

The Guam Board of Registration for Professional Engineers, Architects and Land Surveyors
PEALS Board Regular Meeting
Tuesday, November 27, 2018, PEALS Board Conference Room Suite 208 3:02 PM - 5:12 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
 Liza J. Provido, RA Raymond C. Borja, Exec. Board Adm.
 Glenn Leon Guerrero, DPW Director Nixon Isaac, Board Investigator
 Atty. Tom Keeler, AAG

Absent: Philip Villanueva, Public Member Marie Villanueva, Adm. Asst

Guest: Brent Wiese, RA319 Rim Architects/AIA/Guam Building Code Council (GBCC)
 Renato O. Martinez, RA441 N15 Guam Inc.

Item 1, Call to Order

Board's mission statement was announced. Meeting was called to order at 3:02 pm, as a quorum, was present.

Item 2, Review June 7, 2018, August 2, 2018, and September 27, 2018 – Regular Meeting Minutes

2.A Board reviewed September 27, 2018, meeting minutes.

Motion to approve meeting minutes with changes.

Motion: BC Jugo

2nd: Sec. & Treas. Cristi

All in Favor: All Motion: PASSED

2.B Board reviewed June 7, 2018, meeting minutes.

Motion to approve meeting minutes with changes.

Motion: DPW Director Leon Guerrero

2nd: BM Santos

All in Favor: All Motion: PASSED

2.C Board reviewed August 2, 2018, meeting minutes.

Motion to approved meeting minutes with changes.

Motion: BC Jugo

2nd: BM Santos

All in Favor: All Motion: PASSED

In the interest of limited time of our AG's legal presence at today's meeting; BC Jugo motion to change the order of the agenda and proceed to agenda item 4.B behind item 2.

Motion: BC Jugo

2nd: DPW Director Leon Guerrero

All in Favor: All Motion: PASSED

Item 4, Complaints

4.A Complaint: Lorette T. Guerrero vs. Blas Atalig/Meliton S. Santos, PLS NO. 053 Cased #2017-002 – Enforcement of PEALS Determination

AAG Monty May's initial report of this case was emailed to EBA Borja and AAG Keeler prior to today's meeting. The report was then retracted by AAG May on the same day; as additional evidence will be submitted in support of PEALS procedure.

4.B.1 Complaints – Board Member Concern

VC Ruth voiced concern of the release of a second Board Investigator's report on N15 Architects being generated while COA folder application was in mid-circulation. VC Ruth reviewed the second report notating an entirely different intent in its second paragraph. VC Ruth stated his concern to the EBA and had requested for Board Discussion; only to find that COA had already been approved.

BI Isaac Inspector's Report of 4/3/18 relative to internet postings for N15 Architects was read aloud by DPW Director Leon Guerrero during the June 7, 2018 PEALS Regular Board Meeting. A second report was then released by BI Isaac, unsigned, on 4/10/18 and indicated statements that entirely change the first released report. No indication on the Second Report notes that it supersedes the first: an altered or amended report altogether. The 4/10/18 report copy was not in the file for Board review while it was being circulated through the Board for COA approval. BI Isaac clarified that first report was initial draft; and that second report was second attempt that superseded first report after EBA Borja instructed BI Isaac to further his investigation.

VC Ruth noted in the past, the Board had fined a non-registrant "engineer" for releasing calling cards that had used the P.E. unlawfully; begging the question, how is this different in that regard?

BC Jugo stated to BI Isaac to be clear with Investigation Reports. Stipulating, if a released report is updated or amended, the report should state changes made. Thus, including a copy of the original report attached, should state case number for clarity, and to sign for release.

EBA Borja was advised that the folder should have been retracted in light of the additional information of BI's report. The updated information should have been included in the folder and then the circulation process to all Board members repeated. This allows all information for review to occur at one time. All complaint procedures should follow this protocol.

BC Jugo stated that VC Ruth was off-island when the file was re-circulated which may have added to the confusion.

