

**STATE OF NEW MEXICO  
CONSTRUCTION INDUSTRIES COMMISSION  
MINUTES**

**Albuquerque Training Center – Kaplan Professional Schools  
8205 Spain Road NE, Suite 109  
Albuquerque, NM 87109**

The Construction Industries Commission held a regular meeting on September 21, 2011.  
Officially attending the meeting was:

Randy D. Baker, Representing Licensed Electrical Contractors  
Dale Dekker, Representing Licensed and Practicing Architects  
Lisa Fickling, Representing the LP Gas Industry  
Kevin Yearout, Representing Licensed Mechanical Contractors  
Patrick Casey, Representing Residential Contractors  
Don Kaufman, Representing Sub-contractors  
Ken Wooten, Representing General Building Contractors  
Stephen Vigil, Assistant Attorney General  
Cholla Khoury, Assistant Attorney General  
Rick Tavelli, Director, Construction Industries Division (CID)  
Land Clark, Deputy Director of Field Operations, CID

Absent: Renee Edwards

**1. Convene, Determination of Quorum and Introductions: Commissioners and Audiences**

Chairman Baker established that a quorum of the Commissioners was present convened the meeting at 9:47 a.m.

**2. Approve Agenda**

MOTION: Commissioner Yearout moved to for the Approval of Agenda. Commissioner Kaufman seconded the motion. VOTE: All voted in favor of the motion. Passed

**3. Old Business**

a. Approval of minutes

Re-Approval of the June 10, 2011 CIC regular meeting minutes. Noting an amendment on Item #7:

Assistant Attorney General Stephen Vigil: Chairman Baker, it is my understanding that at the last meeting on July 27<sup>th</sup>, the Commission voted to approve the June 10<sup>th</sup> meeting minutes as amended at the last meeting. However, as you know, Ms. Winkel is no longer the Commission's administrative assistant and somehow the June 10<sup>th</sup> meeting minutes were not amended as directed by the Commission at the last meeting. As you can see in the June 10<sup>th</sup> and July 27<sup>th</sup> minutes in your packets, what was put in the June 10<sup>th</sup> minutes was supposed to be put in the July 27<sup>th</sup> minutes, and when the incorrect paragraph was put in the June 10<sup>th</sup> minutes, it was cut

and pasted over the paragraph where you stated the Commission's reasons for adopting New Mexico Codes. Because of these mistakes, these minutes have been brought back before the Commission to show that the mistakes have been corrected and the minutes now reflect how the Commission directed the June 10<sup>th</sup> minutes to be amended at the last meeting.

MOTION: Commissioner Yearout moved that the June 10, 2011 minutes be approved as amended. Commissioner Casey seconded the motion. VOTE: All voted in favor of the motion.

b. Approval of the July 27, 2011 CIC regular meeting minutes.

MOTION: Commissioner Kaufman moved that the July 27, 2011 minutes be approved. Commissioner Yearout seconded the motion. VOTE: All voted in favor of the motion.

c. Re-approval to Adopt

I. Re-Approval to adopt changes to NMAC 14.10.4, 2011 New Mexico Electrical Code, which adopts by reference the 2011 National Electrical Code (NEC) be adopted as presented. This proposal returned to public hearing due to the posting in the New Mexico Register did not provide the prerequisite thirty days notice.

MOTION: Commissioner Casey moved that the changes to the New Mexico Electrical Code, which adopts by reference the 2011 National electrical Code (NEC) be adopted as presented. Commissioner Kaufman seconded the motion. VOTE: All voted in favor of the motion.

II. Re-Approval to adopt changes to NMAC 14.6.6.10, Electrical Classifications for EE-98 and EL-1. Changes to the classification and scopes, which would clarify the work of EE-98 and EL-01 electrical contractors and journeymen, as well as raise the limitation for EE-98 work from 600 to 5000 volts, are adopted as presented. This proposal returned to public hearing due to the posting in the New Mexico Register did not provide the prerequisite thirty days notice.

MOTION: Commissioner Kaufman moved that the changes to the Classification and Scopes for EE-98 and EL-01 be adopted as presented. Commissioner Yearout seconded the motion. VOTE: All voted in favor of the motion.

III. Re-Approval to adopt changes to the 2009 New Mexico Swimming Pool, Spa and Hot Tub Code, which would adopt the 2009 Uniform National Code by reference, is adopted as presented. This proposal returned to public hearing due to the posting in the New Mexico Register did not provide the prerequisite thirty days notice.

