

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

MEETING MINUTES

**Minutes for the Construction Industries Commission's Regular Meeting held on
Wednesday, March 20, 2013 at 5200 Oakland Ave. NE in Albuquerque, NM 87113**

1. Convene, Determination of Quorum and Introductions: Commissioners and Audience

Chairman Baker established that a quorum of the Commission was present and convened the meeting at 9:35 a.m. **ATTENDING** this meeting were:

Chairman D. Randy Baker, Representing Licensed Electrical Contractors
Commissioner Patrick Casey, Representing the Residential Construction Industry
Commissioner Don Kaufman, Representing the Subcontracting Industry
Commissioner Dale Dekker, Representing Licensed and Practicing Architects
Commissioner Kenneth Wooten, Representing Practicing General Contractors
Commissioner Lisa Fickling, Representing the Liquefied Petroleum Gas Industry
Commissioner Vince Alvarado, Representing Organized Labor

ABSENT from this meeting were:

Commissioner Renee Edwards, Representing the People of New Mexico
Commissioner Kevin Yearout, Representing Licensed Mechanical Contractors

Also attending was Katherine Martinez, Construction Industries Division (CID) Director

2. Approve Agenda

MOTION: Commissioner Wooten moved for the approval of the agenda, as amended to include agenda to item VI(h) – Case Management.

SECOND: Commissioner Dekker seconded the motion.

VOTE: All Commission members present voted in favor of the motion.

3. Public Comment

4. Directors Report

Director Martinez reported as follows:

- Legislative Roundup: **HB 274 (Cook) Manufactured Housing Committee Makeup** passed to the change the composition of the Manufactured Housing Committee to create a better representation of the industry and stake holders.
- **HB 279 (Stewart) Solar Collector Permitting** passed to add rule promulgation and definition of trade bureau having jurisdiction within the Construction Industries Division for the permitting of small solar collectors. This bill will help to streamline

the small solar collector permitting process, provide clarity to the definition of solar generating equipment and clarify the trade bureau having jurisdiction, including licensing scope for permitting and inspections.

- **HB 348 (Rodella)/SB 249 (Papen) Statewide Inspector Certification** passed to amend the Construction Industries Licensing Act as it relates to inspector certifications creating statewide Inspectors certificates, establishes inspector qualifications, establishes Certified Building Officials, allows for the utilization of MOU's for shared inspection resources between municipalities and counties, and repeals section 60-13-43 NMSA 1978 (BEING LAWS 1967, CHAPTER 199, SECTION 51, AS AMENDED).
- In February, energy training was held for the Las Cruces Home Builders Association. This was a huge success, thanks to Fermin Aragon, Kelly Hunt, Jerome Baca, Richard Lucero and Jesus Carrasco on conducting informative presentations on recent code changes with the adoption of the 2009 IECC/NMECC.
- Oil and Gas Permit Streamlining – A very successful meeting to discuss streamlining the oil field permitting process was held at the Legislature with Senator Leavell and CID staff. The end result will be a simplified permitting process for electrical work that still takes into account safety concerns of the utility and the Division. The industry was appreciative for the working session and has worked with the Division to collect feedback on the permitting proposal throughout the state.
- Procedures established since last meeting are: DPR plan intake procedure and Complaint central intake procedure.

5. Old Business

- a. Approval of Minutes for January 9, 2013 Regular Meeting:

MOTION: Commissioner Kaufman moved to approve the January 9, 2013 meeting minutes as presented.

SECOND: Commissioner Dekker seconded the motion.

VOTE: All Commission members present voted in favor of the motion.

- b. CTS (Construction Tracking System) Update:

Director Martinez presented the Commission with updated highlights of the new permitting system (CTS).

6. New Business

- a. Adoption of 2013 Open Meetings Resolution as presented by Luis Carrasco, Assistant Attorney General.

MOTION: Commissioner Casey moved to approve the 2013 Open Meetings Resolution as presented.

