

OPEN MINUTES
**Missouri Board for Architects, Professional Engineers,
Professional Land Surveyors and Landscape Architects**

Conference Room G
Doubletree Hotel & Conference Center St. Louis
16625 Swingley Ridge Road
Chesterfield, Missouri
May 5, 2009

The Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects was called to order at 8:00 a.m. on Tuesday, May 5, 2009 in the Conference Room G at the Doubletree Hotel and Conference Center St. Louis, 16625 Swingley Ridge Road, Chesterfield, Missouri. The Board met in both open and closed sessions during the meeting as reflected in the minutes. Ms. Kempker declared the meeting open for business.

Members Present

Randy Miltenberger, Chair of the Architectural Division
Kathy Warman, Member of the Architectural Division
Royce Fugate, Chair of the Professional Engineering Division
Kevin Skibiski, Member of the Professional Engineering Division
Mike Gray, Chair of the Professional Land Surveying Division
John Teale, Member of the Professional Land Surveying Division
Mike Freeman, Member of the Professional Land Surveying Division
Bob Hartnett, Chair of the Landscape Architectural Division
Jerany Jackson, Member of the Landscape Architectural Division
Marian "Munnie" Pacino, Public Member

Member Absent

Promod Kumar, Member of the Professional Engineering Division

Others Present

Judy Kempker, Executive Director
Shawn Hagerty, Board Investigator
Sandra Robinson, Executive Assistant
Jane Coffman, Board Staff
Curtis Thompson, General Counsel

To better track the order in which items were taken up on the agenda, each item in the minutes will be listed in the order it was discussed in the meeting.

Selection of Individual to Conduct Meeting

Since the reappointment of Jim Anderson was withdrawn by Governor Nixon, the board currently does not have a Board Chair. Therefore in the absence of a Board Chair, Ms. Kempker called the meeting to order and asked for nominations of an individual to conduct the remaining business of the meeting. The Members of the Board discussed the selection of an individual to conduct the business of the meeting. Upon discussion, Mr. Hartnett nominated Mr. Mike Gray to conduct the remaining business of the meeting. Mr. Freeman seconded the nomination and it unanimously carried. Ms. Kempker then turned the meeting over to Mr. Gray.

Approval of Minutes

A motion was made by Mr. Miltenberger to approve the January 27, 2009 Open Board minutes and the February 25, 2009 Board Open Telephone Conference Call minutes as submitted. The motion was seconded by Mr. Skibiski and carried with John Teale abstaining from voting.

Discuss the Renewal of Curt Thompson's Contract for Legal Services and Dr. Richard Elgin's Contract for Exam Consultant

The Board discussed the renewal of Mr. Thompson's contract for legal services. Ms. Warman made a motion to renew Mr. Thompson's contract for legal services as it is written. The motion was seconded by Mr. Fugate and unanimously carried. The Board discussed the renewal of Dr. Richard Elgin's contract for Exam Consultant services. Since this service now has to be competitively bid by at least three (3) individuals or entities, Mr. Teale made a motion directing Ms. Kempker to send proposals to former Board Members Richard Barr, Jerry Harms and Dr. Elgin. Ms. Kempker and Mr. Thompson were then directed to follow-up with Jane Rackers and the Division of Professional Registration's legal counsel, Earl Kraus, to see if bidding this service is in violation of the mini brooks bill. The motion was seconded by Ms. Warman and unanimously carried.

Report on status of MOU between the Geology Board and the APELSLA Board

The Members of the Board held a discussion regarding the status of the Memorandum of Understand (MOU) between the Geology Board and the APELSLA Board. The Board Members also discussed a document prepared by the JTFAP regarding "Engineering and Geology Practice Guidelines" as well as the email from the Washington State Board for Geology. The Washington Board thought that the document prepared by JTFAP is not ready for specific comment. They even questioned whether there is a need for such a document and found nothing in the JTFAP treatise content to be a convincing argument for its development. To their knowledge, none of the states requested this "clarification" and plainly said, "there is no value added to the professions with this document." The Washington Board also suggested that the document be retracted. They felt its purpose should be revisited and justified to all of the professions involved. If sufficient evidence is accepted by each of the professional organizations and state boards, then a new version of the document should be drafted, this time taking into account state laws and eliminating the Bodies of Knowledge matrix. After much discussion, Mr. Fugate made a motion to recommend to the full Board that Ms. Kempker be directed to send a response to the Missouri Geology Board advising that the Missouri APELSLA Board concurs with the Washington State Geologist Licensing Board's analysis and agrees that there is no need for such a document. Therefore, the APELSLA Board encourages the Missouri State Geologist Licensing Board to take the same position. The motion was seconded by Mr. Miltenberger and unanimously carried.