MOTION: Commissioner Kaufman moved that the changes to the 2009 New Mexico Swimming Pool, Spa and Hot Tub Code be adopted as presented. Commissioner Casey seconded the motion. VOTE: All voted in favor of the motion.

IV. Re-Approval to adopt changes to NMAC 14.9.6, 2009 New Mexico Solar Energy Code, which would adopt the 2009 Uniform National Code by reference be adopted as presented. This proposal returned to public hearing due to the

posting in the New Mexico Register did not provide the prerequisite thirty days notice.

MOTION: Commissioner Kaufman moved that the changes to the 2009 New Mexico Solar Energy Code, which would adopt the 2009 Uniform National Code by reference be adopted as presented. Commissioner Casey seconded the motion. VOTE: All voted in favor of the motion.

**4. Director's Report – Director Tavelli reported on the following items:**

- Introduction of Administrative Manger, Katherine Martinez
- Published and delivered three energy code amendments and one mechanical code amendment to public hearing
- NM Environmental law Center has filed an appeal to the adoption of the base 2009 IECC. Documentation has been filed to the court and the NMELC
- Multiple TAC meetings have occurred and an formal structure of rules has been established
- Katherine Martinez's job will be to answer constituent complaints.
- Proposed and revised stucco and roofing policy has been submitted to the TAC
- Propose policy on dirt work in general and specifically subsidence has been drafted and will be submitted to the TAC
- Proposed procedure for making claims on a "code bond" has been submitted to the TAC
- RLD General Counsel will be reviewing penalty procedures before submitting to the CIC
- A revised sanction schedule has been revised and will be submitted to the CIC to review for next meeting
- Spaceport is moving to an expected completion of late fall and will be hosting a pre-final gathering in October
- CID has performed over 10,000 inspections at URENCO.
- CID is now part of the Governor's Procurement Task force whose goal is to improve the methodologies used to bid and contract for state projects
- Strategic Plan for CID has been written\Caps have been placed on mileage and per diem to reduce the chance of running out of money
- Training for the "Combined Residential Inspector" program is in progress
- Progressively looking to fill the vacant southeast area electrical inspector position.
- CID has participated in industry group meetings in Clovis and Albuquerque in the last two months
- Continue to attend Public Schools Capital Outlay Committee meetings and have consulted with PSFA on possible procurement procedure revisions
- Started up a reporting program between inspectors and the plan check personnel to identify some of the code issues. The goal will be to minimize the need for field inspectors to have to make preventable code calls in the field.

**5. New Business:**

**a. Request to proceed to Public Hearing for comment**

- I. NMAC 19.15.40.24 LP Gas Standards – Construction Industries Division, with LP Gas TAC approval, recommends that changes to the New Mexico LP Gas Standards, NMAC 19.15.40.24, which would adopt by reference the 2009 National Fuel Gas Code, NFPA 54; the 2011 Liquefied Petroleum Gas code, NMPA 58; the 2011 Standard on Recreational Vehicles, NFPA 1192; and the 2010 Vehicle Gaseous Fuel Systems code, NFPA 52, be approved to proceed to public hearing for comment. Public hearings are proposed to be held in three locations throughout New Mexico (Albuquerque, Santa Fe and Las Cruces) to hear comments.

MOTION: Commissioner Fickling moved that NMAC 19.15.40.24, New Mexico LP Gas Standards be presented by the Division for public comment hearings to be held in three locations in New Mexico. Commissioner Dekker seconded the motion. VOTE: All voted in favor of the motion.

**b. Request to Adopt:**

I. NMAC 14.7.6 New Mexico Conservation Code – Construction Industries Division, with TAC approval, recommends that the following changes to the New Mexico Conservation Code be adopted as presented:

- 301.1 Degree Days
- 401.2 Compliance
- 402.4.3 Kiva Fireplace

Discussion took place and Commissioner Casey presented his revised amendment (see attachment #1 dated 9-21-11).

MOTION: Commissioner Casey moved that Construction Industries Division take back to public comment (see attachment #1) NM Conservation Code (301.1, 401.2, 402.4.3). Commissioner Dekker seconded the motion. VOTE: All voted in favor of the motion.

II. NMAC 14.9.2. New Mexico Mechanical Code 604.3 Factory-Made air Ducts (flex-duct) – The Construction Industries Division recommends changes to NMAC 14.9.2.12, duct systems in the New Mexico Mechanical code are adopted. This change removes the length limitation for flexible factory made air ducts. There is considerable contention concerning this requirement that exceeds the national code. It has not been definitively determined through building science that restricting lengths of “flex duct” would accomplish the desired effect. It has been demonstrated that the majority of issues with this type of product is improper design or installation, which must be addressed in the plan review and inspections processes.

