

**SOUTH CAROLINA
BOARD OF ARCHITECTURAL EXAMINERS
BOARD MEETING MINUTES
Kingstree Building, Suite 202-02
Columbia, SC**

Public Notice:

Administrator Simpson stated the **public notice** of the meeting was properly posted at the Board office and provided to organizations and news media in compliance with Section 30-4-80 of the S.C. Freedom of Information Act.

Call To Order:

Dennis Ward, chairperson, called the meeting to order at 9:38 a.m. Other members present were Stephen Russell, Brad Smith, and Jose Caban. W. Barry Jenkins and C. Tyson Nettles were unable to attend.

Staff members participating in this meeting included Jan Simpson, Administrator, and Alice Richardson, Administrative Assistant. LLR employees attending the meeting included Todd Bond, Investigator, and Sandra Dickert, Administrative Assistant.

Approval of Agenda:

The agenda was approved as submitted.

Approval of Minutes:

MOTION

Mr. Russell moved the Board approve the minutes of the November 17, 2009, meeting. Mr. Smith seconded the motion, which carried unanimously.

December 15, 2009, Telephone Conference Call

MOTION

Mr. Russell moved the Board approve the minutes of the December 15, 2009, telephone conference call meeting. Mr. Smith seconded the motion, which carried unanimously.

Successor Architect Issues:

Ms. Simpson stated that questions about an architect changing another architect's plans come up periodically. A list of questions submitted by building official, Curt Whaley, primarily focused on engineers, but mentioned architects. She stated the engineering regulations laws allow an engineer to review another engineer's drawings for the same client if the alternate engineer notifies the original engineer or if the connection between the original engineer and the project has been terminated. In the past, Board members have suggested notifying the original architect and obtaining written consent from the original architect, which does not or cannot always happen. Ms. Simpson understands in that case that the second architect must start over if he/she cannot obtain the drawings or the plans. If the alternate architect can obtain the drawings and makes changes to those drawings, it must be very clear what changes are made and those changes must be sealed.

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Discussion on this matter included language in the contract between architect and owner and the original architect giving permission to the alternate architect, who would be responsible for entire project. Mr. Whaley's questions indicated the contractor was making decisions that should be made only by an engineer or architect, which should not be allowed.

MOTION

Mr. Russell moved the response to his direct question is no, but the Board would encourage when similar questions come up in future that whoever raises the question provide a written summary to Ms. Simpson for her review and, in turn, the Board's review. An architect may not make changes to a different architects design unless it falls under the definition of successor architect. Mr. Caban seconded the motion, which carried unanimously.

Enforcement Report:

Investigator Todd Bond reviewed the IRC report with the Board. Case #2009-4 is recommended for dismissal and case #2009-1 is recommended for formal complaint. A cease and desist order was issued in case #2009-1 for practicing as the firm.

MOTION

Mr. Russell moved the Board approve the IRC report. Mr. Smith seconded the motion, which carried unanimously.

Ms. Simpson noted former Board member John Gilmore participated in the IRC meeting.

Tim Johnson – CE Audit:

An audit of compliance with continuing education requirements following the renewal in June 2009 indicated Tim Johnson was deficient 2 hours of health/safety/welfare credits. He submitted evidence that he was a presenter on the topic 'Designing Vital Urban Environments,' and asked the Board to accept it as credit for health, safety and welfare hours. By Board policy, Mr. Johnson may get credit for double the number of hours of the seminar because he was the presenter. Mr. Johnson did not submit information regarding another seminar, "Tall Buildings Role: As Icon/Visual Focus, Sustainable Leader" so it was disallowed as credit.

MOTION

Mr. Russell moved the Board approve "Designing Vital Urban Environments" as health/safety/welfare continuing education for Mr. Johnson. Mr. Smith seconded the motion, which carried unanimously. Mr. Johnson has met the CE requirement.

Discussion ensued regarding Texas' acceptance of hours as well as that state's audit of continuing education courses.

The Cliffs Signature Services:

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Ms. Simpson presented a marketing effort from The Cliffs, a residential development in upstate South Carolina, that invited architects to be on the development's select list of "approved architects" for clients wishing to build a home. An application fee and annual fee are required to be included on the list.

Discussion ensued regarding whether or not a SC-licensed architect can provide services without being on the list, the payment of \$500.00 for "third party review" is something already done through the licensing process, the Board's authority in this matter, that payment of the \$500.00 does not appear to violate any architecture statute or regulations, and a discussion about indefinite delivery contracts.