Please note that at approximately 8:25 a.m., Mr. Ben Ross, P.E. and Mr. Bruce Wylie, Executive Director for the Missouri Society of Professional Engineers (MSPE) and the American Council of Engineering Companies of Missouri (ACECMo) joined the meeting.

Report from the "Strategic Plan" committee

Mr. Hartnett reported to the Board that the "Strategic Plan" committee had not yet met. Ms. Kempker then reported that as of this date, neither the Division nor the Department had a "Strategic Planner" on staff who could be assigned to assist the Board with developing a strategic plan, therefore, the Board directed Ms. Kempker to place this matter on the Board's August 2009 Agenda for further discussion and update.

Standard of Care Rule – amend to reflect the 2009 edition of the International Building Code (IBC)

The Members of the Board discussed a proposed amendment to the Standard of Care Rule to reflect the 2009 edition of the International Building Code (IBC). Ms. Kempker presented a Proposed Amendment to Board Rule 20 CSR 2030-2.040 Standard of Care to the Board which reflected the change from the 2006 International Building Code to the 2009 edition of the International Building Code. Upon discussion, Mr. Miltenberger made a motion directing Ms. Kempker to proceed with the filing of the Proposed Amendment to Board Rule 20 CSR 2030-2.040 Standard of Care to reflect the 2009 edition of the International Building Code instead of the 2006 edition of the International Building Code. The motion was seconded by Mr. Freeman and unanimously carried. The Board considered the impact that this Proposed Amendment to Rule 20 CSR 2030-2.040 would have on small businesses. Board Members who are small business owners (namely, Randy Miltenberger, Kathy Warman, Kevin Skibiski, Mike Gray and John Teale) took the lead in discussions and considered what, if any impact this change would have on their own personal business. After much discussion, it was unanimously agreed that this amendment would have no financial impact on small businesses.

Discuss the Proposed Amendment to Board Rule 20 CSR 2030-21.010 Design of Fire Suppression Systems and the effect Senate Bill 506 and House Bill 447 might have on the Board Rule

The Board Members discussed the Proposed Amendment to Board Rule 20 CSR 2030-21.010 Design of Fire Suppression Systems and the effect Senate Bill 506 and House Bill 447 might have on the Board Rule. Since it appeared that neither Senate Bill 506 nor House Bill 447 would be passed this year, Mr. Fugate made a motion to move forward with the proposed amendment for Board Rule 20 CSR 2030-21.010 as previously approved at the January 2009 meeting, which is as follows:

- (3) The design of fire suppression systems for dwelling units as defined in NFPA 13D is exempt and is not required to be designed by a professional engineer so long as the layout and sizing of these systems are done by a Level III Technician certified in the Fire Suppression System Layout by the National Institute for Certification of Engineering Technologies (NICET). Engineer decisions needed when the scope of the project is not clearly addressed in NFPA 13D shall be done by a qualified professional engineer.

The motion was seconded by Ms. Jackson and unanimously carried.

Discuss emails from Mike Kirn and David Burkhart regarding Senate Bill 506 and its effect on Board Rule 20 CSR 2030-21.010 Design of Fire Suppression Systems

The Members of the Board discussed the emails from Mr. Mike Kirn and Mr. David Burkhart regarding Senate Bill 506 and House Bill 447 and their effect on Board Rule 20 CSR 2030-21.010 Design of Fire suppression systems. Upon discussion, Mr. Fugate made a motion directing Ms. Kempker to send email responses to Messrs. Kirn & Burkhart by stating that the Board agrees with them and shares their concern of SB 506 and HB 447. However, it appears that neither of the bills is moving and will most likely not be passed this legislative session. However, if either of the bills would start to move or be reintroduced next session the Board will solicit the assistance of the Missouri Society of Professional Engineers (MSPE) in opposing the bills. The motion was seconded by Mr. Miltenberger and unanimously carried.

Discuss the Texas Subcommittee on Regulation of Software Engineering – (There are no Missouri universities that offer ABET accredited degrees in Computer Software Engineering. The University of Missouri – Columbia, the Missouri University of Science and Technology and Washington University offer BS degrees in Computer Engineering but not Computer Software Engineering. The University of Missouri – Kansas City offers BS degrees in Electrical and Computer Engineering but not Computer Software Engineering.)

