

The Guam Board of Registration for Professional Engineers, Architects and Land Surveyors
PEALS Board Regular Meeting
Tuesday, January 22, 2019, PEALS Board Conference Room Suite 208 3:22 PM - 5:05 PM

Present:	Gabriel A. Jugo PE SE, Chairman Maria Elizabeth V. Cristi, PE/Sec & Treas. Raymond C. Borja, Exec. Board Adm. Atty. Tom Keeler, AAG	H. Mark Ruth, RA, Vice Chair Paul L. Santos, PLS, Member Philip Villanueva, Public Member Nixon Isaac, Board Investigator
Absent:	Liza J. Provido, RA, Member Marie Villanueva, Adm. Asst	DPW Director, Unassigned as of this date
Guest:	Thomas P. Camacho PE SE, CE650/SE752 Joseph Calvo, Self Inez Mesa, Self Ricky M. Viador, Self Tony Ada, Self J. Dean Garcia, Self Jose C. Benavente, Self	Duenas, Camacho & Associates Inc. Eugene Mesa, Self Gloria Calvo, Self Vicente A.B. Ada II, Self Annette Ada, Self Ashlee Cabrera, Self Nick Keswani, Self

Prior to the opening of today's meeting, BC Jugo administered the Certificate Presentation for new Engineer Interns before the Board for Messrs. J. Dean Garcia EIT#318, Joseph F. Calvo EIT#319, and Ricky M. Viador EIT #320. Followed by the Administration of the Profession of Oath for new Registrants Messrs. Eugene A.T. Mesa PE#ME2020 and Vincente A.B. Ada II, PE #EnvE2023.

Item 2, Oath Administration of New Registrants

Congratulations for passing the Fundamentals of Engineering Exam for Engineering In Training and the Principles and Practice of Engineering exam for our newly registered Professional Engineers.

Item 1, Call to Order

Board's mission statement was announced. The meeting was called to order at 3:22 pm, as a quorum was present.

It was moved by VC Ruth and seconded by Sec. & Treas. Cristi, to go out of agenda order and proceed to item 8.C RME In Charge Shall Sign, Seal and Date the Title or the First Sheet, to entertain our guest that is currently present. Motion passed 4/0 (BM Santos arrived late and was not present during the time motion was called).

8.C Certificate of Authorization (COA)/ Responsible Managing Employee (RME) in charge shall sign, seal and date the title or the first sheet

Thomas P. Camacho, PE SE - CE650/SE752 Duenas, Camacho & Associates Inc. came before the Board.

Camacho noted he had received an email from the EBA citing the PEALS Law §32116 *Certificates - Seals* noting the main Responsible Managing Employee (RME) must sign all title sheets. Being a multi-discipline firm Camacho questioned the reasoning and clarification from the Board. And request the Board revisit the language of the law pertaining to §32116.

Board clarified reasoning as control of responsibility. One registrant (Main RME) and only one should hold control of any and all projects should an incident or situation occur that needs to be clarified or addressed. Thus PEALS Law §32123(c) *Certificate of Authorization (COA)* "A multi-discipline firm who has more than one (1) designated RME shall be required to have a minimum of one (1) RME and who must have full control over the particular services contracted for by the firm ..." is of that intent.

BM Santos joined the Board Meeting with his arrival.

Camacho suggests the Board do one of three options: allow more than one main RME, allow an internal document allowing to do so in the event of off-island changes, or define/identify Main RME in charge as the Overall Operations Manager, giving that person a particular title.

Camacho, in closing, stated his office will be sending in a revision of RME for their existing COA as Mr. John P. Duenas PE - CE355 will be retiring soon and to update newly registered engineers within their firm. Camacho thanked the Board for their time.

Mr. Camacho excused himself from the meeting.

It was moved by VC Ruth and seconded by Sec. & Treas. Cristi, to go out of agenda order and proceed to item 5.C Jose C. Benavente vs. Paul L. Santos PLS #068 Case #2018-006, as Mr. Benavente is currently present. Motion passed 4/0 (BM Santos recused).

5.Complaints

5.C Jose C. Benavente vs. Paul L. Santos PLS No. 068 Case #2018-006

BM Santos recused and removed himself from the presence of the Board Meeting.

Mr. Benavente announced himself before the Board and thanked them for the opportunity to be allowed to be heard.

