

**STATE OF NEW MEXICO
CONSTRUCTION INDUSTRIES DIVISION**

MINUTES

The Construction Industries Commission held a regular meeting on January 13, 2006. Officially attending the meeting was:

Thomas A. Montañó, Member,
(Representing Organized Labor)
David Dallago, Member,
(Representing Residential Construction)
Steve Crespín, Member
(Representing the Licensed Mechanical Contractors)
Dale Dekker, Member,
(Representing the Registered and Practicing Architects)
John Renner, Member,
(Representing the LP Gas Industry)
Bobby McDade, Member,
(Representing Licensed Electrical Contractors)
Larry Shed, Member,
(Representing the Subcontracting Industry)
Lisa D. Martinez, Director/CID
Kate Baca, General Counsel/CID
Fermin Aragon, General Construction Bureau Chief
JT Baca, Mechanical Bureau Chief
Rem Pacheco, Electrical Bureau Chief
Marvin Vaughn, LP Gas Bureau Chief
Wayne Dotson, Chief Investigator

Not Present: Paul Wood, Member, Representing the Public Sector; Michael Brogdan, Member, Representing the General Construction Industry.

Other Attendees: **See Attachment A.**

ITEM NO. 1 - DETERMINATION OF QUORUM

Commissioner Montano stated there was a quorum and called the meeting to order at 9:57 a.m. All members of the Commission and the audience introduced themselves.

MOTION: Commissioner Crespin moved to approve the Agenda.
Commissioner Dallago seconded the Motion.

VOTE: All voted in favor of the Motion.

MOTION: Commissioner Crespin moved to approve the Minutes of the November 18, 2005 Regular Meeting. Commissioner Shed seconded the Motion.

VOTE: All voted in favor of the Motion.

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ITEM NO 2. - ELECTION OF OFFICERS

Chairman Montano stated it is the time of year when new officers need to be elected. He requested nominations.

MOTION: Commissioner Dallago made a motion to maintain the status quo to retain continuity.
Commissioner Crespin seconded the Motion.

VOTE: All voted in favor of the Motion.

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ITEM NO. 3 - APPROVAL OF OPEN MEETINGS RESOLUTION

Chairman Montano opened the agenda item for discussion.

MOTION: Commissioner Dallago made a motion that the Construction Industries Commission has read and verified the Open Meetings Resolution, Section 10-15-1-B of the New Mexico Statutes Annotated 1978 10-15-1 to -4. Commissioner Shed seconded the Motion.

VOTE: All voted in favor of the Motion.

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ITEM NO. 4 - (Removed from Agenda Prior to CIC Meeting)

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ITEM NO. 4A - MOTION TO SET ASIDE DEFAULT ORDER

Michael Santistevan, attorney, representing Horseshoe Mechanical Inc. provided a brief synopsis regarding why this item is placed on the agenda and is being presented before the Commission. He presented the information herein described as **Attachment A**. Mr. Santistevan stated that his request to the Commission is to set aside the default order based on insufficient service of process. Mr. Santistevan stated that Horseshoe Mechanical is requesting an opportunity to be heard by the Commission on the merits of the case.

Commissioner Crespin questioned whether there was a statute of limitations from the time when the complaint was originally filed.

Kate Baca, General Counsel, CID, stated she has been asked by the Compliance Bureau to request that the division have adequate time to read Mr. Santistevan's papers and consider his arguments since the information was just received by the division on January 6, 2006. She stated the division has not had ample time to conduct the research necessary. Ms. Baca further requested the Commission allow the division some time to develop a response to Mr. Santistevan's papers.

Commissioner Crespin stated that the Commission does not have counsel present and the division has not had sufficient time to review the information presented. Commissioner Crespin stated he would like to table the issue until the division has reviewed the information provided.

Mr. Santistevan stated his client only wants all the issues and all legal precedence and guidelines to be presented before the Commission so the Commission can make a just decision.

MOTION: Commissioner Dallago made a motion to table this agenda item until the next meeting. This will give the division and Commission's counsel time to conduct the legal research needed. Commissioner Shed seconded the Motion.

VOTE: All voted in favor of the Motion.

