

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

Oregon Room  
Hilton Garden Inn  
19677 East Jackson Drive  
Independence, Missouri  
August 4, 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, August 4, 2009 in the California Meeting Room at the Hilton Garden Inn, 19677 East Jackson Drive, Independence, Missouri. The Board met in both open and closed sessions during the meeting as reflected in the minutes. The meeting was declared open for business.

**Members Present**

Randy Miltenberger, Chair of the Architectural Division  
Kathleen 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  
Robert Hartnett, Chair of the Landscape Architectural Division  
Jerany Jackson, Member of the Landscape Architectural Division

**Member Not Present**

Promod Kumar, Member of the Professional Engineering Division  
Marian "Munnie" Pacino, Public Member

**Others Present**

Judy Kempker, Executive Director  
Shawn Hagerty, Board Investigator  
Sandra Robinson, Executive Assistant  
Jane Coffman, Board Staff  
Curtis Thompson, General Counsel  
Richard A. Meloy, P.E., President of Structural Engineers Association of  
Kansas and Missouri (SEAKM)

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 Board currently does not have 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. Ms. Warman 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 minutes for the May 5, 2009 Open Board meeting as submitted. The motion was seconded by Mr. Fugate and unanimously carried.

### **MOU Update JTFAP Guidelines**

The Members of the Board held a discussion regarding the status of the Memorandum of Understanding (MOU) between the Geology Board and the APELSLA Board. Ms. Kempker announced that Ms. Pam Groose, the Executive Director for the Geology Board had told her that the Geology Board will be meeting on August 26, 2009 and had nothing new to report on the JTFAP Guidelines. The Board Members directed Ms. Kempker to send an email to Ms. Groose on August 27, 2009 to find out what, if any, action was taken by the Geology Board regarding the JTFAP Guidelines and to then place this topic back on the Board's November 2009 meeting agenda for further discussion.

### **Strategic Plan Committee Report**

Mr. Hartnett reported to the Board that the "Strategic Plan" committee had not yet met. Ms. Kempker then reported that she had received an email from the Division's legislative liaison, Connie Clarkston advising that Mr. Grady Martin, with the Department of Insurance, Financial Institutions and Professional Registration had stated, "That the department has not yet scheduled or discussed updating the strategic plan. I know the budget situation is taking a lot of the Governor's and the Department's time. I would suggest that we wait for the Governor to take the lead on

what he wants done.” Ms. Kempker then inquired of other options and was advised by Ms. Clarkston that the Board might want to consider contracting or borrowing from another agency such as MoDOT. Ms. Kempker then checked with MoDOT and discovered that borrowing was not an option. Therefore, Ms. Kempker inquired about utilizing someone on state contract but was informed by Ms. Clarkston that there is not a statewide contract that the Board can utilize for strategic planning services. Since the service requirements are normally so specific to a certain project the State does not have a general contract. Ms. Kempker further explained that the Board can pursue a contract on its own so long as it drafts the criteria and/or technical requirements of what it wants this specific contractor to do for the Board. Bob Hartnett has recently gone through a similar process with the City of Lee’s Summit and has offered assistance with the drafting of the proposal. Mr. Hartnett and Ms. Kempker will continue to work with Ms. Clarkston in this regard. The matter will be placed back on the Board’s November 2009 Agenda for further discussion and update.

**Review and discuss penalty guidelines as established by NCEES – for information and/or discussion**

The Board discussed penalty guideline as established by NCEES. It was the consensus of the Board that they be consistent when imposing civil penalties. This item was presented for informational purposes; therefore no action was taken at this time.

**Does House Bill 103 conflict with Board Rule 20 CSR 2030-2.040 (Standard of Care or Board Rule 20 CSR 2030–21.010 (Design of Fire Suppression Systems)?**

Mr. Miltenberger advised that he had received an email from former Board Member Helen Kessler DiFate, AIA, who stated that she thought House Bill 103 may be in conflict with Board Rule 20 CSR 2030-2.040 or Board Rule 20 CSR 2030-21.010 because as House Bill 103 is written, if an architect is not hired for construction administration, the builder can offer an option to the owner of having or not having sprinklers. Ms. DiFate did note the fact that current state law does not require an architect for one or two family dwellings, however many municipalities do require an architect. Since Mr. Kumar is not present at this meeting, the Board directed Ms. Kempker to place this matter on the Board’s November 2009 meeting agenda so that Mr. Kumar can be present for further discussion regarding this matter.