MOTION: Commissioner Yearout moved that 14.9.2, Duct Systems in the New Mexico Mechanical Code be adopted as presented. Commissioner Casey seconded the motion. VOTE: All voted in favor of the motion.

- c. Approval of Electrical Continuing Education courses and providers – The Construction Industries Division recommends the following continuing education courses and instructors be approved as presented:

One and Two Family Dwellings	Ron Alley, Carlos Roybal & Tim Opell
Hazardous Locations	Ron Alley, Carlos Roybal & Tim Opell
Changes to the 2007 NESC	Darrell Green
2011 New Mexico Electrical Code (NMEC)	Mark Olsen, J. Kelly Hunt, David Davison, Rem Pacheco, Ramon Benavidez & Robert Robinson
National Electrical Code Update	Wes Mozley & Richard Marshal
Basic Motor Control Refresher	Wes Mozley
Electrical Safety	Wes Mozley & Richard Marshall
NFPA 70E	Wes Mozley & Richard Marshall
OSHA 10	Wes Mozley & Richard Marshall
NEC Code for PV Installers	Wes Mozley & Aaron Cabral
Module 2: General PV and Installation	Earnest Arko, Aaron Cabral & Patrick Higgins
2011 NEC Updates	Tom Dorsey
First Aid/CPR Refresher	Wilburn Davis

MOTION: Commissioner Casey moved that the courses and instructors submitted for electrical continuing education be approved as presented. Commissioner Dekker seconded the motion.  
VOTE: All voted in favor of the motion.

- d. Approval of Mechanical/Plumbing courses and providers – The Construction Industries Division recommends the following continuing education courses and instructors are approved as presented:

2009 UPC Code Review (online)	Wade Airheart
2009 UMC Code Review (Online)	Wade Airheart

MOTION: Commissioner Yearout moved that the courses and instructors submitted for mechanical/plumbing continuing education be approved as presented. Commissioner Casey seconded the motion. VOTE: All voted in favor of the motion.

- e. Approval of licenses issued in July 2011 – The Construction Industries Division recommends that the licenses and certifications issued in July 2011 be ratified as presented.

MOTION: Commissioner Casey moved that the licenses and certifications issued by CID in July, 2011 be approved as presented. Commissioner Dekker seconded the motion. Commissioners Wooten and Yearout recused themselves from voting. Roll Call Vote: Casey – Yes, Baker – Yes, Kaufman – No, Fickling – Yes, Dekker – Yes VOTE: Motion passed.

## 6. Executive Session

MOTION: Commissioner Yearout moved that the meeting adjourn to closed session. Commissioner Kaufman seconded the motion. VOTE: A roll call vote was taken with all commissioners voting to adjourn to executive session. The meeting adjourned to executive session at 11:47 a.m.

- a. Recommendation to close cases
- b. AG Report on disciplinary actions
- c. Pending Litigation

Chairman Baker entertained a motion to open the meeting to the public. He further stated that only matters exempt from the open meeting requirement, NMSA 1978 10-15-1(H). No other matters were discussed, and no other actions were taken during executive session.

MOTION: Commissioner Dekker moved to reconvene the meeting to open session. Commissioner Kaufman seconded the motion. The meeting reconvened at 12:47 p.m.

## 7. Action on items discussed during Executive Session

- a. Compliance Investigations

MOTION: Commissioner Yearout moved that compliance investigations listed on the agenda be closed as presented. Commissioner Casey seconded the motion. VOTE: All voted in favor of the motion.

- b. Default Orders

MOTION: Commissioner Yearout moved that the following cases be dismissed:

LLD, LLC	09-1323 Dismissed
Lloyd Sillas, Mountain West Golfscapes	09-1274 Dismissed
Blakely Electric	09-1234 Dismissed
Affordable Urethane Foam Roofing	09-1351 Dismissed
Otero Custom Homes, LLC	09-1356 Dismissed
TS Bailey Enterprises	09-1371 Dismissed
Enchantment Roofing Service Inc.	09-1389 Dismissed

Commissioner Kaufman seconded the motion. VOTE: All voted in favor of the motion.

MOTION: Commissioner Yearout moved that a Default Order be prepared against Caballero Homes Case No. 09-1466 with revocation of license and qualifying party and a fine of \$500 be assessed against contractor. Commissioner Kaufman seconded the motion. VOTE: All voted in favor of the motion.

