

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

Capitol Room  
Capitol Plaza Hotel and Convention Center  
415 West McCarty  
Jefferson City, Missouri  
January 26, 2010

The Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects was called to order at 8:00 a.m. on Tuesday, January 26, 2010 in the Lincoln Room of the Capitol Plaza Hotel and Convention Center located at 415 West McCarty, Jefferson City, 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**

Randall B. Miltenberger, Chair of the Architectural Division  
Kathy W. Achelpohl, Member of the Architectural Division  
Kenneth M. Frashier, Member of the Architectural Division  
C. Royce Fugate, Chair of the Professional Engineering Division  
Kevin C. Skibiski, Member of the Professional Engineering Division  
Abiodun "Abe" Adewale, Member of the Professional Engineering Division  
Michael C. Freeman, Chair of the Professional Land Surveying Division  
John Michael Flowers, Member of the Professional Land Surveying Division  
Daniel L. Govero, Member of the Professional Land Surveying Division  
Robert N. Hartnett, Chair of the Landscape Architectural Division  
Jerany L. Jackson, Member of the Landscape Architectural Division

**Member Absent**

Marian "Munnie" Pacino, Public Member

**Others Present**

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

Jerald "Rusty" Saunders, R.L.A., Missouri Association of Landscape Architects  
Bruce Wylie, Executive Director for the Missouri Society of Professional Engineers  
Britt Smith, P.E., Vice President of the Missouri Society of Professional Engineers  
Grady Martin, Fiscal and Administrative Manager for the Department of Insurance,  
Financial Institutions and Professional Registration

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. Miltenberger nominated Mr. Bob Hartnett to conduct the remaining business of the meeting. Ms. Jackson seconded the nomination and it unanimously carried. Ms. Kempker then turned the meeting over to Mr. Hartnett.

### **Approval of Minutes**

A motion was made by Mr. Miltenberger to approve the November 3, 2009 Open Board Meeting minutes and the January 13, 2010 open Strategic Planning Committee Telephone Conference Call minutes as submitted. The motion was seconded by Ms. Jackson and unanimously carried.

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

Ms. Kempker gave a report on the status of the MOU between the Geology Board and the APELSLA Board. Ms. Kempker stated that the Geology Board is not making any statement until the final document has been received from JTFAP. This item was presented for informational purposes; therefore no action was taken.

### **When a licensee has his/her license revoked, should the Board automatically send a standard notification of such to the Building Officials, Planning & Zoning Offices, Department of Natural Resources, etc.?**

Mr. Govero discussed with the Members of the Board whether the Board should automatically send a standard notification of revocations of licensees to Building Officials, Planning and Zoning Office and the Department of Natural Resources.

After much discussion, Mr. Govero made a motion directing Ms. Kempker include a disciplinary action section on the Board's web site that lists all licensees that have had their license either revoked, suspended or put on probation. Ms. Kempker is to then send a letter to all Missouri Building Code Officials notifying them that the Board's web site has been expanded to include disciplinary actions on its licensees. The motion was seconded by Mr. Skibiski. A roll call vote was taken and unanimously carried.

Please note that at approximately 8:17 a.m., Assistant Attorney General Edwin Frownfelter joined the meeting.

Please note that at approximately 8:20 a.m., Jane Rackers, Division Director for the Division of Professional Registration, and Connie Clarkston, Budget Analyst III for the Division of Professional Registration joined the meeting.

**Discuss response to the Board from Richard C. Purcell, E-24726, regarding the function of the Natural Resources Conservation Service (NRCS) and if its procedures are in compliance with Missouri's statutes and rules related to engineering**

The Members of the Board discussed the response to the Board from Richard C. Purcell, E-24726, regarding the function of the Natural Resources Conservation Service (NRCS) and if its procedures are in compliance with Missouri's statutes and rules related to engineering. The Board also received the letter of response sent to Mr. Purcell from the Board's General Counsel, Curt Thompson. The Board Members then noted that Mr. Thompson will be meeting with NCRS in March to address their questions. Since many involved detailed engineering specifics, Mr. Skibiski volunteered to assist Mr. Thompson in addressing the questions that were asked.