## **Discuss Big Government Get Off My Back Act – Small Business Bill (House Bill 191)**

Ms. Kempker advised the Board that in order to comply with the Small Business Regulatory Fairness Board requirements, the Department of Insurance, Financial Institutions and Professional Registration is requesting that Board Members participate in a short online training presentation. Since it is not possible to have the “online training” at the meeting, Ms. Kempker provided hard copies of the training to each Board Member and each page was discussed.

Ms. Kempker reminded the Board Members that Small Business Statements will need to be filed with every rule or amendment that the Board promulgates. The Division of Professional Registration (Division) has suggested that the Board actually list the names of its members who are currently operating a small business on the Small Business Form that has to be completed. The cost impact of any rule or amendment should be discussed in open session and needs to be documented in the Board’s open minutes specifically spelling out that the fiscal impact and/or associated costs were discussed and considered. It was further suggested by the Division that the Board explain the history of why a rule is being filed or amended instead of just stating the purpose for the rule or amendment.

Mr. Thompson advised the Board that for the next four-year period beginning on August 28, 2009, the Board can increase fees if necessary without regard to this provision if the fees do not exceed the cost of administration. Any rule that the Board adopts must address one of the three subparagraphs listed in House Bill 191, which are as follows: 1) state it has no adverse impact on small business; or, 2) it is needed to protect life, health, or safety of the public; or 3) exempt small businesses from the provisions of the rule.

Upon conclusion of its discussion, the Board decided it would seek the input of its professional associations and publish all future rule changes on its web site and in its newsletter for the specific purpose of soliciting comments with regard to the impact the proposed changes may have on small businesses.

### **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. Fugate reported the Professional Engineering Division Members had discussed the position paper from the Institute of Industrial Engineers regarding

the B plus 30 NCEES Model Law for 2020. The Members of the Professional Engineering Division recommended that when the Board Members attend the upcoming NCEES Annual Meeting, they advise NCEES that from the information gathered by the Missouri Board, it was determined that most licensees are opposed to the B plus 30 Model Law requirement for 2020. Therefore, the Missouri Board has no plans for adopting the new requirement anytime soon.

### **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 stated that, at this time, the Landscape Architectural Division did not have anything to report.

### **Executive Director's Report**

Ms. Kempker presented the most recent information regarding the Board's Financial Report. She advised the Board that as of July 31, 2009, the financial balances were as follows:

Personal Service Balance was \$346,123.74. Originated with \$375,856. The Board has 92.09% of its Personal Service funds remaining.

E&E (Expense & Equipment) Balance was \$294,060.57. Originated with \$331,587. The Board has 88.69% of its E & E funds remaining.

Fund Balance was \$3,224,668.20.

For FY 2010, the Board was appropriated a total of \$707,443 for Expense and Equipment and Personal Service (\$331,587 was appropriated for E&E and \$375,856 for PS); \$122,100E for transfers (i.e., AHC & AG); and, \$278,472E for payment of operating expenses to PR. Fringe Benefits expenses are not included in our appropriation but they run approximately \$105,462/year.)

