

The Guam Board of Registration for Professional Engineers, Architects and Land Surveyors
PEALS Board Regular Meeting

Thursday, September 27, 2018, PEALS Board Conference Room Suite 208 3:03 PM - 5:10 PM

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

Absent: Glenn Leon Guerrero, DPW Director

Guest: None

Item 1, Call to Order

Board's mission statement was announced. Meeting was called to order at 3:03 pm, as a quorum was present.

Item 2, Oath Administration of New Registrants via Examination

Bonsembiante, Tomas A. – EIT #317 - Oath was not administered as registrant was not present.

Item 3, Minutes for Approval

3. Board reviewed September 27, 2018, meeting minutes.

Motion to approve meeting minutes with changes.

Motion: BM Provido

2nd: Sec. & Treas. Cristi

All in Favor: All Motion: PASSED

3.A BM Villanueva made motion to change the agenda, and seconded by VC Ruth, to review approved meeting minutes of June 7, 2018, and review audio recording of the meeting based on the handwritten section insert by BC Jugo on page 13 of today's meeting agenda. BM Villanueva questioned why was it included in the approved meeting minutes when VC Ruth had previously stated he "does not recall exactly" what he said at the June 7, 2018 Board Meeting.

After review of the audio recording of June 7, 2018, Board discussion and by consensus of the Board, motion to approve meeting minutes of June 7, 2018, as corrected in today's meeting.

Motion: BM Santos

2nd: BM Provido

All in Favor: 4/2 Abstained: 2 (BC Jugo and BM Villanueva both abstained) Motion: PASSED

(additional comments of this regard from BM Villanueva is continued in 9.0 Public Comment, page 5 of 6 as a motion from BM Villanueva to change agenda and be heard, was not seconded and motion Failed.)

Item 4, EBA Reports and Updates

4.A Board Administrative Activity- June 21, 2018 thru September 20, 2018

Board Administrative Activity from June 21, 2018 thru September 20, 2018 was reviewed and acknowledged by Board members. Present revenue tracking at \$11,800 more than last year. See appendage page 17 showing revenue tracking from FY2017 through FY2018.

From October 01, 2017 thru September 20, 2018:
Revenue generated is \$287,490, Expenses is \$240,704

Approved PEALS Budget for FY19 is \$312,818

BM Santos stepped out of the meeting at 3:51pm.

PEALS Bank of Hawaii Statement for the months of June and July 2018 were reviewed. Only one check was written to Pacific Tyre for safety inspection of the PEALS vehicle (Mazda CX5 Lic. 6336). A Motor Vehicle Registration requirement for renewal; in the amount of \$15.00. Balance of BOH account as of August 31, 2018 is \$3,917.88.

4.B Accounting Services

EBA Borja updated the Board. EBA is in the process of doing research through GSA on responsible accounting firm(s) to send a Request for Proposal. Contact has been made with Ernst and Young LLP and Deloitte & Touche LLP. EBA Borja feels confident that when GSA re-opens submissions for FY19 requisitions, in or around October 10 – 15, 2018, he will be ready to submit a PEALS accountant requisition accordingly.

BM Santos returned to the meeting at 3:54pm.

5.0 Complaints

5.A Complaint: Lorette T. Guerrero vs. Blas Atalig/Meliton S. Santos, Case #2017-002

Still under investigation by AAG Monty May under the request of Mr. Blas Atalig. AAG May advised EBA Borja that AAG report (Response to Petition) will be forthcoming in two weeks.

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

AAG Keeler advised an amended statement of complaint, to N15 Architects clarifying alleged charges must now be done. As none specified in original statement of complaint given to N15 Architects.

It was moved by VC Ruth and seconded by BM Provideo and unanimously carried by all to grant a second extension of 90 days to fulfil AAG Keeler's recommendation. Board agreed to a tentative Hearing date of **December 4th or the 6th, 2018**. BM Santos advised the Board Chair that he will not be available during the end of November through to the second week of December. BC Jugo so noted.

5.C Complaint: Garden Inspirations/Maria San Nicolas vs. Steven Kim, PE Case #2018-005

Although Ms. San Nicolas was advised by the EBA that this type of service was not monitored by the PEALS Board (i.e. PEALS has no jurisdiction) and that the course of action would be through small claims court, she filed a complaint two weeks later. Board Investigator Isaac has yet to conclude his investigation report. Matter is pending as of this date and will come before the Board only if it deems as having Merit by the EBA.

6 Old Business

6.A PEALS Rules and Regulations draft sent to AAG Keeler

Under review by AAG Keeler; he advised should have a finished product by Tuesday next week. Once received, document will be circulated from AAG Keeler. Next PEALS Board Rules & Regulations meeting is scheduled for **Tuesday, October 16, 2018 at 3pm** here at the Guam PEALS Board Conference Room for a second scrub. BM Provideo noted that the PEALS R&R listed in the G.A.R.R. is different and would need to be integrated with the new R&R to form cohesion of what is registered in the Complier of Law office and website.

6.B Second Round to Amend PEALS Law

Status quo pending completion of the Rules & Regulations.