Mr. Benavente's complaint Case Number #2018-006 stems from a previous Complaint Case Number #PB2016-010 dated 9/15/2016, by receiving a Letter of No Merit from the EBA on 04/14/2017 and disagrees with the decision and states alleged coercion between Board Member Santos and EBA.

Benavente noted in a review of meeting minutes and voice recordings of the Board Meetings where his case was discussed; there were many discrepancies, and feels the Board should review documentation he had submitted through a third party as instructed by the Board to the EBA. Mr. Benavente wondered if it had been reviewed by Mr. Santos as he had stated in the voice recordings, "He is the only one capable to review maps at Land Management." Mr. Benavente sees this as a clear conflict of interest.

BC Jugo stated a third party, if agreed and selected by Mr. Benavente, will be assigned to review documents for a final decision. Mr. Benavente agreed stating, "As long as the Process is Fair". BC Jugo moved to proceed and have the Board compile a list of Surveyors. One would be selected by Mr. Benavente to evaluate the case independently of the Board, at no cost to Mr. Benavente. Upon completion of the selected surveyor and subsequent findings, a report will be submitted to Mr. Benavente and the Board.

Motion: BC Jugo

2nd Motion: BM Villanueva

Discussion: Sec. & Treas. Cristi questioned the allocation of funds for the cost(s) associated with this request. BC Jugo Modified motion to also include professional fee costs.

All in Favor: 4/0 (BM Santos was not in attendance of this discussion by recusal) Motion Passed

BC Jugo noted in determining Merit; EBA Borja would be recused in this matter as he was also listed in the resubmitted complaint. Giving the decision of Merit that lies with a third-party Investigator (Selected Surveyor).

Mr. Benavente excused himself from the Board.

BC Jugo resumed order of meeting agenda.

Item 3, Approved June 7, August 2, and September 27, 2018 Board Meeting Minutes

3.A Review November 27, 2018 – Regular Meeting Minutes

BM Santos returned to the Meeting.

It was moved by Sec. & Treas. Cristi and seconded by VC Ruth to approve minutes of November 27, 2018, pending confirmation of dates on page 7 of 9, fourth paragraph, last sentence and be approved as written.

Motion: Sec. & Treas. Cristi

2nd: VC Ruth

All in Favor: 5/0 Motion Passed

Item 4, EBA Reports and Updates

4.A Board Administrative Activities: November 21, 2018, through January 10, 2019

Board Administrator reported PEALS FY19 Revenue & FY18 Revenue previous year in comparison, AS400 breakdown of Year-To-Date Expenditures, and Current Revenue collected at \$55,790.

FY2020 Budget Call was given to BBMR in December showing PEALS requested Budget at \$318,809.

Bank of Hawaii statement for the months of November and December 2018 were presented. The balance of \$3,855.45 respectively. Only one check was written, Check #172 payable to Guam Telephone Authority for expenses not authorized by GSA in a timely manner for DOA to allow payment approval, thus leaving a balance of \$62.43 outstanding.

BC Jugo requested to include in "EBA Report and Updates" OPA Requirements of a Fiscal year-end reconciliation of reported data. The last report given to the Board was in June 2018. Board anticipates a new report during the next meeting in March 2019.

Item 5, Complaints

5.A Lorette T. Guerrero vs. Blas Atalig/Meliton S. Santos PLS #053 Case #2017-002

BI Isaac noted he was called to a meeting, date pending, to the Attorney General's office by the Assistant Attorney General, Monty May. Mr. Blas Atalig would also be present at the meeting. AAG Keeler noted this case was referred to the AG's office for collection per decision made on #2017-002 and Mr. Blas Atalig has contested it through the AG's office. Assistant Attorney General May has been tasked with filing an action to collect said fine. AAG Keeler and BI Isaac will follow up with AAG May on the status of this case and report to the Board.

List of Complaints

In the listing of Complaints provided in today's agenda packet, BM Villanueva noted Case #PB2018-005 Maria San Nicolas vs. Kook (Steven) Kim PE ME1295/FPE1906 which indicates EBA Decision of "No Merit" since 9/27/2018. He questioned, "Since it is not listed as 'Closed', had the Complainant been notified of EBA Decision per the requirement of the Administrative Adjudication Law?" EBA Borja stated, no letter had been generated advising Complainants of his decision as of this writing. BM Villanueva continued, "Since it is past ninety days, what is the complainant's recourse?" AAG Keeler reiterated that a letter should have been released in October. EBA Borja stated he will comply.