Please note that at approximately 8:45 a.m., Martha John, AIA, joined the meeting.

**PERSONAL APPEARANCE**

At approximately 8:30 a.m., Ms. Jane Rackers, Director, Division of Professional Registration, Connie Clarkston, Budget Analyst III, Division of Professional Registration, and Grady Martin, Fiscal & Administrative Manager, Department of Insurance, Financial Institutions and Professional Registration, met with the Board Members for the purpose of discussing budget information and other matters of mutual interest to the Board, the Division and the Department. Ms. Rackers addressed the Board by saying that there is a potential sweep of the APELSLA Board's fund of \$1,640,000 which is approximately 1.25 times the Board's

appropriation. The Board's current fund balance is \$3,760,757. Ms. Rackers advised that there was a slated potential one-time sweep of \$27,000,000 total, from state agencies. She advised the Board that other Boards at the Division were also on the list, such as, \$600,000 from the Accountancy Board, \$475,000 from the Board of Cosmetology and Barber Examiners Fund, \$950,000 from the Board of Registration for Healing Arts Fund and \$3,600,000 from the State Board of Nursing fund, as well as others within the Division of Professional Registration. The Board Members asked questions of Ms. Rackers and Mr. Martin and provided their input and objection of the possible sweep. Mr. Thompson spoke about the term "total state revenue" as it is used in the Hancock Amendment. That portion of the Hancock Amendment is Article X, Section 17. Mr. Thompson said boards' funds had not previously been considered within that definition, then all the funds in all boards' accounts would have to be included when computing that figure for total state revenue should any of the funds be subjected to the proposed sweep. In the past, there have been refunds to taxpayers when the limits of total state revenue have been met. It is a complicated computation that involves elected officials and has been the subject of litigation in the past. Mr. Martin did not have an answer to Mr. Thompson's question; however, he did state that he would bring this matter to the attention of the Governor's Office. Mr. Bruce Wylie stated that if the sweep actually takes place, the state should issue 1099 forms to all licensees so they could obtain credit for this tax on their licenses. After answering all questions posed by the Members of the Board and the representatives of the societies, Ms. Rackers, Ms. Clarkston and Mr. Martin were then thanked for appearing and departed at approximately 9:10 a.m.

### **PERSONAL APPEARANCE**

At approximately 9:15 a.m., Mr. Art Davis of the Art Davis Group, LLC, appeared before the Board for the purpose of discussing strategic planning services. Mr. Davis provided the Board Members with the responses from the January 22, 2010 survey. Mr. Davis stated that the survey will be utilized as a tool to clarify expectations, identify and agree upon important priorities, and develop consensus around a future work plan and strategic vision. The remainder of the discussion was tabled until after the Board conducts the probation violation hearing on Klitzing Welsch Associates, Inc.

Please note that at approximately 10:00 a.m., Ms. John, and Messrs. Saunders, Wylie, and Smith departed the meeting.

### **PROBATION VIOLATION HEARING**

At approximately 10:05 a.m., the Board conducted a disciplinary hearing in the matter of the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects vs. Klitzing Welsch Associates, Inc. Mr. Joseph Klitzing, A-4591, appeared without counsel. Assistant Attorney

General Edwin Frownfelter appeared for the Board. Mr. Hartnett 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. 2009-001950. When the hearing was concluded (at approximately 10:55 a.m.), Messrs. Klitzing and Frownfelter were told that the Board would issue an Order soon after it has completed its deliberations. At approximately 10:56 a.m., Mr. Klitzing departed the meeting.