The Board discussed the Texas Subcommittee on Regulation of Software Engineering with the Members of the Professional Engineering Division. Upon discussion, Mr. Fugate made a motion directing Ms. Kempker to send the following letter of response to NCEES: “The Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects expresses its support for the development of an exam in software engineering for the Principles and Practice of Engineering exam. Our research anticipates approximately 15-25 examinees per year.” The motion was seconded by Mr. Miltenberger and unanimously carried.

Update on Proposed Amendment to Board Rule 20 CSR 2030-2.010(15) with regard to mandatory reporting of misconduct

The Members of the Board discussed a proposed amendment to Board Rule 20 CSR 2030-2.010(15) with regard to mandatory reporting of misconduct. Due to no, or very little, response to Jim Anderson’s Fall 2008 newsletter article regarding mandatory reporting, the Board decided not to proceed with an amendment to Board Rule 20 CSR 2030-2.010(15) and to leave the rule as it is presently written.

Please note that at approximately 8:45 a.m., Mr. Steve Coffey, AIA joined the meeting.

Discuss email from Cheri Leigh regarding a technical review process of complaints

The Board discussed an email received from Ms. Cheri Leigh, P.E., regarding a technical review process of complaints. The Board liked Ms. Leigh's suggestions regarding a technical review process but did not think it was something that would work for this Board; therefore no action was taken.

Discuss the 2009 NCEES Annual Meeting scheduled for August 12-15, 2009 in Louisville, Kentucky and who all will be attending and who will be the funded delegate

The Members of the Board discussed the 2009 NCEES Annual Meeting scheduled for August 12-15, 2009 in Louisville, Kentucky. The Members discussed which members would like to attend and who will be the funded delegate. It was decided that Mr. Skibiski would attend the annual meeting as the funded delegate and an out-of-state approval request be submitted for Messrs. Kumar, Teale, Freeman and Gray to also attend the meeting.

Discuss the issuance of Gratitude Letters to Employers of Board Members

The Board Members discussed sending letters of gratitude to employers of Board Members. At the Board's January 2009 meeting, it was decided that the Board Chair would send gratitude letters to the employers of those members requesting such a letter. However, since the Board lost its Chair soon after that meeting, the letters were never sent. Therefore, a motion was made by Mr. Miltenberger directing Ms. Kempker to prepare and send the letters under her signature. The motion was seconded by Mr. Fugate and unanimously carried. Any Member wanting this letter sent to their employer was instructed to provide Ms. Kempker with the appropriate name(s) and address.

Discuss whether a flyer regarding information pertaining to Corporate Certificates of Authority should be sent to the Board's licensees

The Board Members reviewed and discussed whether a flyer regarding information pertaining to Corporate Certificates of Authority should be sent to the Board's licensees. After much discussion, Mr. Teale made a motion to amend the flyer to say, "The Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects (Board) *now has the authority to invoke Civil Penalties* on corporations and/or LLCs practicing architecture, engineering, land surveying and/or landscape architecture without a Corporate Certificate of Authority."

After the amendment is made, Ms. Kempker is to then send the “Flyer” to the Board’s licensees. The motion was seconded by Ms. Warman and unanimously carried.

Review and discuss questions regarding immediate personal supervision emailed to the Board from James Jordan, PE-2003011895

The Board Members discussed an email from Mr. James Jordan, PE-2003011895 which contained questions regarding immediate personal supervision. Upon discussion, Mr. Fugate made a motion directing Ms. Kempker to send an email response to Mr. Jordan advising the following answers to his questions:

Question 1 – Mr. Jordan asked: “Is it acceptable for a licensed out-of-state Missouri professional engineer to seal engineering documents that were partially developed by an in-state Missouri professional engineer of the same company, provided that the out-of-state engineer complies with all of the requirements of 20 CSR 2030-13.010 Immediate Personal Supervision – despite that both Missouri professional engineers work in separate offices for the same company?” Board’s **Response:** Yes, but please be reminded that all final plans are to be signed and sealed. A partially developed plan should contain the statement, "Preliminary, not for construction, recording purposes or implementation" or similar phrase.