Ms. Simpson spoke with Susan Jones, president of Design Transitions, LLC, who informed her that architects not on the list are not precluded from working there. The Board concluded it is not a violation for an architect to join the program.

Legislation:

A. S.1053

Ms. Simpson stated the bill was sent to all boards for information purposes. It provides that the General Assembly "shall not increase or implement a fine or penalty in the general appropriations bill and may only do so by separate act, to provide that no state agency, department, or entity may increase or implement a fine or fee by regulation or administrative action, and to provide exceptions."

MOTION

Mr. Russell moved the Board oppose bill S.1053. Mr. Caban seconded the motion, which carried unanimously.

B. Final Regulations

Ms. Simpson stated the Board's final regulations are document #4101, which is the tracking number. She explained how to track the document through the state legislature's web site and asked the Board to be on alert for notices of legislative committee meetings scheduled sometimes on short notice. She does not know how the LCI committee will handle the Regulations; the Regs will time out on May 21, 2010, unless there is legislative action. She reminded the members that the draft regulations are in conflict with the current statute regarding renewal periods: the statute provides for annual renewal while the proposed regulations state the renewal period will be biennial, a change implemented by the Dept. of LLR. The change also impacts the language addressing the number of continuing education hours required for renewal. She asked the Board to be prepared to speak on electronic seals and signatures, if necessary, since she is not familiar with the technology used by architects.

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Ms. Simpson stated draft regulations have been introduced regarding the real property filing act, which passed within the last two years. The regulations are promulgated by the Secretary of State's Office and deal with electronic filing to courts, registers of mesne conveyances and deals with plats.

Examination Candidate Adriane McGillis:

The application for licensure of Adriane McGillis was reviewed by the Board. Ms. McGillis is a direct registration applicant; she registered to take the Architect Registration Exam (A.R.E.) through NCARB, and this application is for initial licensure. Ms. Richardson stated Ms. McGillis has satisfied the education, experience, and examination requirements. Candidates now submit exam applications through NCARB and the Board approves candidates for licensure after they have successfully passed all parts of the exam. Ms. McGillis passed all parts of the A.R.E exam between March and December.

MOTION

Mr. Smith moved Ms. McGillis be licensed as an architect in South Carolina. Mr. Russell seconded the motion, which carried unanimously.

Ms. Simpson asked the Board to consider an alternate way of approving the direct registration applications between Board meetings, since the applicants cannot practice until the license has been issued. There might be a delay of as much as four months.

Ms. Simpson noted that Section 40-3-230(b) of the practice act states, "The board shall review the applications of all applicants for admission to practice architecture. The review shall consist of an inquiry into the record, character, education, experience, knowledge, and qualifications of the applicant. An applicant approved by the board as qualified must take the National Council of Architectural Registration Boards Architect Registration Examination (A.R.E.)."

MOTION

Mr. Russell moved the Board defer approval of the direct registration applications to staff so long as there is no red flag and a complete application has been received from NCARB. This action is subject to legal opinion in favor of this. Mr. Smith seconded the motion, which carried unanimously.

Regulation 11.6(b) states, "Applicants for registration by examination who pass the A.R.E. will be notified accordingly, and upon determination by the Board that the candidate satisfies all licensure requirements as set forth in Section 40-3-230, will be issued a license to practice architecture in South Carolina during the current year."

The Board asked Ms. Simpson to seek an opinion from general counsel on how to handle this process.

Hispanic Plan Room and Isqft.com:

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Ms. Simpson stated an architect from Sumter contacted her regarding the Hispanic Plan Room and Isqft.com asking for copies of his design documents for the past three years. He refused but they contended they have a right to the plans. She said the architect then contacted the Secretary of State's Office who indicated he did not have to give out his plans, and advised him to ask any such callers as the Hispanic Plan room for the federal or state law that requires the architect to give them plans.

Mr. Ward noted the Hispanic Plan Room contacts his firm frequently seeking an electronic copy of plans to place in their plan room for distribution to contractors. His firm refuses the request. The Hispanic Plan Room informed his firm that they do not duplicate the drawings but they do send the plans to contractors who get a printing company to duplicate them. The concern is that these plans are signed and sealed, and the architect loses control of them when they can be sent electronically.

Mr. Ward stated there are other plan rooms but this appears to be the only plan room that has a certain demographic in their name.

Information Items:

Administrator's Report:

Reorganization of Administrative Staff

Beginning in March, four employees of the Board of Engineers and Surveyors will be reassigned to the Office of Licensure and Compliance. Melissa Jones and Alice Richardson remain as support staff to the Board of Architecture and to the Engineers and Surveyors.