## **Board Rules and Rule Status:**

- 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 appeared in the Missouri Register on May 15, 2009. The comment period ended June 14, 2009. The Final Order of Rulemaking was filed with SB & JCAR on June 15, 2009 and with the SOS on July 15, 2009. The Final Order is scheduled to appear in the Missouri Register on August 17, 2009 and in the Code of State Regulations on August 31, 2009. The proposed effective date is September 30, 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 were filed with JCAR and SOS on April 3, 2009. They appeared in the Missouri Register on May 15, 2009. The comment period ended June 14, 2009. The Final Orders of Rulemaking were filed with SB & JCAR on June 15, 2009 and with the SOS on July 15, 2009. The Final Orders are scheduled to appear in the Missouri Register on August 17, 2009 and in the Code of State Regulations on August 31, 2009. The proposed effective date is September 30, 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) which is being amended to clarify that the design of fire suppression systems for one and two family residential homes is not required to be designed, prepared, and sealed 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) was filed with SB, JCAR and SOS on July 22, 2009. It is scheduled to appear in the Missouri Register on September 1, 2009 with the comment period ending on October 1, 2009.
- The Proposed Amendment to Board Rule 20 CSR 2030-2.040 (Standard of Care) which is being amended to reflect the current (2009) edition of the International Building Code, Section 106 was filed with SB, JCAR and SOS on July 22, 2009. It is scheduled to appear in the Missouri Register on September 1, 2009 with the comment period ending on October 1, 2009.

Ms. Kempker advised the Board Members that she has been contacted to check into the licensure status of a number of individuals being considered for appointment as Board Members; however, to date, no new appointments have been made. Currently, the Board has three vacant spots on the Board, five members serving in expired terms, three members whose terms will expire on September 30<sup>th</sup>, one member (Mike Freeman) whose terms expires in 2010 and two members (Kevin Skibiski and Bob Hartnett) whose terms expire in 2011. Therefore, the Board is looking at having 11 new members out of a total of 14.

The Summer 2009 Newsletter was mailed in early July. Ms Kempker stated that she knows for a fact that many of the Board's licensees have read this newsletter based on the number of calls and emails received in the Board office. The Board's staff fielded a lot of questions about the requirement for a Corporate Certificate of Authority and has seen an increase in the submission of C of A applications. In addition, the Board office received numerous other calls regarding the disciplinary section of the newsletter, especially regarding Kenneth Blom and his violation of not signing through the seal. Other comments were made about the new licensee listing, the year end report, immediate personal supervision, the Title block sample, and the B+30. To date, the Board office has only received 18 requests for the newsletter to be sent via email.

Ms. Kempker told the Board that the odd year renewals to all four professions will be mailed out in late September or early October. The Board will be conducting a random continuing education audit of licensees prior to sending the renewals out.

For those randomly selected, they will receive a notice of the audit with their renewal form and will be asked to submit documentation of their hours before being renewed. The Board's staff will scan this documentation weekly as they come in and send to the appropriate division for review and/or approval. The Board will audit the following percentage PLUS everyone who has had a complaint filed against them: Land Surveyors - 10%; Engineers - 2%; and Architects - 5%.

Ms. Kempker announced that as of this time, the Board has not yet had to send out any letters to tax delinquent licensees advising if they do not come into compliance with the Department of Revenue that their license will be suspended.

Ms. Kempker advised that Senate Bill 296 (known as HCS for SB 296 the PR Omnibus bill) was passed this past legislative session. This bill added a new section to Chapter 327, RSMo. The new Section is 327.442 – Disciplinary hearings—grounds for discipline. Effective August 28, 2009 the Board will have the authority to automatically revoke the license of an individual who has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, in a felony prosecution pursuant to the laws of the state of Missouri, the laws of any other state, territory, or the laws of the United States of America for any offense reasonably related to the qualifications, functions or duties of a licensee. This revision does not require the automatic revocation of such license but gives the Board the discretion to hold a disciplinary hearing to singly or in combination censure or place the licensee on probation and/or suspension or allow the Board to revoke the license without having to go through the added expense of a hearing before the Administrative Hearing Commission.