Question 2 – Mr. Jordan asked: “Similarly, is it acceptable for an in-state Missouri Professional Engineer to seal documents partially developed by an out-of-state Missouri Professional Engineer of the same company, provided that the in-state engineer complies with all of the same requirements listed above, despite that both Missouri Professional Engineers work in separate offices for the same company? **Response:** “Yes, but again, please be reminded that all final plans are to be signed and sealed. A partially developed plan should contain the statement, "Preliminary, not for construction, recording purposes or implementation" or similar phrase.”

Question 3 – Mr. Jordan asked: “Is the issue concerning separate office locations only with regard to client communication?” **Response:** “Yes.”

Question 3 continued: “Is it okay to have supervision of the actual engineering work from remote office locations?” **Response:** “Yes, the Board recognizes that due to modern technology, direct supervision can be provided from remote office locations. However, the Professional Engineer signing and sealing the documents shall have involvement throughout the project and final approval. In the case of multiple offices, it is ‘The managing agent’s responsibility to assure that the requirements for immediate personal supervision are being met.’ To see the additional duties of the Managing Agent, please see Board Rule 20 CSR 2030-10.010, which

can be viewed by clicking on the following link:
<http://www.sos.mo.gov/adrules/csr/current/20csr/20c2030-10.pdf>

The motion was seconded by Mr. Miltenberger and unanimously carried.

Report from Architectural Division

Mr. Miltenberger stated that, at this time, the Architectural Division did not have anything to report.

Report from Professional Engineering Division

Mr. Skibiski reported that former Board Member, Ms. Cheri Leigh, P.E, was presented with the NCEES Central Zone Distinguished Service award which was given to her at the April 2009 NCEES Central Zone Meeting, in Des Moines, Iowa. The Board directed Ms. Kempker to place an article in the Board's newsletter, "Dimensions" about Ms. Leigh receiving this award.

Report from Professional Land Surveying Division

Mr. Teale stated that, at this time, the Professional Land Surveying Division did not have anything to report.

Report from Landscape Architectural Division

Mr. Hartnett reported that at the Landscape Architectural Division Meeting on Monday, May 4, 2009, they discussed the upcoming CLARB Annual Meeting which is scheduled to be held in Seattle, Washington, on September 10, 11 and 12, 2009. Both Mr. Hartnett and Ms. Jackson expressed an interest in attending the meeting. Since Ms. Jackson is the Region Director, her traveling expenses will be paid by CLARB.

Please note that Mr. Coffey departed the meeting at 9:30 a.m.

Legislation Update

- **House Bill 7** – Appropriates money for the expenses and distributions of the departments of Economic Development, Insurance, Financial Institutions, Professional Registration, Labor and Industrial Relations – HB 7 was voted do pass.
- **House Bill 316** – Changes the laws regarding the Open Meetings and Records Law, commonly known as the Sunshine Law – A public hearing was scheduled for May 5, 2009.
- **House Bill 447** – Requires all counties and fire protection districts to adopt and enforce the 2003 ICC International Fire Code – HB 447 is not moving.
- **House Bill 699** – Revises the definition of "public governmental body" as it relates to the Open Meetings and Records Law, commonly known as the Sunshine Law, to include certain public officials and state employees – HB 699 is not moving.
- **Senate Bill 296 & HCS for SB 296** – Authorizes the Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects to conduct disciplinary hearings for licensees convicted of certain felonies and to automatically deny licenses based on actions of other states – Just recently, the Legislature started to “tack other legislation” on to the Board’s bill since it had previously been voted to go as a consent bill in the Senate. It is now referred to as the HCS for Senate Bill 209, the PR Omnibus Bill. A companion bill in the House is HB 945. At the time of this writing SB 296 legislation had not yet been combined in HB 945 but Connie Clarkston, Division Legislative Liaison, stated that they were working on getting this accomplished. This bill is moving right along and has a very good chance of getting passed.
- **Senate Bill 298** – Modifies provisions relating to the Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects (Board Membership and Chapter 327 issues) – SB 298 has seen little to no movement because of the differences between AIA and MSPE.
- **Senate Bill 318 & House Bill 866** – Requires the destruction of certain complaints made by sexually violent predators against certain licensed professionals – HB 866 is moving right along and will most likely get passed.
- **Senate Bill 341 & House Bill 983** – Requires racial and gender equity in the membership of boards, commissions, committees, and councils – Neither bill is moving.
- **Senate Bill 384 & House Bill 881 – Section 327.272** – Modifies provisions relating to geographical information

systems – There has been very little movement on either of these bills.