As you know, the OLC processed renewals for architects in 2009. While details apparently have not been finalized, it appears the OLC staff will handle the processing of architect reciprocity applications and possibly architecture firms' initial applications. Applications to take the A.R.E. are handled by NCARB through the Direct Registration Program. Currently, I approve reciprocity applications on your behalf and Alice Richardson approves firm applications, all through your delegated authority. If there is something amiss with an application, it will be brought to the full Board for review and approval.

Ms. Simpson has asked for clarification on whether or not OLC would be processing firms' applications. Even if OLC does not take firms, Ms. Richardson would continue to handle. She wants to continue to review reciprocity applications and would like for OLC to forward the firm applications to her for review as well.

Ms. Simpson's responsibilities include: program efficiency and effectiveness; approving expenditures, answering licensure questions, non-routine applications and hearings, Board meetings, cease and desist orders, research into professional issues, web site monitoring, liaison to professional organizations, staff supervision, working with strategic planning teams.

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Ms. Simpson noted all of the Boards have now been placed under the direction of Randy Bryant, Assistant Deputy Director. [end of report]

Mr. Ward asked that agenda be streamlined or reorganized to allow voting on any items deemed necessary.

Streamlined procedure to address licensees who do not comply with CPD audit after renewals

In a meeting on January 4, 2010, with Dwight Hayes, attorney for the Office of Licensure and Compliance, Randy Bryant, Gary Wiggins and Administrator Jan Simpson, a more streamlined procedure was developed for addressing cancellation of licenses for non-compliance with continuing education requirements for renewal.

It was decided:

- The initial letter notifying a percentage of licensees that they have been chosen for audit of compliance with continuing education (CE) requirements will give a deadline for return of the proof of compliance documents. The letter will also include a notice that failure to comply by the deadline or failure to document the required number of CE hours will result in 'cancellation' of the license and issuance of a Cease and Desist Order.
- After the CE audit deadline has passed, Board staff will identify licensees who have submitted insufficient documentation, or who did not submit any documentation, or who in any manner are not in compliance with renewal requirements. Board staff will review each licensee's file and make a decision about whether the license should be cancelled. The list of cancelled licenses will be sent to the Office of Licensure and Compliance (OLC) to change the license status in ReLAES (or successor database) to 'cancelled.'
- Board staff will issue an Order to Cease and Desist to each licensee who could not document compliance with the CE requirements. A letter will also be sent.
- OLC will not send a similar letter as a follow-up.
- Licensee will be offered a consent agreement with terms approved in advance by the Board. Upon acceptance of the consent agreement by the Board or the Chairman, payment of the fine and submittal of proof of acceptable continuing education activities, the license will be reinstated. Board staff will send a list of licensees who have complied with all terms of the Consent Agreement to OLC to change the license status back to 'active.' Board staff will notify licensee of acceptance and reinstatement of the license.
- OLC will not send a follow-up letter.
- If licensee requests a hearing, it will be scheduled to be heard at the next regularly scheduled Board meeting, or before, if possible. After the Hearing, the Board Order will be sent to the licensee. Board staff will determine compliance and notify OLC to change the database back to 'active' when all terms have been met.
- Board staff will determine in advance if the Board members want the pocket card to be returned until the issue has been resolved.

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AR – Architects

ARA, ARB, ARC, ARD and ARF – Firms

Number of Active Credentials by Prefix Board: Board of Architectural Examiners as of 1/11/2010 Query Report: 481	
Credential Prefix	Count
AR	3666
ARA	16
ARB	196
ARC	93
ARD	29
ARF	866
subtotal	4866
6 items	

Financial Report as of October 31, 2009 (latest available):

Ms. Simpson presented the financial report to the Board. She noted that the Board of Engineers' revenue was cut by over \$600,000 due to mandatory budget cuts statewide. She noted more cuts are likely.

Discussion ensued regarding biennial licensure.

Mr. Russell suggested the Board members not attend the upcoming regional meeting or national meetings in consideration of the current financial hardships of so many licensees. Instead, the Board might consider funding something to benefit licensees such as a free continuing education seminar for licensees and interns. Mr. Russell feels that attending conferences in locations like Jackson Hole, while so many licensees are hurting financially or are unemployed, may give licensees the impression of skewed priorities on the part of the Board. Mr. Ward stated no representation at the national conference could have consequences: others could make decisions that might negatively impact South Carolina. He strongly believes the architects in South Carolina should be represented

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at regional and annual meetings. Mr. Russell stated he would still suggest looking at alternatives for Board expenditures from the Architecture and Education Fund, if ENCARB meeting and travel funding cannot be used for seminars, to benefit the licensees the Board represents.