Senate Bill 298, which contained proposed changes to Section 327.031, 327.041, 327.411, and 327.351, did not go very far in the Legislature this past session mainly due to differences of opinion between the professional associations regarding the rotation of the Board Chair and the addition of a fourth member to the Professional Engineering Division. Ms. Kempker stated that she had been in contact with Bruce Wylie with the Missouri Society of Professional Engineers to see when a Design Alliance Committee Meeting could be scheduled. Ms. Kempker has furnished Mr. Wylie with dates of the Board's meeting and the NCEES & CLARB annual meetings so that he would know not to schedule a meeting on those dates. Mr. Wylie said if the associations can not agree on the chair rotation and the fourth Professional Engineer, that the Design Alliance Committee may want to move forward with the other less controversial changes and asked what those might be. Ms. Kempker provided Mr. Wylie with other proposed changes the Board has suggested, which are 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.**

- Allow a Landscape Architect to serve as the chairperson and ranking vice chairperson of the Board.
- Allow each Landscape Architect Member of the Board to cast a vote when voting on an action pending before the Board.
- 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.)
- 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.
- 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 and the addition of a 4<sup>th</sup> member to the Professional Engineering Division. (These are the controversial parts which may have to be removed from the next bill that gets filed.)
- 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.
- It will limit the term of the Board Chair to one four-year term.
- All other changes are merely housekeeping revisions.

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

- 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.
- Other boards within the Division of Professional Registration do not need concurrence of the AG's office when issuing a subpoena.

**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.

**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.

After much discussion, Mr. Skibiski made a motion directing the Board Members who will attend the Design Alliance Task Force Meeting, to ask the Professional Societies to support the proposed changes as written with no portions removed, and if members of a professional society cannot support the proposed changes, then the Board asks them to not oppose the other societies with moving forward with the legislation. The motion was seconded by Mr. Miltenberger. A roll call vote was taken and unanimously carried. Ms. Kempker was then directed to convey to

Bruce Wylie that September 1<sup>st</sup> would be the best date for the Members of the Board to attend the Design Alliance meeting.

Ms. Kempker announced that the Board now has a new 2009 white Dodge Grand Caravan.

Ms. Kempker stated that Mike Gray, John Teale, Mike Freeman, Promod Kumar and Kevin Skibiski have been approved to attend the NCEES Annual Meeting which is scheduled for August 12-15, 2009 in Louisville, Kentucky. She also advised that Bob Hartnett, Jerany Jackson and Ms. Kempker have been approved to attend the CLARB Annual Meeting which is scheduled for September 10-12, 2009 in Seattle, Washington.

Ms. Kempker advised the Board Members that Debbie Thompson's last day with the Board office was June 30, 2009. It was also announced that Bri Rademan has been on maternity leave for the past two months and has just returned back to work on August 3<sup>rd</sup>. Laurie Koelling has been promoted to take over the Account Clerk II position that Debbie vacated and Brittney Wenzel has been hired to fill the Office Support Assistant position that Laurie vacated. Brittney's first day will be August 17, 2009.

Please note that Assistant Attorney General Glen Webb joined the meeting at approximately 9:50 a.m.

**Missouri Association of Counties' 38<sup>th</sup> Annual Conference and Trade Show is scheduled for November 22, 23 and 24, 2009**

The Board Members discussed the upcoming Missouri Association of Counties' 38<sup>th</sup> Annual Conference and Trade Show which is scheduled for November 22, 23 and 24, 2009. The Board decided to participate by having a booth at the Conference and Trade Show. The Board Members directed Mr. Hagerty to deliver and set up the booth at the exhibit site on Sunday, November 22, 2009. Mike Freeman and Jerany Jackson volunteered to work the booth on November 22 and 23, 2009. Ms. Warman volunteered to make up flyers to be handed out at the Conference and Trade show. Ms. Warman will also provide a copy of the Title Block example as well as a check list for County Planning Departments to utilize when issuing building permits. Ms. Warman will forward a draft of these documents to Ms. Kempker who will then forward to the Board Members for approval.

### **Date and Location of August 2010 Board Meeting**

The Board Members discussed the date and location of the August 2010 Board Meeting. Ms. Kempker announced that the NCEES Annual Meeting will be held on August 18, 19, 20 and 21, 2010 in Denver, Colorado. Therefore, the Board decided that the summer meeting for 2010 will be held on August 9, 10 and 11, 2010.

Please note that Mr. Malloy departed the meeting at approximately 10:30 a.m.