6.C AG Information and Guidance on PEALS Competitive Bidding/Code of Ethics (Time Stamp: 1:18:37)

The PEALS Board received the second opinion of this regard. The Honorable Elizabeth Barrett-Anderson, Attorney General, replied to the Board September 27, 2018, reference to DPW 17-0497 – PEALS request for Reconsideration of Attorney General Information and Guidance Memorandum dated May 25, 2018. AG found, "... that Rule 5B of the PEALS Rules of Professional Conduct, prohibiting competitive bidding, violates Section 1 of the Sherman Antitrust Act and is unenforceable. Concluding "...The May 25th Memo is reaffirmed and will not be reconsidered".

AAG Keeler advised the Board to choose between one of two things: A) Amend PEALS Code of Ethics or B) Research other jurisdictions (Boards) throughout the United States. A new code of ethics to point out statute or similar language in other jurisdictions that have been adopted subsequent to the 2000 Supreme Court Case Ruling and submit it to the AG's office for an opinion based on research resulting in new code of ethics.

7.0 New Business

7.A Fish, Timothy L – PLS Exam/Comity Applicant

After discussion and by consensus of the Board, due to education - acquiring a Geomatics Degree in 2017, extensive experienced and by exams taken and passed from other jurisdictions; Sec. & Treas. Cristi motioned to allow Mr. Fish to sit for the Guam Land Matters Exam in order to become a Guam licensed surveyor once passed.

Motion: Sec & Treas. Cristi

2nd: BM Santos

All in Favor: 6/0 Motion: PASSED

8.0 Open Discussion, Information and Announcements

8.A Steven Zhao / Mangilao Dental Clinic – Internet Website (Time Stamp: 1:34:38)

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).

Measures of BI Isaac investigation thus far was explained to the Board by EBA Borja and resulted in showing no evidence discovered to support alleged violation. BC Jugo encouraged BI Isaac to continue investigation. AAG Keeler noted he would assist in regards to locating DPW Permit record(s) in question.

8.B 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 PEALS COA firm license had ever been issued to Mr. William Kurashima & Associates, which is a violation of the PEALS Law Sec. 32122. Board was presented a hardcopy of entire website for their review and deemed no violation for a complaint to be administered.

After discussion and by consensus of the Board, alleged violation was not established and required no further action from the Board. VC Ruth agreed that TRMA had accepted William Kurashima's role in the credit of their firm.

8.C PEALS FY2019 Proposed Board Meeting Schedule

After discussion and by consensus of the Board, the next Board meeting will be held on **Tuesday, November 27, 2018, 3PM**, PEALS Conference room. EBA Borja to generate new List to include Hearing and R & R Dates as well.

9. Public Comment (Time Stamp: 1:49:27)

BM Villanueva contests that VC Ruth stated the phrase "possibility of a vote of no confidence" against BM Villanueva. The above was not typewritten on the approved meeting minutes on Page 13 of the agenda and Page 11 of 12 of the approved meeting minutes of June 7, 2018. Instead, the word "possibility" being handwritten in by BC Jugo. VC Ruth reiterated what was said as, "I make a motion that we do not, not have the vote of no confidence." The audio recording confirms above.

BC Jugo noted to amend the minutes of the June 7, 2018 meeting to add the comment BC Jugo had made citing "This is Bullying by a Board Member" and to add the note that BM Provido had agreed. The audio recording confirms the above.

Previous complaint brought by BM Villanueva reiterated from an email to Sec. & Treas. Cristi in June 2017 requesting clarification of lack of knowledge to complainants or the defendants of alleged charges. Sec & Treas. Cristi's response BM Villanueva was to request the status of the cases from EBA Borja. BM Villanueva also states, "We're doing a disservice to the public not keeping people informed." Then, to have the PEALS Board implicated in the CLTC case hearing because a defendant cited that "a decision was made and I wasn't informed". BM Villanueva reiterated the point, the [PEALS] Board makes decisions and there is no action taken to inform the public of decisions made on pending cases. BM Villanueva reiterates that as a Board Member there needs to be Due Process.

BM Provido excused herself from the meeting at 5:00pm.

BM Villanueva citing PEALS LAW, "Under disciplinary actions, a hearing shall be conducted in accordance of the requirements of the Adjudication Law." AAG Keeler gave a second opinion and stated again the PEALS Board does not follow the Triple A.

10.A DPW Permit & DLM Survey Map Review

10.A Department of Land Management: July 2018

10.B DPW Building Permits: July and August 2018

Board requested clarification on "Revisions" of BPI

11. Adjournment

It was moved by BM Santos and seconded by BC Jugo and unanimously carried by all to adjourn the meeting with no further comments, the meeting adjourned at 5:10 PM.

/mrv


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Approved by:


Gabriel A. Jugo, PE SE Board Chair

Date

12/12/18


Maria Elizabeth V. Cristi, PE
Board Secretary/Treasurer

Date

12/13/18

() Minutes approved as is.

(x) Minutes approved with changes; see minutes 11/27/2018