### **Continue meeting with Mr. Davis regarding the Board's Strategic Plan**

Next, Mr. Davis asked the Board Members to participate in an exercise to list what they thought were the top three (3) most important "short-term" and "long-term" issues facing the Board. After much discussion, the Board Members directed Ms. Kempker to set up a conference call with the Strategic Planning Committee of the Board to discuss how to best present the strategic planning survey to the Design Alliance Task Force. Also, Ms. Kempker is to contact MSPE Executive Director Bruce Wylie to ask him to set up a Design Alliance Task Force meeting in the near future with the societies and Board Members to discuss the Board's Strategic Planning survey. The Members of the Board thanked Mr. Davis for meeting with them and he then departed the meeting at approximately 12:05 p.m.

### **Does the Board have a concern with Curt Thompson being paid by MSPE to be a speaker at their annual meeting in June 2010?**

The Board Members discussed if they believed there would be a conflict of interest if Mr. Thompson would participate as a paid speaker at the Missouri Society of Professional Engineers' Annual Meeting in June of this year. Upon discussion, the Members of the Board decided that Mr. Thompson speaking at the MSPE annual meeting would not be a conflict.

### **Board Meets with the Staff**

At approximately 12:00 Noon the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects met with the staff for the purpose of discussing licensure and policy issues. Those joining the meeting were: Nancy Plaster, Jan Gilliam, Laurie Koelling, Brianne Rademan and Brittney Wenzel. The Members of the Board took a moment to thank the staff for their excellent service and for the courtesies that they extend to the Board. After a lengthy discussion, Ms. Gilliam, Ms. Plaster, Ms. Rademan, Ms. Koelling and Ms. Wenzel departed the meeting at approximately 1:10 p.m.

### **Report from Architectural Division**

Mr. Miltenberger reported that approximately 45 percent of architects in the St. Louis, Missouri area are out of work. However, some of those architects are able to find work by contracting for local firms.

### **Report from Professional Engineering Division**

Mr. Fugate stated that, at this time, the Professional Engineering Division did not have anything to report.

### **Report from Professional Land Surveying Division**

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

### **Report from Landscape Architectural Division**

Ms. Jackson reported that both she and Mr. Hartnett will be attending the CLARB Regional meeting in Dallas, Texas on February 26, 27 and 28, 2010.

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

Ms. Kempker presented the most recent information regarding the Board's Financial Report. She advised the Board that as of January 21, 2010, the financial balances were as follows:

Personal Service Balance was \$196,245.69. Originated with \$375,856.

E&E (Expense & Equipment) Balance was \$180,724.33. Originated with \$331,587.

Fund Balance was \$3,813,699.11.

Ms. Kempker announced to avoid a sweep of the Board's fund pursuant to Section 327.081.2, RSMo, the balance needs to be kept under \$3,959,943.00 (3 x \$1,319,981.00). Based on the Board's current revenue projections and providing that the Board spends its full appropriation of \$1,319,981, the Board will need to again decrease its renewal fee on or before 2014 in order to avoid a sweep of its funds. However, if the Board's spending habits remain the same as they have been for the past 7 to 8 years, it will not use its full appropriation and therefore, will need to study the possibility of a fee reduction prior to 2014, perhaps in 2010 or 2011. Of course, if the Board's fund is prematurely swept as

proposed in Senate Bill 1000 or if the law regarding the sweep language gets changed to where the Board's fund is swept based on a calculation of less than three times its appropriation, an additional fee decrease will probably not be an option for quite some time.

The Board's FY11 Budget Request, which was submitted, is the same as what the Board's FY10 appropriated budget was. Last year the Board lapsed \$175,050.52 in its E&E and \$47,447.31 in its Personal Service.

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., Administrative Hearing Commission and Attorney General); and, \$278,472E for payment of operating expenses to the Division of Professional Registration. Fringe Benefits expenses are not included in the Board's appropriation but they run approximately \$105,462 per year.