5.B Christopher F. Fryling, N15 Architects proposal prior to Board Approval of COA Case #2018-004 – Hearing Status

BC Jugo moved to ratify the results of the hearing held with Christopher F. Fryling, RA#356 on January 10, 2019. Board results were 4 in favor and 1 opposed. In favor: BC Jugo, Sec. & Treas. Cristi, BM Villanueva, and BM Santos. Opposed: BM Provido

Motion: BC Jugo

2nd: BM Santos

All in Favor: 4/0 (VC Ruth Abstained) Motion Passed.

6, Old Business

6.A PEALS Rules and Regulations

A formal request, on the PEALS Board letterhead, is to be written to the Attorney General's office requesting for a formal review of Draft Rules & Regulations. Any contradiction to the Law will be

addressed by the AG's office for correction. Once a review is generated from AG's Office, corrections will be noted, before releasing to the Legislative Chair.

AAG Keeler noted the law must be changed first prior to allowing the Rules & Regulations to stipulate otherwise.

VC Ruth motion and seconded by Sec. & Treas. Cristi to add to today's agenda, a new item 6.B Old Business / Steven Zhao/Mangilao Dental Clinic – Internet Website.

Motion: VC Ruth

2nd: Sec. & Treas. Cristi

All in Favor: All 5/0 Motion Passed

6.B Old Business/Steven Zhao – Mangilao Dental Clinic – Internet Website

VC Ruth requested BI Isaac to update the Board on his investigation. BI Isaac concluded his review of the matter. Although has not finished his written report or submitted it to the EBA as of this writing. Oral review to the Board concluded facts obtained shows no violation had occurred.

7, New Business

7.A Blair, Roger Lewis PE #1913 – CE Renewal Disclose Disciplinary Action

Upon renewal of Mr. Blair's Guam registration CE #1913 in FY18, he disclosed a disciplinary action with the Texas Board on November 16, 2017. On December 6, 2018, a letter from Mr. Blair enclosed his Stipulated Agreement to said action. Since then, other Boards from the jurisdictions of North Carolina, Arizona, Colorado, Illinois, Nevada, and Florida had imposed actions of either a fine or request for voluntary relinquish of license forever.

Guam PEALS Board will not make any decisions in this matter until the folder is updated and available for individual Board member's review to ensure there are no new issues or concerns. Blair's file, to be complete with original letter of Stipulated Agreement by the Texas Board as well as other states mentioned above, as the original verdict stood as the foundation for additional adverse actions were not included in today's agenda packet. EBA Borja is to circulate Mr. Blair's folder for individual Board member's review and recommendation.

7.B Election of New Board Officers

Per the Guam PEALS Law, each January the Board is given an opportunity to elect new Officers.

Election of New Board Officers for CY2019 officially closed and approved the following appointments effective immediately:

Board Chair – Gabriel A. Jugo, PE SE
Vice Chair – H. Mark Ruth, RA
Secretary & Treasurer – Maria Elizabeth V. Cristi, PE

Board members proceeded Meeting in their elected capacity.

7.C PNJ Facilities, LLC – COA Application

Formal request to retract application of the Certificate of Authorization application due to changes in corporate governance structure was received via email on 1/14/2019 by EBA from Mr. Sonny P. Perez, RME for COA. Board noted retraction.

8, Open Discussion, Information and Announcements

8.A PEALS FY2019 Proposed Board Meeting Schedule

Regarding NCARB and NCEES Council Meetings; BM Villanueva strongly suggests the Board sends our Board Investigator, Mr. Nixon Isaac, to hone his skills. For the betterment of the Board and PEALS office. BM Villanueva had given up his personal position as a Public Member to allow BI Isaac to attend; but to no avail. BM Villanueva stated NCEES, through the due diligence of Mr. Patrick Tami PLS, NCEES President, made it possible to also include Board Investigator or Staff from all jurisdictions, to these meetings, at no cost.

BM Santos noted NCEES Annual Meetings has a full day and a half specifically for Investigation Workshops on the agenda for these conferences. EBA and Board noted.