- **Senate Bill 448 & House Bill 596** – Authorizes school districts to enter into design-build contracts for projects costing more than \$1,000,000 – Neither bill is moving.
- **Senate Bill 506 – Fire Sprinklers** – Creates fire sprinkler business regulations – This bill is not moving.

Executive Director's Report

Ms. Kempker presented the most recent information regarding the Board's Financial Report. She advised the Board that as of May 1, 2009, the fund balances were as follows:

Personal Service Balance was \$104,040.55. Originated with \$375,856.

E&E (Expense & Equipment) Balance was \$182,377.17. Originated with \$394,587.

Fund Balance was \$3,391,794.78.

The Board's FY10 Budget Request, which is expected to be approved by the Legislature, is the same as what our FY09 appropriated budget was except for a \$63,000 reduction in our E&E (Expense & Equipment). There will not be a cost of living increase for state employees this year.

Since the Board Members received an update regarding the status of the continuing education audits in the Division Meetings, she asked if anyone had any questions. Since there were no questions, no further action was necessary.

Ms. Kempker provided the Board with an update on the following Board Rule changes:

- The Proposed Amendment to Board Rule 20 CSR 2030-5.030 (standards for admission to examination – architects) which is being amended to allow a person participating in IDP through NCARB who has graduated with a NAAB accredited degree or equivalent degree from Canada or who has acquired a combined total of twelve years of education, above the high school level pursuant to Section 327.131 to call him/herself an "Architectural Intern," appeared in the Missouri Register on January 2, 2009. The

public comment period ended on February 1, 2009. The comments were addressed during the Board's last conference call and the Final Order of Rulemaking was filed with SB and JCAR on 2/27/09 and with the SOS's office on March 30, 2009. The Final Order appeared in the Missouri Register on May 1, 2009 and is scheduled to appear in the COSR on May 31, 2009 and become effective on June 30, 2009.

- The Proposed Amendment to Board Rule 20 CSR 2030-2.010 (Code of Professional Conduct) which is being amended as a result of the Bruce Bird ruling to clarify the services that licensees can undertake when performing architectural, professional engineering, professional land surveying and landscape architectural services was filed with JCAR and SOS on April 8, 2009. It is scheduled to appear in the Missouri Register on May 15, 2009 and the comment period will end June 14, 2009.

- The Proposed Amendments to Board Rules 20 CSR 2030-11.025 (Continuing Education for Architects) and 20 CSR 2030-11.035 (Continuing Education for Landscape Architects) which are being amended to make the continuing education requirements equal among resident licensees and out-of-state licensees was filed with JCAR and SOS on April 3, 2009. It is scheduled to appear in the Missouri Register on May 15, 2009 and the comment period will end June 14, 2009. *(This is the change that was brought about because of the Texas architect who was granted restricted practice without accumulating any CEUs to renew his Missouri license and because of the way our rule read, he was allowed to renew so long as he met the continuing education requirements in the state where he lived or worked. In other words, with this proposed change, if another state has less stringent requirements than Missouri, that licensee then has to meet Missouri's requirements in order to renew.)*

- The Proposed Amendment to Board Rule 20 CSR 2030-21.010 (Design of Fire Suppression Systems) was put on hold due to recent inquiries received from Mike Kirn and David Burkhart as they related to the potential effects of HB 447 and SB 506.

Ms. Kempker again advised that Senate Bill 296 (now known as HCS for SB 296 the Professional Registration Omnibus bill) is moving along fairly well but Senate Bill 298 has seen little to no movement because of the differences between AIA and MSPE. Since the Board is scheduled to meet with the presidents of the four associations later in the day, the Board is hopeful that all can come to a consensus for a successful filing next year.

Ms. Kempker announced that since Governor Nixon withdrew the appointments of Robert S. Shotts as a new Landscape Architect Member of the Board and J. Christopher Ball as a new Architect Member of the Board, and the re-appointment of Jim Anderson as the Board Chair, it is not known if Governor Nixon will reappoint them or if he will decide to appoint someone else. There has been no word on replacements for Jerany Jackson, Munnie Pacino, Kathy Warman, Mike Gray or Royce Fugate, all of whom are serving on expired terms. Mr. Fugate is the only one who is eligible for and interested in serving a second term. Ms. Kempker stated that she did know that some of the associations have been working on submitting their list of recommendations.