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ITEM NO. 5 - REQUEST APPROVAL OF ELECTRICAL CONTINUING EDUCATION COURSES AND INSTRUCTORS

Rem Pacheco, Electrical Bureau Chief, requested the approval of the Electrical Continuing Education Courses and Instructors. His request was made on behalf of the division and the bureau with a recommendation from the Electrical Technical Advisory Council. He stated the courses and instructor applicants comply with applicable State regulation requirements for electrical continuing education. Mr. Pacheco informed the Commission that 6 additional courses and instructors are being presented for approval. The information herein described as **Attachment B** was provided by Mr. Pacheco for approval.

MOTION: Commissioner McDade moved to proceed with the approval of electrical continuing education courses and instructors. Commissioner Renner seconded the Motion.

VOTE: All voted in favor of the Motion.

ITEM NO. 6 - UPDATE TO MULTIPLE INSPECTOR ISSUE

Chairman Montano requested this item be moved further down on the Agenda until Commissioner Dekker arrives.

ITEM NO. 7-2006 LEGISLATIVE AGENDA

Lisa Martinez, Director, CID, reported that the 30 day legislative session begins January 17, 2006. She stated the division will have a very short legislative package. The sole initiative being presented this year is one that is very important to the division. Director Martinez reminded the Commission that one of the division's request to the Governor's office was to create an Investigation's and Compliance fund. The division still considers this issue to be extremely important and will continue to acquire legislative support for this proposal. However the division will not pursue this initiative at this legislative session. She stated the initiative the division will pursue, in association with the Economic Development and Rural Telecommunications Legislative Committee is to seek support for funding for the division's inspector salary study, which has received final approval from the State Personnel Board. This initiative will include funding to pay for new inspection staff and will include \$363,000 to pay for the inspector salary increases as defined in the approved salary study. Director Martinez stated that she looks forward to the Commission's support on this piece of legislation.

Commissioner Crespín stated that Commissioner McDade, David McCoy, Stan Bessey and he met with the Governor a few weeks ago and he wanted to thank them and their associations for helping CID with their funding request. He stated the Governor was very positive. He thanked these associations on behalf of the Commission.

Chairman Montano stated that members of the New Mexico Building Trades went and met with the Governor and also requested support for CID.

No Action was needed.

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ITEM NO. 6 - UPDATE TO MULTIPLE INSPECTOR ISSUE (continued)

Commissioner Dekker reported on several meetings that have taken place on this issue following the last CIC meeting. These meetings were an opportunity to look at the certification issue and multiple inspector issue. This was an opportunity for the group, as an industry, to look at how they can assist CID and the public sector to address the issues that have been presented. The group found two common areas that were agreed upon. (1) The group agreed that behind Sandia National Labs and Los Alamos National Labs and the Oil and Gas industry in the state that the construction industry is one of the largest economic development engines in the state. It generates more revenues and gross receipt taxes than practically any other industry. (2) Time is Money. He stated that time and money are precious commodities to the construction industry, as well as to CID. Time and money to the industry are expressed in having good customer service from CID, inspections done on time, and having responsive bureaus. Time and money to CID, as presented to the industry, provided awareness that the division within state government does

not have competitive salaries and so it is difficult to attract and retain the type of people needed. Commissioner Dekker reported the group has had four meetings, primarily including Homebuilders, bureau chiefs, Director Martinez, Kate Baca, Deputy Director/General Counsel, CID; and most recently the new staff person in CID, Shawna Maloy. He stated Shawna will be the lead person on this issue for CID.

Commissioner Dekker stated the outcome of these meetings has resulted in an awareness on the part of the industry as what they can do to advocate on behalf of CID so that the division can become competitive and retain and attract experienced staff. The industry is now more sensitive and has acquired a better understanding of the issues in Rio Rancho and with builders. Additionally, there is a better understanding of the impact of other building departments on the industry and especially CID. He further stated the group explored the idea of inspection agencies as presented by Randy Traynor and Jack Milarch. He stated there are issues surrounding inspection agencies relative to state law that might require research. The group also visited the multiple inspector certification issue and discussed the issue of intergovernmental agency MOU's to collectively hire an inspector to serve both cities and counties. Discussion was also held on creating a Pool of inspectors that building departments could access if they hit a spike in their area. The group also discussed the issue of contract inspectors. Commissioner Dekker stated that all parties realize that everyone needs to work efficiently and utilize the resources available to meet the demands faced by CID. He added that the meetings held on this topic have brought important issues to the table and have inspired good dialogue between CID and the industry.