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 appeared in the Missouri Register on September 1, 2009. The end of comment period was October 1, 2009. The Board received two letters in support of the proposed change. One from the Fire Marshal's Association of Missouri (FMAM) and the other from the Metropolitan Fire Marshal's Association (MFMA). Both associations urged final approval of the proposed rule change. The Final Order of Rulemaking was filed with SB and JCAR on October 8, 2009 and with the SOS's office on November 9, 2009. The Final Order of Rulemaking appeared in the Missouri Register on December 15, 2009 and in the Code of State Regulations on December 31, 2009. The scheduled effective date is January 30, 2010.

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 appeared in the Missouri Register on September 1, 2009. The end of comment period was October 1, 2009. No comments were received. The Final Order of Rulemaking was filed with SB and JCAR on October 8, 2009 and with the SOS's office on November 9, 2009. The Final Order of Rulemaking appeared in the Missouri Register on December 15, 2009 and in the Code of State Regulations on December 31, 2009. The scheduled effective date is January 30, 2010.

House Bill 1639, which contains proposed changes to Sections 327.031, 327.041, 327.411, and 327.351 was recently filed by Rep. Jay Wasson at the request of the professional societies. A request for permission for the Board Members and Ms. Kempker to testify has already been submitted to the Division of Professional Registration but no response has yet been received. The proposed changes in the bill 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.
- It will limit the term of the Board Chair to one four-year term.
- 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. OR, the Committee discussed coming up with alternative wording to allow the Board to elect its own Chair. Since this was discussed at the September Design Alliance Committee meeting, Kathi Harness (lobbyist for AIA) conversed, via email, with Mary Nelson, Director of Boards and Commission for the Office of Governor Jay Nixon, about the possibility of changing the appointment of the Board's chair from being a gubernatorial appointment to a Board elected appointment like all other boards within the Division of Professional Registration. Ms. Nelson's response was "As to the suggestion of changing the designation of the chairperson, I will

convey your inquiry to the Governor for feedback. The right to select a chair gives the Governor a valuable opportunity to ensure the leadership of a board will work cooperatively with his administration and agenda. Let me get back to you on this. I'd be very interested to know whether this proposal was submitted previously, and what the reaction was from those administrations." Ms. Harness replied that she was not aware of any time when the architects, engineers, etc. attempted to change the statute to allow our chair to be selected by the board members and she asked me to confirm that, which I did.

- All other changes are merely housekeeping revisions.

**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. 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 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.

**Legislation – Another bill that we are watching that has an impact on Chapter 327 is:**

**Senate Bill 621** - This act requires the Office of the State Land Surveyor in the Department of Natural Resources to promulgate rules and regulations establishing minimum standards for digital cadastral parcel mapping. Any map designed and used to reflect legal property descriptions or boundaries for use in a digital cadastral mapping system must comply with such rules, unless the party

requesting the map specifies otherwise in writing, the map was designed and in use prior to the promulgation of the rules, or the parties requesting and designing the map already agreed to their contractual terms on the effective date of the rules promulgation.

The practice of land surveying shall include working with positions of the United States Public Land Survey System. It shall also include creating, preparing or modifying electronic or computerized data relative to the performance of certain other surveying activities; however, such acts shall not be exclusive to professional land surveyors unless they affect real property rights. These changes will modify Section 327.272 which is currently entitled "Practice as professional land surveyor defined." This act is similar to SCS/SB 384 (2009).

**Other bills that may be of interest to the Board are:**

**House Bill 1299** – Representative Lampe – Changes the laws regarding the Open Meetings and Records Law, commonly known as the Sunshine Law.

**House Bill 1445** – Representative Jones – Changes the laws regarding Open Meetings and Records Law, commonly known as the Sunshine Law.

**House Bill 1582** – Representative Sutherland – Requires statements of no tax due for state and local business licenses and for receipt of payments from the state legal defense fund.

**Senate Bill 719** – Senator Bray – Requires racial and gender equity in the membership of boards, commissions, committees, and councils.