Ms. Kempker advised that she had previously forwarded information about Senate Bill 30, which is now codified at Section 144.083.4, RSMo and which relates to tax compliance for renewal regarding retail sales. She further advised that the Division of Professional Registration had initially interpreted this statute to apply to any established business/corporation that sells goods at retail, or pays taxable wages to employee(s). This interpretation would require the Board to deny or refuse to renew the license of any corporation that cannot produce a no tax due statement. The Board understands the concern with assuring that all taxpayers pay the taxes they owe and agree that the provisions in Section 324.010 have no doubt increased compliance with state income tax law. The Board also believes that the provisions of Section 144.083.4 may have the same laudatory result regarding sales tax and withholding provisions. However, in a meeting that Mr. Thompson and Ms. Kempker had with Earl Kraus, Division of Professional Registration's General Counsel, and Sherry Hess, Division of Professional Registration's Director of Financial Services, they urged the Division to change its interpretation to affect only those businesses that sell goods at retail, as that is how the statute is written, and if it is likewise successful in getting compliance with current tax law, then adding other licensees to the requirement can be suggested to the general assembly. Since that meeting, Ms. Kempker had been informed that the Division of Professional Registration has modified its interpretation to apply to only those establishments which sell goods at retail. Ms. Kempker asked the Board Members if they could think of any architectural, engineering, land surveying or landscape architectural corporations that sell goods at retail, especially Landscape Architectural firms which might sell landscape items such as plants, soil, mulch, etc. If they do, then they will need to submit a no tax due statement upon application and/or renewal. It was the consensus of the Board Members, that architectural, engineering, land surveying and landscape architectural corporations only provide services and do not sell goods at retail.

Ms. Kempker then provided the Board with an update on renewals. She advised that a post card, as a third reminder was sent out in March to all of those licensees who had not yet renewed reminding them that their license will officially lapse come April 1 if they don't renew before then. Only 912 postcards were mailed to licensees. As a result of that mailing, 183 followed through with submitting their

renewal application and the remaining 729 officially suspended (or lapsed) on April 1, 2009 for failure to renew.

Ms. Kempker also provided the Board Members with an update on the House Bill Suspension Notice. She reported that this past renewal period, the Board did not have to send out any letters to tax delinquent licensees advising if they don't come into compliance with Revenue that their license will be suspended. Ms. Kempker did, however, just recently received information from the Division's MIS Section that the Department of Revenue is running behind on getting notification to the Boards so this Board could still be getting a non-compliant list.

Ms. Kempker advised that the Summer 2009 Newsletter is in the process of being finalized.

Ms. Kempker also advised the Board Members that the new Board van has been ordered and should be delivered shortly.

Ms. Kempker reminded the Board Members that they should have already filed their Personal Financial Disclosure Statements by May 1st. She advised them that if they had not, they have already incurred a penalty of \$50.00 (\$10.00 per day of being late). All Board Members present indicated their forms had been timely filed.

Date and Location of May 2010 Board Meeting

The May 2010 meeting will be held in St. Louis, Missouri on May 3, 4, and 5, 2010.

Motion to Close

At approximately 10:40 a.m., Mr. Gray called for a motion to close the meeting to the general public for the purpose of discussing confidential or privileged communications between this agency and its attorney as well as to discuss pending litigation and complaint matters. Mr. Hartnett made a motion that the meeting be closed to the general public pursuant to Chapter 610.021 subsection (14) and 324.001.8 and 324.001.9, RSMo for the purpose of discussing investigative reports, complaints, audits and/or other information pertaining to licensees or applicants; Chapter 610.021 subsection (1) RSMo for the purpose of discussing general legal action, causes of action or litigation and any confidential or privileged communication between this agency and its attorney, and for the purpose of reviewing and approving closed meeting minutes of one or more previous meetings under Chapter 610.021 RSMo which authorizes this agency to go into closed session during those meetings. Mr. Fugate seconded the motion. A roll call vote was taken as follows: Randy Miltenberger – Nay; Kathy Warman – Yea; Royce Fugate – Yea; Kevin Skibiski – Yea, John Teale – Yea; Mike Freeman

– Yea; Robert Hartnett, on behalf of the Landscape Architectural Division – Yea; Munnie Pacino – Yea. Motion carried. Mr. Gray asked that all visitors leave the room. After Mr. Ross and Mr. Wylie departed the meeting, Mr. Gray declared the meeting closed to the general public.

Return to Open Session

At approximately 11:25 a.m., the Board reconvened its open meeting for the purpose of meeting with Ms. Jane Rackers, Division Director for the Division of Professional Registration.

