

The Guam Board of Registration for Professional Engineers, Architects and Land Surveyors
PEALS Board Regular Meeting
Thursday, August 02, 2018, PEALS Board Conference Room Suite 208 3:10 PM - 4:41 PM

Present: Gabriel A. Jugo PE SE, Chairman H. Mark Ruth, RA, Vice Chair
Maria Elizabeth V Cristi, PE/Sec & Treas. Liza J. Provido, RA
Philip I. Villanueva, Public Member Atty. Tom Keeler, Keeler
Raymond C. Borja, Exec. Board Adm. Nixon Isaac, Board Investigator
Marie Villanueva, Adm. Asst.

Absent: Glenn Leon Guerreo, DPW Director Paul L. Santos, PLS, Member

Guest: R. Marsil Johnson, Blair, Sterling, Johnson & Martinez (Atty for N15 Guam)
Silvestre C. Oriondo III, EMCE Aissa R. Oriondo, Spouse
Renato O. Martinez RA 441, N15 Guam Inc
Christopher F. Fryling RA 356, N15 Guam Inc
Elizabeth C. Gayle PE CE 913, Setiardi Architects LLC
Thomas P. Camacho PE SE CE650/SE752, Duenas, Camacho & Associates Inc.
Dennis S. Balagtas PLS 075, Guam Surveyor LLC
Tor Gudmundsen PE CE 1002, TG Engineers PC

Prior to the opening of today's meeting, BC Jugo administered the Certificate presentation for New Engineer Intern Mr. Silvestre C. Oriondo EIT #315, before the Board and family members. Congratulations.

Item 2, Oath Administration of New Registrants via Examination

2.A Oriondo, Silvestre C. – EIT #315

Item 1, Call to Order

Board's mission statement was announced. The meeting was called to order at 3:10pm, as a quorum was present.

Item 3, Minutes for Approval

Board reviewed June 7, 2018, meeting minutes.

Comments:

Sec. & Treas. Cristi noted on page 11 of 12, the fourth paragraph down, the first sentence, to now read, "...VC Ruth noted the **possibility** ..". VC Ruth did not endorse or clarify the request of change of wording by Sec. & Treas. Cristi, by concluding he does not remember stating that.

Sec. & Treas. Cristi noted to include "**and staff**" on page 11 of 12, paragraph three, fourth sentence after "..EBA".

BM Provido entered into the meeting at 3:13PM.

With no further comments, motion to approve meeting minutes with change.

Motion: BC Jugo

2nd: Sec. & Treas. Cristi

All in Favor: 4/1 Abstained: 1 (PM Villanueva) Motion: PASSED

4 EBA Reports and Updates

4.A Board Administrative Activity- June 1, 2018, thru June 20, 2018

Board Administrative Activity from June 1, 2018, thru June 20, 2018, was reviewed and acknowledged by Board members. Present revenue tracking at \$8K more than last year. See appendage page 14 showing revenue tracking from FY2017 through FY2018.

From October 01, 2017 thru June 20, 2018:

Revenue generated is \$266,965, Expenses is \$193,267

PEALS Bank of Hawaii Statement for the months of May and June 2018, were shown. No checks were written during these months. The balance of the account is \$3,932.88.

EBA Borja then requested for Board approval to write a BOH check in the amount of \$15 for PEALS vehicle safety inspection fee. No objection was noted from the Board.

4.B OPA follow-up audit of PEALS FY 2017 Revenue Breakdown

On January 09, 2018 the Board received a follow-up letter from the Office of Public Accountability on the audit recommendations identified in their OPA Report No. 17-03 issued in July 2017. OPA Audit breakdown report cited six recommendations to the Board. One of which is that a fiscal year-end reconciliation of reported data showing revenue with registration numbers. The Board will review and perform verification.

A completed report was submitted by the EBA to the Board August 2, 2018, at today's meeting. Copy to be forwarded to OPA asap.

BM Provido noted that once a requisition to GSA is done and a vendor is selected, this requirement could be performed by an accountant/bookkeeping services vendor to assist EBA. No RFP has been submitted as of this writing.