### **Disciplinary Hearing of Sunset Design Service, Inc.**

At approximately 10:45 a.m., the Board conducted a Disciplinary Complaint Hearing in the matter of the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects vs. Sunset Design Service, Inc. Both Mr. Eugene Frigo, Mr. Francis Scherr and/or Sunset Design Service, Inc. did not appear. Assistant Attorney General Glen Webb appeared for the Board. Mr. Gray stated for the record that the hearing had convened. The record was established by a certified court reporter and a copy made a part of the Board's file in Case No. 2009-003. When the hearing was concluded (at approximately 10:55 a.m.), Mr. Webb was told that the Board would issue an Order as soon as practicable. He then departed.

### **Motion to Close**

At approximately 10:55 a.m., Mr. Gray called for a motion to close the meeting to the general public for the purpose of deliberation in the matter of the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects vs. Sunset Design Service, Inc. 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. A roll call vote was taken as follows: Randy Miltenberger – Yea; Kathy Warman – Yea; Royce Fugate – Yea; Kevin Skibiski – Yea, John Teale – Yea; Mike Freeman – Yea; and, Robert Hartnett, on behalf of the Landscape Architectural Division – Yea; Motion carried. Mr. Gray asked that all visitors leave the room. After Mr. Webb departed the meeting, Mr. Gray declared the meeting closed to the general public.

### **Return to Open Session**

At approximately 11:15 a.m., the Board reconvened its open meeting for the purpose of holding the disciplinary hearing of Alvah Paul Breitweiser.

### **Disciplinary Hearing of Alvah Paul Breitweiser**

At approximately 11:15 a.m., the Board conducted a Disciplinary Complaint Hearing in the matter of the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects vs. Alvah Paul Breitweiser. Mr. Breitweiser did not appear. Assistant Attorney General Glen Webb appeared for the Board. Mr. Gray stated for the record that the hearing had convened. The record was established by a certified court reporter and a copy made a part of the Board's file in Case No. 2009-002. When the hearing was concluded (at approximately 11:30 a.m.), Mr. Webb was told that the Board would issue an Order as soon as practicable. He then departed.

### **Motion to Close**

At approximately 11:31 a.m., Mr. Gray called for a motion to close the meeting to the general public for the purpose of deliberation in the matter of the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects vs. Alvah Paul Breitweiser as well as discussing the remaining closed agenda items. 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. Fugate seconded the motion. A roll call vote was taken as follows: Randy Miltenberger – Yea; Kathy Warman – Yea; Royce Fugate – Yea; Kevin Skibiski – Yea, John Teale – Yea; Mike Freeman – Yea; and, Robert Hartnett, on behalf of the Landscape Architectural Division – Yea; Motion carried. Mr. Gray asked that all visitors leave the room. After Mr. Webb departed the meeting, Mr. Gray declared the meeting closed to the general public.

### **Return to Open Session**

At approximately 1:40 p.m., the Board reconvened its open meeting for the purpose of holding the disciplinary hearing of David Fenton.

### **Disciplinary Hearing of David Fenton**

At 1:45 p.m., the Board conducted a Disciplinary Complaint Hearing in the matter of the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects vs. David Fenton. Mr. Fenton personally appeared without legal counsel. Assistant Attorney General Glen Webb appeared for the Board. Mr. Gray stated for the record that the hearing had convened. The record was established by a certified court reporter and a copy made a part of the Board's file in Case No. 2009-001. When the hearing was concluded (at approximately 3:06 p.m.), Messrs. Webb and Fenton were told that the Board would issue an Order as soon as practicable. They then departed.

### **Motion to Close**

At 3:06 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. A roll call vote was taken and unanimously carried. Mr. Gray asked that all visitors leave the room. After Messrs. Webb and Fenton departed the meeting, Mr. Gray declared the meeting closed to the general public.

### **Return to Open Session**

At 7:10 p.m., the Board reconvened its open meeting for the purpose of adjournment.

### **Adjournment**

A motion was made by Mr. Miltenberger to adjourn the meeting. Mr. Fugate seconded the motion and unanimously carried. The meeting adjourned at 7:10 p.m. on Tuesday, August 4, 2009.

ATTEST:

\_\_\_\_\_  
Executive Director

Approved by the Board on: \_\_\_\_\_