SECOND: Commissioner Kaufman seconded the motion.

VOTE: All Commission members present voted in favor of the motion.

- b. Legislative Update
Director Martinez presented the Commission with information on this item.
- c. Engineer and Architect Stamp Requirements
Discussion was postponed for a future meeting.
- d. Approval of Electrical Continuing Education Courses and Providers:

The Construction Industries Division recommended that the following electrical continuing education courses and instructors be approved as presented:

NESC High Voltage Electrical	Wes Mozley Enterprizes
Fundamentals of Process Instrumentation & Control Systems	Phillip Custer, Brett Bohannen
2011 NEC Theory & Calculations	John Benson, Rod Roberts, Grant Hammet, Larry Bobo, Terry Schneider
OSHA 10	Darrel Green, Carlos Roybal
First Aid, CPR & AED	NNMIEC
CPR & First Aid	Charles Humiston
Electrical Review for Electricians	B. Engelking
430 NEC Motors	B. Engelking
2011 NEC Code Update	B. Engelking
Understanding Electrical Diagrams	B. Engelking
Basic Electricity On-Line	B. Engelking
Mastering NEC Motors Part I	B. Engelking
Mastering NEC Motors Part II	B. Engelking
IBEW FDS-Project Start-Up	Tom Ross, Eric Barros, John Corman
IBEW FDS-Material Management	Tom Ross, Eric Barros, John Corman
IBEW FDS-Labor Relations	Tom Ross, Eric Barros, John Corman
IBEW FDS-Understanding the Estimate	Tom Ross, Eric Barros, John Corman
IBEW-Man Loading & Scheduling	Tom Ross, Eric Barros, John Corman
IBEW FDS-Managing Production	Tom Ross, Eric Barros, John Corman
IBEW FDS-Safety	Tom Ross, Eric Barros, John Corman
IBEW FDS-Communication	Tom Ross, Eric Barros, John Corman
IBEW FDS-Project Closeout	Tom Ross, Eric Barros, John Corman
IBEW FDS-Understanding the Estimate Part II	Tom Ross, Eric Barros, John Corman

IBEW FDS-Construction Specifications	Tom Ross, Eric Barros, John Corman
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MOTION: Commissioner Casey moved that the courses and instructors submitted for electrical continuing education be approved as presented.

SECOND: Commissioner Kaufman seconded the motion.

VOTE: All Commission members present voted in favor of the motion.

e. Approval of Mechanical Continuing Education Courses and Providers:

The Construction Industries Division recommended that the following mechanical continuing education courses and instructors be approved as presented:

NM Onsite Wastewater Conference	NM Wastewater Association
Water Pipe Sizing	Kirkwood Community College
Drain, Waste and Vent Sizing	Kirkwood Community College

MOTION: Commissioner Casey moved that the courses and instructors submitted for Mechanical continuing education be approved as presented.

SECOND: Commissioner Alvarado seconded the motion.

VOTE: All Commission members present voted in favor of the motion.

f. Requests to Proceed to Hearing for Public Comment:

1. The Construction Industries Division recommended that the proposed changes to NMAC 14.5.2.19 – Annual Permit be approved for public hearing as presented.

MOTION: Commissioner Alvarado moved that the proposed changes to NMAC 14.5.2.19 – Annual Permit be approved for public hearing as presented.

SECOND: Commissioner Casey seconded the motion.

VOTE: All Commission members present voted in favor of the motion.

2. The Construction Industries Division recommended that the proposed changes to NMAC 14.6.3.10 – Repair & Maintenance Certificate of Authorization be approved for public hearing as presented.

MOTION: Commissioner Casey moved that the proposed changes to NMAC 14.6.3.10 – Repair & Maintenance Certificate of Authorization be approved for public hearing as presented.

SECOND: Commissioner Alvarado seconded the motion.

VOTE: All Commission members present voted in favor of the motion.