4.C File/Record Keeping, Office Expansion

4.C.A File/Record Keeping

On June 19, 2018, a memo to the Attorney General of Guam was given by the PEALS EBA regarding Request for Information and Guidance on Records Management. A written response was received June 28, 2018, from Karl P. Espaldon, Deputy AG. It stated, "... that the appropriate entity to provide the Board with advice and guidance on these matters is the Department of Administration pursuant to Article 6, Chapter 20 of Title 5 GCA, the Director of Administration is responsible for the establishment and administration of the records management program for the Executive Branch. To that effect, the DOA Director has designated GSA Chief Procurement Officer, Ms. Claudia Acfalle to oversee the Records Management Office of the Department of Administration. We respectfully refer you to Ms. Acfalle to assist you with questions you might have regarding the Board's records management practices and procedures."¹ EBA confirmed that although older records have been disposed of; were scanned to CD for records retrieval due to limited file cabinet space. EBA Borja stated he will follow up with GSA and will report back to the Board.

4.C.B Office Expansion

Is officially on hold due to government austerity measures. A memo to seek possibilities to relocate to the DPW Compound; which would alleviate rental lease funding of \$18K per year, was given to DPW Director Leon Guerrero. EBA Borja to inquire space availability from Dominic G. Muna/DPW Building Construction and Building Maintenance and DPW Mr. Eduardo Ordonez/Contracting Licensing Board Director as to the possibility of relocating to their office as well as the shared use their conference room, per DPW Director Leon Guerrero. Mr. Ordonez stated they are in the process of hiring three (3) additional personnel and because of that, will not have any space for PEALS request.

¹ PEALS Meeting Agenda Packet 08.2 2018, pages 26 and 27, Professional correspondence regarding Request for Information and Guidance on Records Management dated June 27, 2018 from Karl P. Espaldon to EBA Borja/PEALS Board.

Other DPW compound locations were discussed but was eliminated due to ADA non-compliance.

5 Complaints

BC Jugo confirmed with the Board members present if they had received a copy of the corrected page 32 of today's agenda packet "Complainant/Respondent"? All present confirmed a hard copy was given prior to the start of the meeting.

5.A Lorette T. Guerrero vs. Blas Atalig/Meliton S. Santos, PLS No. 053 Case #2017-002

On July 27, 2018, the PEALS Board received a copy of a letter signed by Mr. Blas Atalig addressed to Ms. Lorette T. Guerrero. A copy is attached for Board reference.

AAG Monty May contacted the PEALS Board of this case, verbally requesting all documents pertaining to this case. EBA is now collating records, including meeting minutes recording to be given to AAG Monty May.

EBA Borja reviewed the complaint list and noted the following as of August 2, 2018:

PB2018-002 Alfred & Jovelynda Ceraos vs. Efren Santos, PLS – EBA Decision of Merit/No Merit is still pending as this matter is under mediation between Mr. Paul Santos, in the capacity of Department of Land Management Office of the Chief of Cadastre and surveyor.

PB2018-003 Joey Togawa vs. Ernie Baldeviso, PE – BI Isaac investigation report is pending receipt of written reply on the allegation. Delay is due to the recent hospitalization of Mr. Baldeviso who is unable to make a response. BM Provido noted to show in "comments" section of Complaint Listing – "Pending Investigation".

5.B Complaints: PB2018-004 Christopher F. Fryling N15 Architects proposal prior to Board Approval of COA.

On July 23, 2018, a response from the office of Christopher Fryling of N15 Guam, Inc., via their attorney R. Marsil Johnson, Blair Sterling Johnson & Martinez was given to AAG Keeler. AAG Keeler will prepare a draft response. EBA officially noted in today's meeting his determination; stating Case PB2018-004 has Merit.

6. Old Business

6.A PEALS Rules & Regulations

BM Provido is pleased to report to the Board completion on a review of the Rules & Regs. Finalization of the draft will be released to the Board and AAG Keeler's office for review and comments on or before Labor Day (September 3, 2018).

6.B Second Round to Amend PEALS Law

Status Quo

Elizabeth Gayle, PE CE913/Setiadi Architects LLC, and Thomas Camacho PE SE CE650/SE752 (Self) entered into the meeting at 3:39PM.