Discussion ensued regarding the NCARB regional and committee meetings.

Lunch

The Board recessed for lunch at 12:05 p.m. and returned to public session at 12:40 p.m.

Report on Clemson School of Architecture:

Mr. Caban stated there is money in the IDP account. The school will be interviewing three candidates for the chair's position. He understands all three individuals either had to be a registered architect within a U.S. jurisdiction or possess the necessary credentials to become an architect and obtain licensure within the state. He noted the individual could fall into category two.

Ms. Simpson stated the Governor makes the Board appointments. She noted the individual must be a registered professor of architecture in a school controlled by the state. She said traditionally the appointee has been the chairman, although any licensed professor can serve on the Board.

The Board asked Mr. Caban to bring recommendations to the Board for the May 18, 2010 meeting.

CE Seminars Partnership:

Mr. Caban stated he spoke with Dr. Dan Wueste on January 25, 2010, regarding the concept of hosting an ethics seminar in several SC cities. The last Board-sponsored ethics seminar was held three years ago.

Discussion ensued regarding registration fees, lunch, interns attending the seminar, and locations for the seminar.

Ms. Simpson stated she has also spoken with Dr. Wueste and asked that he submit the application for Board funding to be reviewed during the May 18, 2010 Board meeting.

Report on Continuing Education:

This matter was deferred to May 2010 meeting.

Ms. Simpson stated Board member Barry Jenkins is on the NCARB Task Force that ties in with the committee on national continuing education this year. Mr. Jenkins' concern is that the B.E.A. committee is considering eliminating the interview for the B.E.A. candidates because some individuals believe it is burdensome and unnecessary. Mr. Jenkins is opposed to eliminating the interview. She said she would get a report regarding the task force and the deletion of the interviews while attending an upcoming NCARB meeting.

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New Mileage Rate:

Ms. Simpson notified the Board that the new mileage rate is \$0.50 per mile.

State Ethics Commission – 2010 Statement of Economic Interest:

Ms. Simpson reminded the members to file the Statement of Economic Interest forms no later than April 15, 2010.

Funding Request Form:

The Board reviewed the form to be used to request funding from the Board's Education and Research Fund. The form was suggested by Rep. Bill Sandifer of the House LCI committee. Ms. Simpson asked that the members contact her if there is any information they wanted to add or delete.

Ms. Simpson discussed the following situation with the Board. An architect has been presented an opportunity to be a board member of a non-profit organization currently being formed, a position for which he would receive no compensation. The goal of the organization is to receive federal grant funding to create sustainable, affordable, accessible housing, particularly from existing buildings. The non-profit organization would need architectural services for which the organization would contract the architect's firm for a profit. The architect is asking if there are there any issues with this arrangement as he is not familiar with the regulations of non-profit organizations and he does not want to put himself in a difficult or legal situation.

Mr. Ward stated he has not heard of an individual sitting on a board that has not recused himself from or taking himself out of running for selection for services to be offered by an entity. He believes this is an ethics question and. stated it could be perceived to be a conflict of interest. The Board agreed it would be best not to say yes or no to the individual, but to list points for consideration, to inform the individual there could be a perception of a conflict of interest, that he would need to make the decision, and that should the question arise he needs to be prepared to show why it is not a conflict of interest. The Board suggested the non-profit organization prepare a document showing why this individual is the best architect to provide the service.

Regional Meeting

Mr. Ward stated that Region 3's executive committee recently held a telephone conference call and discussed the March 2010 regional meeting. Region 3's treasurer is not being funded to attend the meeting. The executive board voted to fund the treasurer's transportation to the meeting, waive her fee and provide lodging in a room already funded. He stated matters such as this would be handled on a case by case basis. The executive board has also requested that NCARB divide funding so as to allow one individual to attend the regional meeting and one individual to attend the national meeting. The NCARB Board voted against the request as votes taken at the regional meetings only pertain to the region whereas each jurisdiction gets one vote during the national meeting. Resolutions will be discussed during the regional meeting in March and will also be discussed

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during the S.C. Board's May 2010 meeting.

Mr. Ward stated the annual meeting will be held in San Francisco June 24-27, 2010.

Adjournment

MOTION

There being no further business to be discussed at this time Mr. Russell moved the meeting be adjourned. Mr. Smith seconded the motion, which carried unanimously.

The January 26, 2010, meeting of the SC Board of Architectural Examiners adjourned at 1:25 p.m.