3. The Construction Industries Division recommended that the proposed changes to NMAC 14.9.2 – New Mexico Mechanical Code – Chapter 6-Ductwork Insulation be approved for public hearing as presented.

MOTION: Commissioner Casey moved that the proposed changes to NMAC 14.9.2- New Mexico Mechanical Code –Chapter6 – Ductwork Insulation be approved for public hearing as presented.

SECOND: Commissioner Dekker seconded the motion.

VOTE: All Commission members present voted in favor of the motion.

g. Approve Licenses Issued Since January, 2013 and February, 2013:

The Construction Industries Division recommended that the licenses and certifications issued in January and February, 2013 be ratified as presented.

MOTION: Commissioner Kaufman moved that the licenses and certifications issued by CID in January and February, 2013 be approved as presented.

SECOND: Commissioner Casey seconded the motion.

VOTE: All Commission members present voted in favor of the motion.

h. Case Management System Presentation

Amanda Roybal, Compliance Manager provided an overview of the system

7. Executive Session

MOTION: Commissioner Fickling moved that the Commission close the meeting to the public and enter into an executive session to discuss the cases listed under agenda items VII(a)-(e), pursuant to NMSA 1978, Sections 10-15-1(H)(1), (3) and (7). Such discussions pertain to the issuance, suspension, renewal or revocation of licenses, deliberation on pending administrative adjudicatory proceedings, and pending or threatened litigation.

SECOND: Commissioner Kaufman seconded the motion

VOTE: A roll call vote was taken. Commission members present voted as follows:

Commissioner Vince Alvarado	Yes
Commissioner Patrick Casey	Yes
Commissioner Dale Dekker	Yes
Commissioner Don Kaufman	Yes
Commissioner Kenneth Wooten	Yes
Commissioner Lisa Fickling	Yes
Commissioner Randy Baker	Yes

The meeting was closed to the public so that the Commission could enter into executive session at 11:05 a.m.

Chairman Baker re-opened the meeting to the public at 1:10 p.m. He further stated that the matters discussed in the closed meeting (executive session) were limited only to those specified in the motion for closure.

8. Action on Items Discussed During Executive Session

a. Licensee Disciplinary Action Cases in which Dismissal or Closure is Recommended:

MOTION: Commissioner Wooten moved that the cases listed as numbers 1 through 33 under agenda item VII(a), be dismissed.

SECOND: Commissioner Dekker seconded the motion.

VOTE: All Commission members present voted in favor of the motion, with the exception of Commissioner Casey, who abstained from voting on this motion.

MOTION: Commissioner Wooten moved that the cases listed as numbers 34 through 74 under agenda item VII(a) be closed.

SECOND: Commissioner Dekker seconded the motion.

VOTE: All Commission members present voted in favor of the motion, with the exception of Commissioner Casey, who abstained from voting on this motion.

b. Licensee Disciplinary Action Cases in which Issuance of Notices of Contemplated Action (“NCA”) is Recommended:

MOTION: Commissioner Wooten moved to issue NCA’s for cases listed as numbers 1 through 31, excluding number 13, under agenda item VII(b).

SECOND: Commissioner Alvarado seconded the motion.

VOTE: All Commission members present voted in favor of the motion, with the exception of Commissioner Casey, who abstained from voting on this motion.

MOTION: Commissioner Wooten moved that a Pre-NCA Settlement in case number 12-2662 assessing a \$500 fine be authorized and that if no settlement agreement is reached, an NCA be issued in this case.

SECOND: Commissioner Dekker seconded the motion.

VOTE: All Commission members present voted in favor of the motion, with the exception of Commissioner Casey, who abstained from voting on this motion.

MOTION: Commissioner Wooten moved to issue an NCA in case number 22;13-01-18.

SECOND: Commissioner Dekker seconded the motion.

VOTE: All Commission members present voted in favor of the motion, with the exception of Commissioner Casey, who abstained from voting on this motion.