Ms. Kempker advised that since the Board's November 2009 meeting, it has had five new members appointed to the Board, who are Abe Adewale for the Professional Engineering Division, Mike Flowers and Dan Govero for the Professional Land Surveying Division, and Kathy Achelpohl and Ken Frashier for the Architectural Division. All of these members except for Mike Flowers are scheduled to be confirmed by the Senate on Wednesday morning, January 27, 2010. Jane Rackers, Director of the Division of Professional Registration, previously reported in a PR Manager's Meeting that 200 appointments were made in the last year and that there is only time in which to get 80 of those 200 appointments confirmed. Therefore, the remaining 120 appointments will be withdrawn and then reappointed at a later date. Unfortunately, it looks like Mike Flowers will be one of those withdrawn and then later reappointed. Currently, the Board has two vacant spots on the Board (Board Chair and Landscape Architectural Division Member), four members serving in expired terms (Randy Miltenberger, Royce Fugate, Jerany Jackson and Munnie Pacino), and three members serving current terms (Mike Freeman who has a term expiring September 28, 2010 and Kevin Skibiski & Bob Hartnett who have terms expiring in 2011). Therefore, it is very possible that the Board will have a total of 11 new members out of a total of 14 in a very short period of time.

In light of the Board having so many new Members, Ms. Kempker volunteered to put together a "Board Member Instruction Manual" outlining the duties and

responsibilities of a Board Member and the make up of the Board. There will be extensive information included in this manual that both new and present Board Members will find helpful.

Ms. Kempker announced that the Winter 2009 Newsletter has been finalized and was mailed in late December 2009. Ms. Kempker advised the Board Members that she plans to send the next edition out sometime this summer, perhaps in June or July 2010. After much discussion, Mr. Hartnett made a motion directing Ms. Kempker to start sending the Board's newsletter to all licensees via electronic mail commencing in 2012. At the Board's 2010 renewal period, Ms. Kempker is to include an insert advising the Board's licensees of this change. If a licensee wishes to continue receiving the Board's newsletter, he/she must provide their email address to the Board. Or, if they prefer not to give their email address, they should visit the Board's web site to view the newsletter online. The motion was seconded by Mr. Govero and unanimously carried.

Two requests have been submitted to Jane Rackers, Director of Professional Registration for Attorney General Opinions. One Opinion Request was regarding "public nuisance" and the other relating to "QBS." Ms. Rackers just recently forwarded the requests to John Huff, Director of the Department. As soon as the opinions are issued and received in the Board office, Ms. Kempker advised that she will scan the opinions and send them via email to the Board Members.

Ms. Kempker announced that 26 letters were sent to tax delinquent licensees advising if they don't come into compliance with the Department of Revenue that their license will be suspended. Out of those 26, 18 have come into compliance and 8 had their licenses automatically suspended as of November 21, 2009. Only one of those eight has surrendered his licensing indicia as was instructed in the Board's letter. This topic is also on the Board's closed agenda at which time further discussion will be held.

A second renewal notice with a watermark stating "Second Notice" was sent, as a courtesy reminder, the first part of December to all those licensees who had not yet renewed. Ms. Kempker stated that she will also send a post card, as a third reminder, in March of 2010 to all of those licensees who had not yet renewed reminding them that their license will officially lapse come April 1, 2010, if they don't renew before then. As of the first part of January, the Board had approximately 94% of its licensees renew on time, and of that 94%, 40% renewed online. This percentage is about the same as last year's online renewal percentage of 41%.

Ms. Kempker reminded the Board Members to make sure to have their Personal Financial Disclosure Statement sent to the Ethics Commission, if they have not already done so. She advised if anyone fails to file the disclosure statement by May 1, 2010, he/she will be assessed a \$10.00 per day penalty. Ms. Kempker suggested that the Board Members mail the statement via certified mail. Ms.

Kempker stated that even if a Board Member just recently completed a Personal Financial Disclosure Statement, he/she will need to do another for a new year.