6.C AG Information and Guidance on PEALS Competitive Bidding/Code of Ethics

A letter of response dated May 25, 2018, was received from the Office of the Attorney General of Guam, Mr. Karl P. Espaldon, Deputy Attorney General, regarding to a request for legal guidance from the Office of the Attorney General concerning the prohibition on competitive price bidding found in the Guam Board of Registration for Professional Engineers, Architects, and Land Surveyors' (PEALS) Rules of Professional Conduct. Which in its CONCLUSION paragraph notes, "The PEALS Board's Rules of Professional Conduct which forbids registrants from submitting proposals based upon competitive bidding is an unlawful restraint of trade in violation of Section 1 of the Sherman Antitrust Act. It therefore is unenforceable".²

BC Jugo open floor to public comments or, on behalf of their professional societies. Mr. Thomas Camacho PE SE prepared a letter in response on his behalf and submitted it to the board today noting his disagreement with the AG's findings.

After discussion and by consensus of the Board, the Board recommended that a formal request be generated by the Board in reply to AAG Karl P. Espaldon, Deputy Attorney General, citing laws and collection of letters from Messrs. Thomas Camacho PE SE, AIA Board Chair Brent Wiese RA and the National Council of Architectural Registration Boards as a rebuttal and request for reconsideration based on the available letters of its opinion of this regard.

Motion: VC Ruth

2nd: Sec. & Treas. Cristi

All in Favor: 5/0 Motion: PASSED

² PEALS Meeting Agenda Packet 06.7.2018, pages 42-45, AAG Memo regarding Information and Guidance on PEALS Rule of Professional Conduct that Forbids Competitive Bidding dated May 25, 2018 from Karl P. Espaldon, AAG Deputy Attorney General, to the PEALS Board.

Elizabeth "Betty" Gayle, PE CE913/Setiadi Architects LLC, and Thomas Camacho PE SE CE650/SE752 (Self) left the meeting at 4:14 PM.

6.D NCARB's Attorney Venable, LLP Memorandum on Competitive Bidding (Refer to Item 6.C)

Memorandum to be submitted by the Board with the above item 6.C as a rebuttal and request for reconsideration.

Mr. Dennis Balagtas, Guam Surveyor LLC stated on behalf of himself, he personally agrees with the AG's opinion noting it is unenforceable.

Sec. & Treas. Cristi referred to cover sheet showing Submittal of Concrete Supplier Design Perez Brothers Project DN Tanks in Umatac, Merizo WWTP as supporting document to Competitive Bidding/Code of Ethics violation and how prevalent it is on Guam.

The consensus of the Board agreed that until a re-decision from the AAG Office is received; DN Tanks cover sheet is tabled as an alleged violation.

7 New Business

7.A MAR DCMI, LLC – COA Application

Board review process commented that organization, statement of purpose, document Article 3(a) lists "Architecture Design" as a service, but had only requested for the services of Civil and Construction Management. BC Jugo suggests removing this from documents via amendment or have company submit a letter of clarification.

On July 27, 2018, MAR DCMI, LLC responsible managing employee, Anthony P. Frontiero Jr., PE CE 1453, submitted a letter to the Board with a letter of clarification on intent for Civil and Construction Management services only. And will only perform architectural services upon the Board's approval.

With this new letter, the Board had agreed to approve MAR DCMI, LLC- COA Application.

8 Open Discussion, Information and Announcements

8.A NCARB 4.0 Rolling Clock had expired this June 2018

All candidates that had applied through the Board for rollover extension of 4.0 Exam Credits has thus expired. Regrettably, no licenses were issued during this time. A courtesy letter to candidates to whom availed themselves to Board extension advising them Rollover is now no longer in effect and required to take the 5.0 ARE version in order to obtain a license; was suggested but not directed.

8.B Paul S. Santos letter, copied to the PEALS Board, response to Meliton S. Santos CE275/LS053 & Assoc. Inc. Letter

In the last Board Meeting, BM Santos had stated a copy of reply would be given to the Board. Said copy was received on July 30, 2018, for Board record and included in today's agenda packet.

8.C NCEES Annual Meeting on August 15-18, 2018 in Scottsdale, AZ:

NCEES Funding Gabriel A. Jugo, Paul L. Santos and Ray C. Borja to attend.