Each board member should have the opportunity and ample time to review a complete file prior to making any decision. This is required of all folders.

VC Ruth understands that the approved COA will not be retracted, but felt the PEALS office had two different operations going on for the same company and as the Board Vice Chair; was aware of only one. He questioned if the folder was complete and current upon circulation? BM Provido confirms not seeing the second report in the folder. VC Ruth had requested clarification of the revised report from the EBA and BI and was not given an explanation or response.

AAG Keeler notes full disclosure is always the best practice.

4.B Christopher F. Fryling, N15 Architects proposal prior to Board approval of COA Case #2018-004 – Status to be reviewed

Renato O. Martinez, RA 441 announced his presence before the Board.

After discussion and consensus of the Board, it was decided the Hearing Date of **Thursday, January 10, 2019, at 2PM** to be held at the Guam PEALS Office building, Suite #202 (which is across the hall). AAG will serve as the Hearing Officer. Any Decision pertaining to this case will be made by the Board.

BC Jugo thanked Mr. Martinez for his presence as he left the room.

Item 3, EBA Reports and Updates

3.A Board Administrative Activity- September 21, 2018, thru November 15, 2018

Administrative Activity from September 21, 2018, through November 15, 2018, was reviewed and acknowledged by Board members. AS400 shows expenditures for FY 18 at \$256K.

Present revenue [10/1/18 thru 11/15/18] tracking at \$3K less than last year.

From October 01, 2018 thru November 15, 2018:
Revenue generated \$46,040, Expenses \$27,135.44

Approved PEALS Budget for FY19 is \$312,818
OPA Audited Report GOG – PEALS Special Fund Account – Surplus \$109,591

PEALS Bank of Hawaii Statement for the months of August and September 2018 were reviewed. No checks were written. The balance of BOH account as of October 31, 2018, is \$3,917.88.

4.0 Complaints (Proceed to page 2 & 3 for discussion. Board motion to discuss out of order of agenda)

Item 5, Old Business

5.A PEALS Rules and Regulations

BM Provido has received AAG Keeler's and VC Ruth's remarks on the current draft. BM Provido is still awaiting responses from BC Jugo, BM Santos, and new assignment of Legislative Chair for our agency. A tentative date of **Thursday, January 17, 2018, 3pm** has been set for the next R&R Meeting.

Atty Keeler excused himself from the meeting at 4pm.

Item 6, New Business

6.A Bearden, Brian Gaines – Temporary License for Guam EPA Chief Engineer

Brian Gaines Bearden had submitted an incomplete application for a temporary license based on his appointment as Guam Environment Agency Chief Engineer. BC Jugo noted the law states "may" and does not require a temporary license.

Brent Wiese, RA319 AIA/GBCC entered into the conference room.

Board concurred appointment does not constitute an automatic license. A complete application was requested for Board Review.

6.B Thomas, Dennis John – Comity applicant for Control Systems Engineer

An application request to practice in the discipline of Control Systems Engineer was received from Mr. Thomas. Currently, the Guam PEALS is not familiar with this discipline. Although applicant holds an active license in another state in this discipline, is having difficulty in adhering to PEALS Law requirement of three references in the discipline he seeks and requests Board waive this requirement. NCEES does recognize this discipline by way of examination, which Mr. Thomas had passed in October 2011.

VC Ruth stated caution and made a motion for EBA Borja to bring forth additional research in this specific discipline for Board review. Seconded by BM Provido and DPW Director Leon Guerrero adding to contact NCEES, other Electrical engineers regarding education, and specialization, etc. of this discipline.

Motion: VC Ruth

2nd: BM Provido

All in Favor: 3/3 (BC Jugo, BM Santos, and Sec. & Treas. Cristi – voted “No”) Motion: FAILED

BC Jugo made a motion to approve this applicant and to advise applicant restriction to perform services in this specific discipline. The Board understands this discipline as separate and unique and not clearly defined relative to the established and recognized disciplines of either civil, fire protection, electrical or mechanical. The applicant is tasked to forward information regarding this discipline to educate Board for the next applicant and review of signed blueprint(s).