Personal Appearance

At approximately 11:30 a.m., Ms. Jane Rackers, Division Director for the Division of Professional Registration met with Board Members for the purpose of discussing matters of mutual interest. Some of the topics discussed at this meeting included the renewal of Dr. Elgin's contract as Exam Consultant to the Board and Board Appointments especially the situation with Mr. Jim Anderson's reappointment as Board Chair. The Members of the Board advised Ms. Rackers that they felt Section 327.031.6 meant Mr. Anderson was to stay on the Board as Board Chair and serve until his successor was appointed and qualified especially since he was already confirmed previously as the Board's Chair. Ms. Rackers stated that she would look into the matter. She said she would also look into the matter regarding Dr. Elgin's contract to see if QBS is a factor and if his contract can be set up as a sole source provider. The Board then directed Ms. Kempker and Mr. Thompson to follow-up by meeting with Ms. Rackers and/or the Division's General Counsel, Earl Kraus, to find out what was the conclusion of their research into these matters. The Board also asked Ms. Rackers specifically to whom the associations should submit their list of five professionals who they believe are qualified and willing to fill the vacancies on the Board. Ms. Rackers suggested to the Board Members that the associations should submit their list directly to Ms. Mary Nelson at the Office of the Governor. Ms. Nelson is the Director of Boards and Commissions. Ms. Rackers then requested that the associations send her a courtesy copy. The Board then directed Ms. Kempker to share this information with the Executive Directors of MSPE, AIA, MSPS and MALA.

Please note that at approximately 11:30 a.m., Messrs. Ross and Wylie (representatives of MSPE) rejoined the meeting. Also, please note that Mr. Ron Kadane, P.E. and member of MSPE and Edwin Frownfelter, Assistant Attorney General, joined the meeting.

Personal Appearances

At approximately 1:15 p.m., Darrell Pratte, PLS and Ralph Riggs, PLS both representing the Missouri Society of Professional Surveyors (MSPS); Robert Lawler, AIA, Steve Coffey and Dwight Dickinson all representing the American Institute of Architects-Missouri (AIA-MO); Ben Ross, P.E., Ron Kadane, P.E., Jo Emerick, P.E. and Bruce Wylie all representing the Missouri Society of Professional Engineers (MSPE); and Randy Mardis, RLA of Missouri Association of Landscape Architects MALA, appeared, at the Board's request, as a good faith effort in attempt to resolve specific issues regarding Senate Bill 298 in a very amicable and efficient manner. The below listed items were all addressed in SB 298. Each of these items was discussed among all present at this afternoon's meeting as follows:

RE: Section 327.031 – Board established, membership, officers, qualifications of members --how appointed--terms--vacancy, how filled--may sue and be sued--abolishment of council--transfer of powers, duties and funds.

- This change will allow a Landscape Architect to serve as the chairperson and ranking vice chairperson of the Board. Everyone present was supportive of this change.
- This change will also allow each Landscape Architect Member of the Board to cast a vote when voting on an action pending before the Board. Everyone present was supportive of this change.
- It will change the quorum from seven voting members and two members of each Division to eight voting members including at least one member of each Division. (As the law is currently written, if 12 out of the 14 members are present for a Board Meeting but the two members that are absent are from the same Division, the Board does not have a quorum and therefore is prohibited from meeting.) Everyone present was supportive of this change.
- It will allow active service as a faculty member while holding the rank of assistant professor or higher in an accredited school of landscape architecture to be regarded as the active practice of landscape architecture. This change will make the landscape architectural language of the law consistent with the language referencing the other three professions regulated by the Board. Everyone present was supportive of this change.
- It will require the sequential rotation of the Board Chair among the four professions, starting with an architect and then followed by a professional engineer, professional land surveyor and landscape architect. This item was profoundly

debated. Initially, the Board had decided it would like to have a fourth engineering division member added to the Board to help lighten the very heavy workload already placed on the current three members of that division. MSPE, MSPS and MALA all supported the addition of a fourth member of the Engineering Division; however, AIA-MO had to take the proposal to its Board of Directors before giving its support. In the interim, the language for the fourth engineer was deleted from the bill so that it could be promptly filed with the understanding that the bill could always be amended later to add the fourth engineer if AIA-MO agreed to support the change. After meeting with its Board of Directors, representatives of AIA-MO stated the association would not support the addition of the fourth engineer. At this point, MSPE stated if the fourth engineer is not added to the Board, it would then withdraw its support for the sequential rotation of the Board Chair. The standstill on these two issues resulted in the Board arranging for today's meeting with all four of its professional associations. After much discussion, it was decided that if a fourth engineering member gets added to the Board, then MSPE, MSPS and MALA would all support this change. If a fourth engineer did not get added to the Board or if both a fourth engineer and a fourth architect got added, then AIA-MO would support this change. MSPS and MALA stated they would support the addition of a fourth architect only if it was needed but would not support the addition of a fourth architect if it was being done solely for parity.

