

**STATE OF NEW MEXICO
CONSTRUCTION INDUSTRIES COMMISSION**

MINUTES

The Construction Industries Commission held a regular meeting on July 27, 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
Justin Woolf, Assistant Attorney General
Cholla Khoury, Assistant Attorney General
Rick Tavelli, Director, Construction Industries Division (CID)
Land Clark, Deputy Director of Field Operations, CID

ABSENT: Kenneth Wooten, Representing General Building Contractors

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 9:30 a.m.

2. Approve Agenda

MOTION: Commissioner Yearout moved to move the Director's Report after Approval of Agenda. Commissioner Kaufman seconded the motion. VOTE: All voted in favor of the motion.

3. Director's Report

4. Old Business

a. Approval of minutes

Approval of the June 10, 2011 regular meeting minutes

Mr. Woolf noted that on page 5 under 6. Executive Session if Applicable, paragraph 1, last sentence "citations" should be changed to "litigation."

Chairman Baker: In reviewing the minutes from the June 10, 2011 meeting, with regard to agenda item No.7, the record should reflect that a number of organizations were counted as only "1" response. However, these organizations were actually representing their memberships that are much larger in number. For example, the NM Home Builders represents 2,026 members, the Southeastern NM Home Builders Association represents 128 members, and there was a joint

petition signed by 378 members of NAIOP, ABC and others. So, the numbers speaking in favor of the 2009 Base Code was a significantly larger number than those in opposition.

Finally, the record should reflect as well that CID held public hearings in four locations prior to the June 10, 2011 vote. Those locations were Albuquerque, Santa Fe, Roswell and Farmington, NM. These matters appear on the Director's Report, item #4, and as Attachment C.

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

b. Approval of Additional Technical Advisory Councils (TAC) Members

MOTION: Commissioner Kaufman moved that the recommendation for additional Electrical Bureau Technical Advisory Council members be approved as submitted – Rem Pacheco, Electrical Bureau Chief, Construction Industries Division, Santa Fe and WT Claunch, Prime Electric, Albuquerque. Commissioner Dekker seconded the motion. VOTE: All voted in favor of the motion.

MOTION: Commissioner Dekker moved that the recommendation for additional General Building Bureau Technical Advisory Council members be approved as submitted-Tara Rothwell-Clark, studio D architects, Las Cruces and Pat Montoya, Wooten Construction, Las Cruces. Commissioner Yearout seconded the motion. VOTE: All voted in favor of the motion.

MOTION: Commissioner Yearout moved that the recommendation for additional Mechanical Bureau Technical Advisory Council members be approved as submitted – David Montano, JATC Plumbers & Pipefitters, Albuquerque. Commissioner Fickling seconded the motion. VOTE: All voted in favor of the motion.

MOTION: The June Commission meeting agenda was corrected three hours beyond the required twenty-four hours as per the Open Meetings Act. Commissioner Casey moved that the recommendations for the LP Gas Bureau Technical Advisory Council be ratified as submitted – Billy Romero, Rio Grande Propane, Brian Beasley, Certified Fire Investigator, Geno Rendon, Farrell Gas LP, Jake Cluff, Four Corners Propane, Marvin Vaughn, LP Gas Bureau Chief, Brian Austin, Cortez Gas company, Clay Bailey, LP Gas Chief Inspector, George Watkins, LP Gas Chief Inspector, Mark Perovich, Colomex Oil & Gas, Mike Burger, Amerigas Propane LP. Commissioner Dekker seconded the motion. VOTE: All voted in favor of the motion.

5. New Business

a. Schedule date and location of next Commission meeting

MOTION: Commissioner Casey moved that the discussion to schedule the next commission be conducted after 5.b. of the agenda. Commissioner Fickling seconded the motion. VOTE: All voted in favor of the motion.

MOTION: Commissioner Kaufman moved to schedule the next Commission meeting in Albuquerque, September 21, 2011. Commissioner Fickling seconded the motion. VOTE: All voted in favor of the motion.

b. Request to proceed to public hearing for comment

I. NMAC 14.7.6 New Mexico Conservation Code

i. 301.1 Degree Days

ii. 401.2 Compliance

iii. 402.4.3 Kiva Fireplace

MOTION: Commissioner Kaufman moved that changes to NMAC 14.7.6 New Mexico Conservation Code be presented by the Division for public comment at hearings to be held in three locations in New Mexico. Delete language in 401.2 – Compliance “index of 80 or less”. Commissioner Casey seconded the motion. VOTE: All voted in favor of the motion.

II. NMAC 14.9.2 New Mexico Mechanical Code

i. 604.3 Factory-Made Air Ducts (flex-duct)

MOTION: Commissioner Yearout moved that changes to NMAC 14.9.2.14, New Mexico Mechanical Code be presented by the Division for public comment at hearings to be held in three locations in New Mexico. Commissioner Dekker seconded the motion. VOTE: All voted in favor of the motion.

c. Request to adopt NMAC 14.10.4 2011 New Mexico Electrical Code

MOTION: Commissioner Dekker moved that changes to NMAC 14.10.4, 2011 New Mexico Electrical Code (NED) be adopted as presented. Commissioner Yearout seconded the motion. VOTE: All voted in favor of the motion.

d. Request to adopt NMAC 14.6.6.10 B(1)(a-c) Electrical Classifications for EE-98 and EL-1

MOTION: Commissioner Kaufman moved that changes to NMAC 14.6.6.10, Electrical Classifications for EE-98 and EL-1 be adopted as presented. Commissioner Yearout seconded the motion. VOTE: All voted in favor of the motion.

e. Request to adopt NMAC 14.8.3 2009 New Mexico Swimming Pool, SPA and Hot Tub Code

MOTION: Commissioner Dekker moved that changes to NMAC 14.8.3 2009 New Mexico Swimming Pool, Spa and Hot tub Code be adopted as presented. Commissioner Kaufman seconded the motion. VOTE: All voted in favor of the motion.

f. Request to adopt NMAC 14.9.6 2009 New Mexico Solar Energy Code

MOTION: Commissioner Kaufman moved that changes to NMAC 14.9.6 2009 New Mexico Solar Energy Code be adopted as presented. Commissioner Fickling seconded the motion. VOTE: All voted in favor of the motion.

g. Approval of Electrical Continuing Education courses and providers

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

h. Approval of Mechanical Continuing Education courses and providers

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

i. Approval of Licenses issued since March 2011

MOTION: Commissioner Kaufman moved to ratify licenses and certifications issued by the Division in April, May and June 2011 as presented. Commissioner Casey seconded the motion.
VOTE: All voted in favor of the motion.

6. Executive Session

MOTION: Commissioner Yearout moved that the meeting adjourn to closed session. Commissioner Fickling 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 11:01 a.m.

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

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 11:54 a.m.

7. Action on items discussed during Executive Session

a. Compliance Investigations

MOTION: Commissioner Kaufman moved that compliance investigations listed on the agenda be closed as presented with the exception of case 11-2005. Commissioner Dekker seconded the motion. VOTE: All voted in favor of the motion.

b. Default Orders

MOTION: Commissioner Yearout moved that the Stipulated Agreement for 09-1206 be accepted. Commissioner Dekker seconded the motion. VOTE: All voted in favor of the motion.