MOTION: Commissioner Dekker moved that an NCA be issued in case number 11-3064.

SECOND: Commissioner Alvarado seconded the motion.

VOTE: All Commission members present voted in favor of the motion, with the exception of Commissioners Casey and Wooten, who abstained from voting on this motion.

c. Attorney General's Report on Licensee Disciplinary Action Cases:

MOTION: Commissioner Wooten moved to accept the proposed settlement agreements in cases listed as items 1-3 under agenda item VII(c).

SECOND: Commissioner Casey seconded the motion.

VOTE: All Commission members present voted in favor of the motion.

MOTION: Commissioner Wooten moved to issue a letter informing licensee of nonfulfillment of settlement agreement or final order terms and to track such information in BMC for cases listed as items 4-8, excluding number 6, under agenda item VII(c).

SECOND: Commissioner Dekker seconded the motion.

VOTE: All Commission members present voted in favor of the motion.

MOTION: Commissioner Wooten moved to issue Default Orders revoking Respondents' license and qualifying party certificates, where applicable, and assessing a \$500 administrative penalty in the cases listed as numbers 9 through 21 under agenda item VII(c).

SECOND: Commissioner Dekker seconded the motion.

VOTE: All Commission members present voted in favor of the motion.

d. Administrative Adjudicatory Proceedings:

MOTION: Commissioner Kaufman moved to adopt the Hearing Officer's proposed findings of fact, in their entirety, and to issue the proposed Final Decision & Order, as presented, for the cases listed as numbers 1-2 under agenda item VII(d).

SECOND: Commissioner Casey seconded the motion.

VOTE: All Commission members present voted in favor of the motion, with the exception of Commissioner Wooten, who abstained from voting on this motion.

MOTION: Commissioner Wooten moved to adopt the Hearing Officer's proposed findings of fact, in their entirety, and to issue a Final Decision and Order revoking Respondents' license and qualifying party certificate and assessing a \$15,000.00 administrative penalty in Case Number 11-2192 (Ex-El Co., Inc. of the Southwest and Robert LePage), which was listed as item number 3 under agenda item VII(d).

SECOND: Commissioner Kaufman seconded the motion.

VOTE: All Commission members present voted in favor of the motion.

e. Pending or Threatened Litigation:

MOTION: Commissioner Kaufman moved that the Commission accept the letter provided to the Commission by Andy Dalmy of the Construction Industries Division documenting Kirby Gene Spillman's work hours and find that, on the basis of that letter, Mr. Spillman possesses sufficient work hours to take the electrical licensure examination

SECOND: Commissioner Wooten seconded the motion.

VOTE: All Commission members present voted in favor of the motion.

MOTION: Commissioner Kaufman moved to issue an order directing CID Director Katherine Martinez to allow Kirby Gene Spillman to take the electrical licensure examination, as requested by Mr. Spillman, and as described in the matter of Kirby Gene Spillman v. State of New Mexico, ex rel., New Mexico Construction Industries Commission, Case No. D-202-CV-2012-09073.

SECOND: Commissioner Casey seconded the motion.

VOTE: All Commission members present voted in favor of the motion.

9. Schedule Next Meeting Date and Location

The next regular meeting of the Construction Industries Commission will occur on May 15, 2013 at 9:30 a.m. at the Regulation and Licensing Department Building's Main Conference Room, located at 5200 Oakland Ave. NE in Albuquerque, NM.

10. Adjourn

MOTION: With no additional business pending, Commissioner Dekker moved to adjourn the meeting at 1:37 p.m.

SECOND: Commissioner Wooten seconded the motion.

VOTE: All Commission members present voted in favor of the motion.

NEW MEXICO CONSTRUCTION
INDUSTRIES COMMISSION

D. RANDY BAKER
Chairman

DATE

ATTEST:

KATHERINE MARTINEZ
Executive Secretary

DATE