Commissioner Dekker complimented Director Martinez on the job she has done by advocating for CID to PSFA to acquire additional funding to acquire additional inspectors to address the expansion of public school construction throughout the state. He added that if the salary issue is not corrected CID will become a training agency for other local building departments and municipalities.

In closing, Commissioner Dekker stated that at the last meeting it was agreed that Shawna would be working on the following: What does it take to build a business plan for CID to guarantee a 48 hour turnaround on inspection calls?

Commissioner Dekker added that the division has been very sympathetic with the industry and understands the need to get a plan in place that would give some guarantee that when an inspection is called in it will be conducted in a timely fashion. He stated there were no specific recommendations at this time.

No Action was Taken.

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ITEM NO. 8 - STIPULATED AGREEMENTS

Wayne Dotson, Chief Investigator, presented the information herein described as **Attachment C.**

Mr. Dotson stated the Division was submitting 50 stipulated agreements for the Commission's approval. He added the division has collected \$56,760.03 since the last CIC meeting. The Commission was provided with a synopsis of each of the cases.

Commissioner Dekker questioned the dollar amount on Item #31 in the synopsis.

Mr. Dotson stated there is a typographical error and he will make the change.

MOTION: Commissioner Crespin made a Motion to approve the stipulated agreements as amended. Commissioner Dekker seconded the Motion.

VOTE: All voted in favor of the Motion.

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ITEM NO. 9 - DIRECTOR'S REPORT

Director Martinez provided the information herein described as **Attachment D**. She provided a summary of her report to the Commission and briefly described the issues the division will be working on over the next few months and during the legislative session.

Director Martinez stated she attended the State Personnel Board Meeting on December 14, 2005 where the results of the inspector salary study were discussed. She reported that the proposal as presented was unanimously approved by the Board. This will provide a new career series which will provide for pay increases for building inspectors through upgrades in pay ranges into new higher ranges. Director Martinez stated she appreciates the work by the SPO Board in recognizing the need to bring the inspector salaries to a new level. She also thanked the staff for their hard work on this initiative.

Director Martinez reported on recent efforts spent on acquiring the money from Public School Capitol Outlay. She stated the accounting system has been established. The remaining outstanding item is for the contract to be signed by the RLD Superintendent and Bob Gorrell, who is the director of the Public Schools Facility Authority, and herself. This contract will allow the \$250,000 to be transferred to the division.

Director Martinez stated the division has just completed the budget projections for December 2005. These projections reflect that CID currently has a budget deficit of approximately \$154,000. She stated there is a supplemental budget request being developed to assist with the increased gas and oil expenses over the year. She stated that these deficits will continue into FY07. Director Martinez stated that for FY07 the DFA/Executive recommendation is that CID and MHD, who are under one financial program, be provided with \$210,000 over our current budget. The \$210,000 is provided to support the increased rates coming from General Services Department. This money will cover increased insurance rates. However it does not alleviate the increases in gas and oil. The division is looking at a shortfall in gas and oil of at least \$90,000. She added that in the MHD budget there are technical errors regarding the HUD funding provided. MHD continues to have a shortfall of close to \$90,000 or \$100,000 every year. If the MHD industry does not find support for that added money, it means that CID must absorb the shortfall. This continues year after year and creates a problem. Though the DFA recommendation is \$210,000 higher than the FY06 budget there remains a shortfall in Program I, of approximately \$493,000 for FY07.