Motion: BC Jugo

2nd: BM Santos

All in Favor: All Motion: PASSED - Application is now approved with notation of last motion.

6.C Fish, Timothy L. – PLS Exam/Comity applicant take the Guam Land Matters (GLM) Exam before April 2019 – Board Policy

Board approved an application for Mr. Fish to take the GLM Exam. Normal PEALS SOP is that all exams are taken on the same date of NCEES Exams to eliminate additional administrative costs and exam setting restrictions with no exemptions. Mr. Fish states he is unable to attend the April

5, 2019, upcoming exam and requested the Board to approve extending the GLM Exam on an alternate date to accommodate his schedule. He has requested a date before the April 2019 Exam. EBA Borja requests for Board guidance.

Sec. & Treas. Cristi moved and seconded by BC Jugo to deviate from SOP and consider accommodation only to registered Land Surveyors applying on Guam for comity citing it is PEALS' mandate to promote licensure and the dwindling land survey's numbers, stipulating the Board's convenience, and any additional incurred costs to be absorbed by the applicant.

Motion: Sec & Treas. Cristi

2nd: BC Jugo

All in Favor: 5/6 (VC Ruth) Motion: PASSED

Item 7, Open Discussion, Information and Announcements

7.A PEALS FY2019 Proposed Board Meeting Schedule

EBA Borja noted it is posted on our website. Other noted dates are:

January 10, 2019 2PM – Hearing for N15 Architects Inc.

January 17, 2019 3PM – Rules & Regulations

7.B RME in charge shall sign, seal and date the title or the first sheet – Email Dated 11/7/2018

PEALS Law §32116(4) Certificates – Seals were questioned by registered Structural Engineer, Thomas Camacho of Duenas Camacho & Associates regarding RME signing on Title Sheet meaning, "...that Only the PE Stamps of those Registrant's that worked on project directly or participated as the person of responsible control "within the jurisdiction" should be the PE who stamps and signs the drawing. If the "RME" in Full Control of Guam Operations" was not involved in the project, that RME's Stamp should not be placed on the Title Sheet of the Plans. Placing the RME's stamp on the title sheet alone suggests the licensed PE is Responsible to some degree for the Project and thus becomes liable." EBA Borja requests for Board guidance.

VC Ruth moved to revert to adhered policy and require title sheet to be signed by COA regardless of discipline or whether working on the project. RME should have knowledge of all projects. Seconded by BC Jugo and added a letter of response to Mr. Camacho with Board's conclusion and reasons thereof.

Motion: VC Ruth

2nd: BC Jugo

All in Favor: 5/6 (DPW Director Leon Guerrero) Motion: PASSED

Discussion: BC Jugo noted the difference between Electronic and Digital signatures and that Electronic Signatures on the title sheet is recognized and accepted by the Board.

Item 8, Public Comment

GLM

BM Santos noted that in regards to the purpose of the Guam Land Matters Exam is reflective to his upcoming NCEES Meeting in Nashville, TN. We are not unique as far as state matters in surveying. One of the proposed changes is to consolidate all state land matters exam to see if there's a way to standardize the requirements. The creation of one standardized Land Matters exam so that candidates such as Mr. Fish can take it at their initial license state. BM Santos, Guam Chief Surveyor, Office of the Chief of Cadastre, is part of this committee and is the primary purpose of the upcoming meeting. BM Santos will inform the Board upon his return from his meeting.

OPA-Auditing Services

BM Provido noted that in regards to obtaining an Accountant for the PEALS Board Office, a meeting was conducted at the Office of Public Accountability that was attended by BC Jugo, Sec. & Treas. Cristi, BM Villanueva, BM Provido and EBA Borja. Establishing, that only the Bank of Hawaii Fund Account needs to be monitored with a financial and balance sheet statement. The AS400 account is audited by the Government of Guam by the OPA as mandated, separately. It is not required to be audited by the PEALS Office independently. BM Provido noted this would eliminate the need to facilitate the PEALS office in obtaining an accountant. In addition, BM Provido is supportive that the EBA would be able to handle the accountability of monitoring the financial and balance sheet statement as required, independently. BM Provido suggests EBA request from BBMR quarterly allotment release of \$25K per year from the PEALS Special Account to fund the Bank of Hawaii Account, exclusively. This can be done after the transition of the newly elected Governor.