8.B NCARB Regional Summit on March 7-9, 2019 in Nashville, Tennessee: NCARB funding up to 4
NCEES Southern/ Western Zone Meeting on May 16-18, 2019 in Boise, Idaho: funding up to 3

8.C RME in charge shall sign, seal and date the title or the first sheet

Per Passed Motion, Refer to Item 8.C on page 2, as this item was discussed out of order of agenda by motion.¹

9, Public Comment

N. Keswani / Request to Waive PEALS Exams for Civil Registration

Under the suggestion of the EBA to come before the Board, Nick Keswani announced his presence. Mr. Keswani has 20+ years of construction engineering management experience and holds a Masters Degree in Civil Engineering. He had been suggested to apply for the position of Chief Engineer of the Guam International Airport by the newly appointed Tom C. Ada, Executive Manager of the A.B. Won Pat Guam International Airport, by Newly Elected Governor, Mrs. Lourdes Leon Guerrero. Noting a deficiency for having not taken the Fundamentals of Engineering Exam, Principles and Practice of Engineering or the California Seismic exam as required by the PEALS Law and GIAA position description, requested for Board waive the requirement of exams. Mr. Keswani desires for a license or registration through a grand-father clause based on experience alone. Or, a suggestion of another method to allow him to apply for Chief Engineer at GIAA.

BC Jugo noted no application was received by the Board so the Board cannot act on it, although no waiver has previously been granted for the exam(s). VC Ruth commented it may be easier to have the position description changed at GIAA, as Mr. Keswani indicated, no lack in experience. BM Santos commented Director position at the Department of Public Works, is available and has no licensure requirement. AAG Keeler suggested having GIAA create a different position, more suited to your qualifications.

Mr. Keswani thanked the Board and left the meeting.

Christopher F. Fryling, N15 Architects Hearing Court Case #2017-002 Board Comments

BM Santos stated being blindsided at the Hearing. BM Santos stressed his concern; citing No attorney was present on behalf of the Board; as our attorney, AAG Keeler was given the position of Hearing Officer. BM Villanueva shared his disappointment as well. Noting that the Board, who was represented by the EBA and BI Isaac, stated incorrect sections of our Law, Penalty, and Purpose of complaint. Attorney of the Complainant tore each item listed on the Accusation and Statement of Charges to shreds. The investigation was a substandard representation of the PEALS Office and its Board. BM Villanueva noted our EBA and BI Isaac had nine months to prepare a complaint, and the end product was inexcusable. BM

¹ Proceed to Page 2 for Board Discussion.

Villanueva ending his comment by reiterating his suggestion in sending BI Isaac to the law enforcement workshops offered by NCEES and NCARB for professionalism specifically in Stipulations of court documents of the PEALS Board and its Office.

AAG Keeler offered to provide EBA Borja and BI Isaac training in light of their performance. AAG Keeler also noted future Hearing Officer may be a Board Member.

Jim Lyon, PE (Hawaii) – aka Frank James Lyon PE (CE1408 – Guam)

Sec. & Treas. Cristi announced for Board information, and directed the Board's attention to page 38 Complaint Listing "PB2016-008 Ronald G. Gonzales PE vs Jim Lyon PE". Mr. Gonzales PE CE912 sent her a link via internet stating Jim Lyon PE (Hawaii) was expected to plead guilty in the Hawaii District Court on charges for bribing a SFM Official and State of Hawaii Official. The Board is advised.

10, DPW Permit & DLM Survey Map Review

- 10.A Department of Land Management – October, November, and December 2018
- 10.B DPW Building Permits – October and November 2018

BC Jugo moved and seconded by Sec. & Treas. Cristi to have comments be submitted to EBA for review.


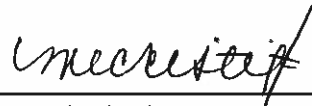
Motion: BC Jugo
2nd: Sec. & Treas. Cristi
All in Favor: 5/0 Motion: Passed

11, Adjournment

It was moved by Sec. & Treas. Cristi, and seconded by BC Jugo and unanimously carried by all to adjourn the meeting with no further comments, the meeting adjourned at 5:05PM.

/mnv

(A)Folder/#98 (Grey)

Approved by:  4/2/2019  04/03/19
Gabriel A. Jugo, PE SE Board Chair Date Maria Elizabeth V. Cristi, PE Date
Board Secretary/Treasurer

(X) Minutes approved as is. March 26, 2019
() Minutes approved with changes; see minutes _____