- It will require the person who is appointed as the Chair of the Board to have previously served as a member of the Board thus ensuring that this person has the experience and knowledge needed to successfully supervise and expedite the work of the Board and its Divisions. Everyone present was supportive of this change.
- It will limit the term of the Board Chair to one four-year term. Everyone present was supportive of this change.
- All other changes are merely housekeeping revisions. Everyone present was supportive of this change.

RE: Section 327.041 – Board, powers and duties--rules, generally, this chapter, procedure.

- This change will allow the Board to issue a subpoena without the concurrence of the AG's office. Since the AG's office is not in attendance at the Board's entire meeting, the current requirement for AG concurrence on all subpoenas is

burdensome. It was also noted that other boards within the Division of Professional Registration do not need concurrence of the AG's office when issuing a subpoena. Everyone present was supportive of this change.

RE: Section 327.411 – Personal seal, how used, effect of.

- In light of the recent Supreme Court Ruling on the Bruce Bird case, the Board and professional associations felt it necessary to make the intent of the law more clear by clarifying what is deemed to be immediate personal supervision. Everyone present was supportive of this change.

RE: Section 327.351 – Professional license renewal--expired or suspended license, renewal procedure--professional development requirements for renewal, exception.

- This change will allow the Professional Land Surveyors who choose to place their license in an inactive status to continue to use the title "Professional Land Surveyor" or the initials "PLS" after such person's name. Architects, engineers and landscape architects who place their license in an inactive status already have the statutory authority to continue to use their professional title; therefore, this change will make the land surveying language of the law consistent with the language referencing the other three professions regulated by the Board. Everyone present was supportive of this change.

Upon conclusion of the discussion, everyone present acknowledged that it was too late in the Legislative Session to get the language in this bill passed this year. However, everyone agreed they would like to pursue it again next year providing mutual agreements can be reached. Based on today's discussion, it appears that the only obstacles standing in the way of getting this legislation passed in the future are the addition of a fourth member to the Engineering and/or Architectural Divisions of the Board and the sequential rotation of the Board Chair. Since the Board was running short on time, Mr. Gray halted further discussion and suggested that the Design Alliance Task Force meet at a later time to work together in resolving the debated issues so that we can move forward with these changes in the 2010 Legislative Session. Mr. Gray then sincerely thanked everyone attending this portion of the meeting for their time and input.

Please note that at approximately 2:20 p.m., Ms. Emerick, Messrs. Kadane, Wylie, Lawler, Coffey, Ross, Pratte, Riggs, Dickinson and Mardis departed the meeting.

Motion to Close

At 2:26 p.m., Mr. Gray called for a motion to close the meeting to the general public for the purpose of discussing confidential or privileged communications between this agency and its attorney as well as to discuss pending litigation and complaint matters. Mr. Miltenberger made a motion that the meeting be closed to the general public pursuant to Chapter 610.021 subsection (14) and 324.001.8 and 324.001.9, RSMo for the purpose of discussing investigative reports, complaints, audits and/or other information pertaining to licensees or applicants; Chapter 610.021 subsection (1) RSMo for the purpose of discussing general legal action, causes of action or litigation and any confidential or privileged communication between this agency and its attorney, and for the purpose of reviewing and approving closed meeting minutes of one or more previous meetings under Chapter 610.021 RSMo which authorizes this agency to go into closed session during those meetings. Mr. Hartnett seconded the motion. The motion carried. Mr. Gray asked that all visitors leave the room. There being none, the meeting was declared closed to the general public.

Return to Open Session

At approximately 6:40 p.m., the Board reconvened its open meeting for the purpose of adjournment.

Adjournment

A motion was made by Mr. Miltenberger and seconded by Mr. Fugate to adjourn. The motion carried unanimously. The meeting adjourned at approximately 6:40 p.m. on Tuesday, May 5, 2009.

ATTEST:

Executive Director

Approved by the Board on: _____