Follow-up Developments

VC Ruth reviewed, PEALS Regular Board Meeting Minutes of September 27, 2018, item 5.C Complaint: Garden Inspirations/Maria San Nicolas vs. Steven Kim, PE Case #2018-005. VC Ruth noted it states BI Isaac has yet to conclude his investigation report and had asked if this was done. BI Isaac confirms his report was done on 9/18/2018. The case was deemed No Merit by the EBA on 9/27/2018.

VC Ruth reviewed last meeting minutes, PEALS Regular Board Meeting Minutes of September 27, 2018, Item 8.A Steven Zhao/Mangilao Dental Clinic – Internet Website. BI Isaac is still working on finalizing his investigation as of this writing.

Wagdy A. Guirguis PE (Hawaii)

A federal jury in Honolulu convicted a Hawaii licensed engineer Wagdy A. Guirguis, whom is also a licensed engineer on Guam (CE492) on three counts of filing false corporate income tax returns, one count of failure to file a corporate income tax return, three counts of tax evasion, one count of corruptly endeavoring to obstruct and impede the due administration of IRS laws and one count of witness tampering. An email was circulated by EBA Borja prior to today's meeting stating registrant's license is current and will expire on April 30, 2019. PEALS office should ascertain court papers for Board review and advise the Board of any Building Permits should permits arise from now until then as a cautionary measure.

DPW Director

DPW Director Glenn Leon Guerrero will be ending his tenure as DPW Director/PEALS Board Member and resigning as a courtesy for the upcoming new Governor. He thanked the Board for the opportunity to serve alongside them.

AIA Christmas Invitation

Brent Wiese, RA319 AIA Board President extended an invitation of the AIA Christmas Party to all Guam PEALS Board Members. Event to be held on 14th December at the Hyatt. You are all welcomed to attend.

EPA- Permit Process

Brent Wiese, RA319 also noted that he was advised that Guam EPA will now be reviewing permits electronically. Hard copies will still be required and originals will be stamped cleared once approved. It's been advocated for: that permits being reviewed electronically is an advantage. Wiese questioned if there would be any guidance on scanned Digital signatures allowed for permit processing or, if only wet signatures are required. BC Jugo noted this Board does not accept Digital signatures for blueprints and cannot speak on behalf of the EPA Agency requirements. VC Ruth noted the current mandate is only that the PEALS reviewing permit process confirm a seal is registered with the Guam PEALS Board. BC Jugo suggested a letter of our mandate be distributed to all other agencies as a reminder of Guam PEALS Board policies. DPW Director Leon Guerrero agreed.

Tropical Energy Code

Brent Wiese, RA319 updated the Board on the Tropical Energy Code as still in the process; noting that when the new administration comes into office, he will again continue the plight. The same can be said for the GBCC/ ICC and the Guam Community College MOU.

Item 9, DPW Permit & DLM Survey Map Review

No comments were made for both 9.A Department of Land Management – Amended July, August and September 2018 and 9.B DPW Building Permits - September 2018.

Item 10, Adjournment

It was moved by BM Provido and seconded by DPW Director Leon Guerrero and unanimously carried by all to adjourn the meeting with no further comments, the meeting adjourned at 5:12 PM.

/mnv

(A)Folder/#91 (Grey)

Approved by:  4/09/19  04.12.2019 e
Gabriel A. Jugo, PE SE Board Chair Date Maria Elizabeth V. Cristi, PE Date
Board Secretary/Treasurer

- (x) Minutes approved as is. 01/22/2019
- () Minutes approved with changes; see minutes _____