Under the LFC recommendations the recommendation is for Program I to be provided with \$295, 000 over the current budget. The recommendation provides \$54,000 for the two term positions that operate the KIVA permitting program. It also recommends \$108,000 in other

transfers, which are Public School Capitol Outlay (PSCO) monies. The PSCO money is included as part of the division's baseline budget, which the division did not want to happen. This money is intended to be supplemental. Additionally, the recommendation is for \$100,000 for technology. This is money that was already given as reimbursement to the division by the Council. Director Martinez indicated there is a problem with this allocation in the form provided. Because of the Governor's IT Consolidation Plan, the \$100,000 goes into the Office of the Superintendent and into the IT budget instead of CID's budget. These are issues that will need to be addressed at the LFC Hearing this afternoon.

Director Martinez reminded the Commission of the commitment by the industry to increase fees to increase our inspector positions. She reported that as of today out of the 13 FTEs requested the division has only received 7 inspector positions. The LFC continues to recommend that the division maintains a vacancy rate of 2%. The division is required to hold positions vacant to keep up with the basic budget.

Director Martinez stated the division has a budget hearing at 1:30 pm before the House Appropriations Committee. The hearing was scheduled for 1/12/06 and was moved to 1/13/06. She looks forward to providing the division's view and make important points to the Legislature.

Director Martinez requested the approval of the new contractor licenses that were issued for November and December 2005.

Director Martinez formally introduced Shawna Maloy. Ms. Maloy was the former general counsel for RLD and general counsel for CID. She also has worked for the Attorney Generals office and the LFC.

Commissioner McDade commented that on the request for approval for new licenses; the County of Los Alamos and the City of Gallup have obtained an EE98 license. He stated that maybe the Commission needs representation from cities and counties.

Commissioner Dekker questioned whether it would be appropriate for the Commission to adopt a resolution or action provided to the Commissioner making a presentation to the committee that is signed by all the Commissioners. This would show the LFC that the Commission is advocating on behalf of the division.

Chairman Montano stated that the Commission is not on the Agenda, but maybe the Commission can request that the division write a recommendation from the Commission expressing their support.

MOTION: Commissioner Dekker made a motion that the Commission develops a position in support of CID's budget request to not allow PSFA monies to be added on top of the baseline budget.

Chairman Montano stated that maybe there was not a need for a motion, but that as the Chairman of the Commission, he could direct the division to develop a letter of support from the Commission to present at the budget hearing.

MOTION: Commissioner Crespín moved to approve the new licenses issued for November and December 2005. Commissioner McDade seconded the Motion.

VOTE: All voted in favor of the Motion.

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ITEM NO. 10 – PUBLIC COMMENT

Randy Traynor, New Mexico Homebuilders Association, thanked the division and Commissioner Dekker for taking the time to sit down and listen to their concerns. He commended the homebuilders for sitting down and listening to the situation that CID is faced with. The meetings held have been very positive. Mr. Traynor commented on the business plan discussed by Commissioner Dekker and he can see the need for this plan. He stated that working with the Governor is a good idea, but there are legislators that need to be made aware of the needs of the division. Mr. Traynor stated he has spoken with many legislators regarding the homebuilders concerns and while there might be some differences on some of the issues, he still believes there is a problem. He stated that the need for a business plan to look at resources and the demand for these resources is very evident. He stated there are things that can be done structurally and administratively to stretch the dollar. He believes that a business plan is a good idea and can show legislators real facts rather than rely on base budget and go through the same old dance. Mr. Traynor stated that getting the budget back to where it is needed in a simplified message is important.

David McCoy, New Mexico Sheet Metal Contractors' Association, stated the construction industry in New Mexico is very large and contributes a huge amount of dollars financially. He stated that the industry has a big wheel out there and no-one hears it squeaking, and he stated the squeaky wheel gets the grease. He stated there are about a half dozen industry people that go around speaking to legislators about the needs, but he stated the squeak is so small, it isn't being heard. Mr. McCoy stated there have been many study groups during the years and their recommendations get put on the shelf. He was thinking that a Joint Memorial might be introduced at this legislative session which would create a Task Force of DFA, LFC, Senate Finance, House Appropriations and industry people to study between now and next year to get the word out about the problems the industry is facing. This Task Force would need legislative muscle behind it and would grease the wheel and understand the industry. He stated the Task Force should be a combination of these powerful agencies that don't talk to each other.

