charles Atwell, Dr. Clifford Anderson, PE; Julie Samora, PE and Mr. Hank Rosoff, PE.

6. NEW BUSINESS

6.1 Review of Requests from Legislators

6.1.1 Errors and Omissions (Liability) Insurance – Board’s Position – Mr. Chavez indicated that the PSC has discussed this item but felt that it affected both professions. It was noted that information from the Real Estate Commission will be obtained regarding their program. It was noted that Senator Phil Griego has been asking for some time now for the Board to include language in the Act that would require professional surveyors to obtain errors and omissions insurance. There have been many concerns noted by the Board on mandating all licensees, or professional surveyors, to carry errors and omissions. Dr. Anderson indicated that the only other thing that could be an option and be implemented would be a disclosure provision that would say all contracts for engineering and surveying services must disclose whether they have insurance and the amount of the insurance. A requirement of disclosure could provide a measure of protection for the public. The public would be on notice as to who carries or does not carry this insurance and would have the option to hire the professional that would best meet his/her needs. If this becomes a real issue, this would be an alternative to an absolute requirement.

Mr. Toler (guest) indicated that he has a small surveying firm with two licensed surveyors and he currently pay about \$10,000/yr. for his firm to be covered. If every licensed professional surveyor is to carry this insurance, it would have a big impact on

small firms. Mr. Cala indicated that he is the principal of a small engineering and surveying firm (25 members). They pay between \$25,000 and \$30,000 per year for insurance. Mr. Thurow (guest) stated that as a professional he obtains insurance to protect himself not the public, the reason being that all his assets and net worth are on the line on every survey he does. He believes the concept behind it should be clearly understood before we start to talk about who it is intended to benefit. Mr. Rosoff (guest) stated that the consumer has the ability to select. He believes Dr. Anderson's recommendation on mandatory disclosure would be an excellent solution to put forth.

It was moved by Dr. Anderson, seconded by Mr. Sanchez and unanimously, **VOTED:** that the board is generally supportive of a requirement for disclosure of professional liability errors and omissions insurance as a part of any engineering and surveying contract provision and that a committee be set to draft language for disclosure.

Chair Dr. Idriss appointed Mr. Sanchez, Mr. Atwell, Dr. Anderson, and Mr. Shah.

6.2 Other Issues – Mr. Chavez indicated that he had the opportunity to accompany an ABET – accreditation review team at UNM in late October strictly as an observer on behalf of the Board. He reported that the visit was very informative and well done. He has also participated in the NCEES meetings and would recommend all board members to get involved with NCEES. He indicated the Board will be busy making arrangements for the hosting of the Western Zone in June of 2006. It was noted that it will be held in Santa Fe.

Most of the guests left the meeting at this time.

7. OLD BUSINESS – no old business

8. DIRECTOR'S REPORT

8.1 Agency Sunrise/Sunset & Budget Hearings – Mrs. Garcia gave a status report indicating Mr. Sanchez and Mr. Vigil accompanied her during the budget and sunrise/sunset hearing. Mr. Rosoff and Mr. Thurow were also there. There was a concern over the board's cash balance. The LFC encourages the Board to decrease its balance while the executive directives are to submit a flat budget.

8.2 Staff Activity Report – Mrs. Garcia indicated that much of staff's time has gone to attending and supporting the different task forces meetings held. She indicated that the Board had now lost one employee who had come back to work after being on military leave for over a year. She indicated that a new employee had been hired for the licensing specialist position. Perry Valdez has joined the Board's team and will be very involved in the processing and review applications. Staff will also be sending out renewals at the end of the month.

8.3 FY 05 Financial Status Report – July & August – Copies of the financial reports were provided for the months of July and August. The monthly revenue status was reviewed. Revenues and a portion of the cash balance are budgeted each year. Mrs. Garcia asked that the board review and approve the list of vouchers for the months of

July and August. She indicated the review by the Board is very important and auditors strongly stress each year that the Board be actively involved in the finances of the Board. The cash balance report was reviewed. It was noted that the undesignated cash balance was at \$536,012. Encumbrances were also reviewed along with the Budget status reports. Mrs. Garcia reminded the Board that part of the costs of the examinations are paid by the Board. Applicants at this time do not pay the full costs of their exams. It was moved by Dr. Anderson, seconded by Mr. Guerrerortiz and unanimously, **VOTED:** to approve the financial reports and vouchers paid for the months of July & August.

8.4 FY 06 Budget Request – The FY 06 budget for \$543,800 was reviewed. It was moved by Dr. Anderson, seconded by Mr. Guerrerortiz and unanimously **VOTED:** to ratify the FY 06 budget.

8.5 Amendment to Lease – The 10/12/04 Amendment to the Lease Agreement to add an additional 817 leasable square feet (ste. 901) to the current lease was reviewed and approved by the Board.

8.6 History of the NCEES – Mrs. Garcia indicated the publication titled “The History of the National Council of Examiners for Engineering and Surveying (1920-2004) was available at the Board office.

8.7 NCEES Rescission of Action – Mrs. Garcia presented NCEES memo regarding the rescission of action at the NCEES 2004 Annual Meeting in Cleveland, OH. The action had been to adopt a sole-source exam administration policy no sooner than 2009. NCEES Board of Directors has determined that further review and discussion of this issue should be undertaken.

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

10. **OTHER**

11. **ADJOURNMENT** - Having no further business, the meeting was adjourned.

Submitted by:

Approved by:

Executive Director

Severiano Sisneros, III, PE, Board Chair

Approval Date