### **Motion to go into closed session**

At approximately 2:20 p.m., Mr. Hartnett 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. Fugate seconded the motion. A roll call vote was taken as follows: Randy Miltenberger – Yea; Kathy Achelpohl – Yea; Kenneth Frashier – Yea; Royce Fugate – Yea; Kevin Skibiski – Yea; Abe Adewale – Yea; Mike Freeman – Yea; Dan Govero – Yea; Mike Flowers – Yea; and, Jerany Jackson, on behalf of the Landscape Architectural Division – Yea; Motion carried. Mr. Hartnett asked that all visitors leave the room. There being none, Mr. Hartnett declared the meeting closed to the general public.

### **Return to Open Session**

At 8:00 p.m., the Board reconvened its open meeting for the purpose of adjournment.

### **Report on Circuit Court decision regarding Suspended Imposition of Sentences (SIS)**

Since Mr. Thompson had already departed the meeting, the Board Members directed Ms. Kempker to place this Circuit Court decision on the Board's May 2010 meeting agenda for discussion.

**Discuss question from Mr. Richard Kutta, E-16095 wherein he asks if the Board has a position on a Professional Engineer sealing as-built drawings or the proposed ordinance being drafted by the St. Louis-St. Louis County Metropolitan Sewer District?**

The Board Members discussed the question from Mr. Richard Kutta, E-16095, wherein he asks if the Board has a position on a Professional Engineer sealing as-built drawings or the proposed ordinance being drafted by the St. Louis-St. Louis County Metropolitan Sewer District? Upon discussion, Mr. Fugate made a motion directing Ms. Kempker to send a response to Mr. Kutta advising that the members of the Board reviewed his email and the attached proposed ordinance at their January 26, 2010 meeting. Ms. Kempker is to advise Mr. Kutta that the Board agrees with him in that the proposed ordinance would put an unacceptable burden of responsibility on the professional engineer, unless: 1. The PE who seals and signs the "As-Built Plans" was the original engineer of record who prepared the plans and had project responsibility during construction of the facilities; or, 2. Was the successor PE who, because the licensee in responsible charge is unavailable to complete the work, took over the project. Ms. Kempker is to further advise Mr. Kutta that in either situation, the Board recommends that a disclaimer paragraph be placed on the "As-Built Plans" which clearly and accurately identifies how and from whom the "As-Built" information was obtained, either by the Professional Engineer personally, under his direct supervision, or furnished by others; and, that to the best of his knowledge, the information shown is accurate and correct. The motion was seconded by Mr. Miltenberger. A roll call vote was taken and unanimously carried. Mr. Skibiski volunteered to draft the letter for Ms. Kempker.

**Discuss news article from "The Examiner" entitled, "Sanders wants changes to the county charter", submitted by Erwin Gard, LS-1449**

The Members of the Board discussed the news article from "The Examiner" entitled, "Sanders wants changes to the county charter", submitted by Mr. Erwin Gard, LS-1449. The Board Members decided that since they are giving an opinion on something that falls under Chapter 8 and not under Chapter 327, they decided to refer this matter to the Board's General Counsel. Therefore, Mr. Freeman made a motion directing Mr. Thompson to send a letter to Mr. Gard stating that the Board agrees it should be a no bid process but it needs to be done in accordance with Quality Based Selection (QBS). The Board Members directed Ms. Kempker to advise Mr. Thompson that if he is in agreement with their opinion, to please relay this information to Mr. Gard. But, if he does not agree with their decision, then Ms. Kempker is to ask Mr. Thompson to submit suggestions to the Board on how to best respond to Mr. Gard's questions. The motion was seconded by Mr. Skibiski and it unanimously carried.

**Date and Location of January 2011 Board Meeting**

The Board Members set the January 2011 meeting for January 24, 25 and 26, 2011 to be held in Jefferson City, Missouri.

**Adjournment**

A motion was made by Mr. Skibiski and seconded by Ms. Jackson, to adjourn. The motion carried unanimously. The meeting adjourned at 8:20 p.m. on Tuesday, January 26, 2010.

ATTEST:

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

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