Lisa Martinez, Director, stated that as part of the five year business plan she has given updates on the work being done on KIVA.

Kate Baca, Deputy Director/General Counsel, stated that what the division is attempting to address with Kiva is basically look at CID's business operations. She stated that KIVA, as the electronic service, cuts across all areas of operation. The division is analyzing where we are and where we need to be. This update could be the groundwork for the business plan being discussed. These updates would be in 3, 5 and 10 year breakouts because that is how the information technology industry moves in terms of releasing new technology. This is looking at CID's processes, does this product serve those needs, are those needs where they ought to be and can Kiva respond to those needs. Ms. Baca stated that the project was designed to do five things, but first the division needs to take into account and assess our current business practice. (1)

Assess those business processes (2) Assessed Kiva and how it is being used in association with those processes (3) Assess the state of the art of these products, whether Kiva was competitive with what is out in the market place (4) Make recommendations to the division director and the commission with respect as to what it looks like now and in the future. By mid-December the group had finished the business processes and Kiva's processes and what happened was that the group realized they needed to take a better look at what was happening in the industry. The reasoning for this is that the Kiva contract is due in February. There was new release and upgraded version of Kiva. If this is integrated with our system it would mean a lot of effort and disruption in CID's operations for it to work. The division at this point sent out a Request For Information (RFI) to the industry to assess our situation and how their product would respond. The RFI was sent to seven/eight vendors and had three responses. These are the three leading providers in the industry and came in and gave demonstrations of their products. The work group decided the product is not mature enough. It might be a potential in about three years and certainly five years. The group came to a consensus that the division needs to fix Kiva. The group has now provided a broad outline of what direction needs to be taken with Kiva. There is an optimistic live date of a new Kiva version with new backend database management and upgraded with new business procedures for better data control. The group is looking at the first of the fiscal year. Ms. Baca stated that by the third quarter of the calendar year they will look at the rest of the plan, which is the wireless piece. The system will be able to develop budget projections that are based on actual projected operations, both from the IT perspective and the field perspective and operations in the offices. This business plan would also include MHD because they are part of Program I. Ms. Baca stated that with the upgrade in place the division will be able to give a better picture of staffing deficiencies, changes that are needed organizationally, in the field and in the offices. She believes the division is on its way to laying the groundwork for a sound business plan. She stated that none of these upgrades are free or cheap and there is a cost associated.

Commissioner Dekker requested that a demonstration of the KIVA system be given to the Commission.

Ms. Baca stated they would like to conduct this demonstration but would prefer to do this when the system is established. She said the system is built around property, that is actual land geography identification and when conceived and deployed it was to work in a single jurisdiction off of parcel numbers. Problems have occurred and solutions have been found with the system. She stated that she would be happy to give the commission a demonstration in about six months.

Commissioner Dallago questioned whether we are communicating with other states as to the programs they are using, especially now that we are dealing with reciprocity.

Ms. Baca stated that CID operates two pieces. One is the licensing piece and one is the land management piece. The licensing piece does not get put into Kiva, but the two system talk to each other in hope that the person pulling a permit it properly licensed.

Ms. Baca stated that the RFP for the licensing vendor will be revised in order to address these issues and to make sure there is a good relationship between the licensing function and the electronic permit tracking function. She stated there is interplay with other states but very few states have the kind of structure where they have the two pieces together.

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ITEM NO. 11 – OTHER BUSINESS

The next regular meeting for the Commission will be on March 17, 2006, at the New Mexico Gaming and Control Board, 4900 Alameda Blvd, Albuquerque, New Mexico.

Director Martinez stated there has been a major change in the leadership in Regulation and Licensing Department. Superintendent Arturo Jaramillo has been transferred to the General Services Department and will be the new cabinet secretary. The current General Services Department Secretary Edward J. Lopez, Jr. will become the new Superintendent for RLD. She also stated that the Deputy Superintendent, Tom Buckner, will be leaving at the beginning of February and will be seeking the office of State Auditor.

With no further business, Chairman Montano adjourned the meeting at 11:25 a.m..

Thomas A. Montano, Chairman

Attest:

Lisa Martinez, Secretary