8.D Steven Zhao / Mangilao Dental Clinic – Internet Website

An article appeared in the Marianas Business Journal via the internet on May 16, 2018 stating, "The architecture was done by Steve Zhao" for the Mangilao Dental Clinic. EBA Borja stated no license had ever been issued to Mr. Steven Zhao which is a violation of the PEALS Law Sec. 32122(A)(B).

Tor Gudmundsen PE CE1002/TG Engineers PC entered the meeting at 4:21 PM.

VC Ruth asked if Mr. Zhao had stamped the plans? BI Isaac is in the process of doing research through DPW Permit Division to confirm who stamped the permit plans and will advise EBA accordingly.

VC Ruth left the meeting to attend to a personal call at 4:23pm and returned to the meeting at 4:23pm.

8.E Internet Website of William Kurashima & Associate

William Kurashima & Associates claiming IHOP Building Guam/Project Authorship as Lead Architectural Designer and having capabilities of design and permitting construction and credits Taniguchi Ruth Makio Architects (TRMA). EBA Borja stated no firm license had ever been issued to Mr. William Kurashima & Associate which is a violation of the PEALS Law Sec. 32122.

Mr. Kurashima gave credit to TRMA for the projects list. VC Ruth noted TRMA was unaware of the website until it was posted on the internet.

The ambiguity of reference is clarified with the lower reference on the website. VC Ruth suggested the Board review the complete website and not hold judgment based on the page reflected on page 54 in today's agenda packet.

Motion: VC Ruth

2nd: BC Jugo

All in Favor: 5/0 Motion: Passed

8.F PEALS FY2018 Proposed Board Meeting Schedule

After discussion and by consensus of the Board, the next Board meeting will be tentatively held on Tuesday, September 25, 2018.

9. Public Comment

Mr. Tor Gudmundsen PE CE1002/TG Engineers PC came before the Boards to inform his intent. Mr. Gudmundsen announced he has been able to hire a local structural engineer and will be planning to begin offering structural engineering services. The local structural engineer is Gabriel Jugo PE SE CE1171/SE1340. We would like to complete the transition of having him leaving Englekirk Partners Consulting Structural Engineers DBA: Englekirk Structural Engineers and joining TG Engineers PC PEALS COA with structural added to it in the shortest possible timeframe. It was discussed by Mr. Jugo and myself that it is beneficial to me because he is here on the Board and he knows everything and many things.

BC Jugo abstained as a Board Member and handed over presiding of Board Meeting to VC Ruth.

VC Ruth asked clarification to request. Mr. Tor Gudmundsen announced he will submit his amended COA and Mr. Jugo will submit his resignation with Englekirk and termination as RME with Englekirk the following week. Assuming the application is accepted then it will be circulated through the Board for approval prior to the September 25th Board Meeting.

Mr. Jugo clarified that what Mr. Gudmundsen is making sure is that there will be no issue in transferring of projects that Mr. Jugo is presently RME on through Englekirk, which several are on the Englekirk's PEALS COA and the few that have been permitted as of today. VC Ruth questioned if Englekirk would have a problem; as it would be a concern for the Board. Concluding, if Englekirk be sending someone to handle pending and upcoming projects.

BC Jugo relinquished presiding VC Ruth of authority at this point and will now preside of Board Meeting.

AAG Keeler was excused from the meeting at 4:33pm. Mr. Tor Gudmundsen also left the meeting the same time.

10. DPW Permit & DLM Survey Map Review

10.A Department of Land Management: May – June 2018

10.B DPW Building Permits: June 2018

No comments were noted on above.

11. Adjournment

It was moved by Sec. & Treas. Cristi and seconded by BM Provideo and unanimously carried by all to adjourn the meeting with no further comments, the meeting adjourned at 4:41 PM.

/mnv

(A)Folder/#85 (Grey)

Approved by:  12/12/18  12/13/18
Gabriel A. Jugo, PE SE Board Chair Date Maria Elizabeth V. Cristi, PE Date
Board Secretary/Treasurer

- () Minutes approved as is.
- (X) Minutes approved with changes; see minutes 9/27/2018