

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

**Sahara A & B Meeting Room
Ramada Oasis Convention Center
2546 North Glenstone Avenue
Springfield, Missouri
November 9, 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, November 9, 2010 in the Sahara A & B Meeting Room, Ramada Oasis Convention Center, 2546 North Glenstone Avenue, Springfield, 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

Kenneth M. Frashier, Chair of the Architectural Division
Kathy W. Achelpohl, Member of the Architectural Division
James C. "JC" Rearden, Member of the Architectural Division
Royce Fugate, Chair of the Professional Engineering Division
Kevin Skibiski, Member of the Professional Engineering Division
Abiodun "Abe" Adewale, Member of the Professional Engineering Division
Mike Freeman, Chair of the Professional Land Surveying Division
Mike Flowers, Member of the Professional Land Surveying Division
Dan Govero, 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

Marian "Munnie" Pacino, Public Member

Others Present

Judy Kempker, Executive Director
Sandy Robinson, Executive Assistant
Shawn Hagerty, Board Investigator
Jane Coffman, Board Staff
Curtis F. Thompson, General Counsel
Linda Frashier, Member of the Public

Edwin Frownfelter, Assistant Attorney General

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

Presentation of Plaque for Recognition of Ms. Kempker's 20 years of Service to the Board

Mr. Hartnett presented Ms. Kempker with a plaque in recognition for her 20 years of service to the Board. Mr. Hartnett, on behalf of the Board, thanked Ms. Kempker for her outstanding dedication and commended her for her leadership of the Board.

Approval of Minutes

A motion was made by Mr. Adewale to approve the minutes for the August 10, 2010 Open Board meeting as submitted. The motion was seconded by Ms. Achelpohl and carried with Mr. Rearden abstaining from voting.

Update from the September 23, 2010 Professional Design Alliance Committee Meeting

Mr. Kevin Skibiski reported to the Board that he along with Mike Freeman, Bob Hartnett, and Judy Kempker met with the Professional Design Alliance Committee on September 23, 2010. Mr. Hartnett stated that the Board gave a Resolution to each of the four (4) professional associations (AIA-MO, MSPE, MSPS, and MALA) in thanks for passing changes to Chapter 327, RSMo in 2010. The Board Members in attendance also mentioned to the committee members that the Board filed an emergency rule to reduce professional renewal fees to eventually spend down its "excessive" reserves. Each professional association stated that they are having difficulty getting the Governor's office to move on appointments. AIA-MO is working on a list of candidates for possible architectural board chair appointment

and has submitted a list to the Governor's office. The Board has also tried to keep the process moving through the Division of Professional Registration. All nominations should go to the Division and to the Governor's office. Mr. Hartnett further reported that the Design Alliance talked about a possible joint letter from the associations regarding support for movement on all licensing board appointments expeditiously. A draft of such a letter will be made and circulated. Mr. Hartnett presented a handout to the Design Alliance of the Board's strategic priorities. Mr. Skibiski stated that the Board Members discussed the licensure of Structural Engineers in Missouri and/or offering the new two-day Structural Exam. This topic needs further study since there were many questions, such as "Who is already licensed as Structural Engineers that have a license in Missouri?", and, "How many would take a test if the Board gets to the point of separate licensure?" The Design Alliance Committee also discussed defining the practice of architecture and engineering, and overlapping incidental practice. The Supreme Court case ruling on Bruce Bird makes an impact on this topic. The committee decided that it will need to make the definitions of architecture and engineering more specific and less general in order to avoid having the courts decide all inter-professional complaints. It was noted that the Arkansas Board law has better definitions of architecture and engineering practice. The Design Alliance Committee also discussed legislative issues of interest. It was decided that the committee needed to support the capitol bond issue that would eventually go to a vote of the people that could move in the next legislative session. Mr. Freeman reported that the Members of the Missouri Society of Professional Surveyors (MSPS) stated that the mandatory recording of all surveys will be postponed next session. They need to develop a statute of limitations for surveys and change the definition of surveying dealing with writing of easements and preparing easements. Members of AIA-MO who were present stated that, at the present time, they did not have any legislative issues. Members of the Missouri Society of Professional Engineers (MSPE) announced that a Professional Engineer will be in the 2011 House of Representatives for the first time ever. The Board Members advised the Design Alliance Committee that they have changed the format of their statewide meetings to invite licensees to an open house reception versus a structured "forum" and have had a better attendance. It was decided to have the next Design Alliance meeting on Wednesday, January 26, 2011 which is immediately following the Board's quarterly meeting.

Update from Strategic Planning Committee

Mr. Hartnett presented a progress report on issues identified in the Board's Strategic Plan. Mr. Hartnett stated that the following objectives have been completed: Evaluate need to adjust licensee renewal fee (ongoing quarterly as part of the Board's Executive Director's Report); Create and maintain healthy policy goals for the Board's reserve fund (completed May 2010); Allow Landscape Architects to serve as chair/ranking vice chair as well as cast a vote (approved and became effective August 28, 2010); Add a fourth engineer to Board to assist with excessive work load of Engineering Division of the Board (approved and became effective on August 28,

2010); Change restrictive quorum requirement that require cancelling meetings slowing down disciplinary process and other important work plus several other changes (approved and became effective on August 28, 2010); and, Update New Board Member orientation procedure, Board Member job descriptions, and continue to expedite new Board member orientations (completed by Board's Executive Director at May 2010 meeting). Mr. Hartnett stated that the remaining goals and/or objectives are pending the appointment of a new Board Chair or are ongoing.

Update from Kevin Skibiski's Ad Hoc Committee regarding discipline specific licensing and whether Missouri should offer the new 16 hour NCEES Structural exam even though it does not currently license by discipline

Mr. Skibiski advised the Board Members that the Ad Hoc Committee regarding discipline specific licensing had not met recently; therefore, he did not have anything new to report on this matter. However, the Members of the Professional Engineering Division decided not to offer the new 16 hour NCEES Structural Exam at all in Missouri. So anyone wishing to take this exam will have to apply in a state that offers this specific exam. This applies to all new applicants as well as Professional Engineers already licensed.

Report from Subcommittee on Consistency with Discipline

Ms. Jackson reported that the Subcommittee on Consistency with Discipline had not met but that Ms. Kempker had compiled an extensive list of the Board's disciplinary action from the last 10 years which will be very helpful. The Board discussed whether a rule needed to be promulgated regarding disciplinary actions, but decided that it was not necessary. The Board Members asked Ms. Jackson to set up a meeting with the subcommittee in the near future so that a report can be given to the full Board at its January 25, 2011 meeting.

Update regarding possible elimination of the industrial exemption

The Board Members again discussed Mr. Bruce Wylie's email regarding interest in eliminating the industrial exemption clause from Chapter 327, RSMo. Ms. Kempker stated that she was directed at the Board's August 2010 meeting to poll the NCEES ListServe to see how many other states have an industrial exemption clause in their law and how many have either attempted to, or were successful at, eliminating such exemption. She was to then share those results with Mr. Wylie. Ms. Kempker reported that she had completed the poll and forwarded all results to Mr. Wylie. She further reported that she found an article in *The Magazine for Professional Engineers* which reported that NCEES had conducted a similar survey finding "28 jurisdictions exempt employees of industrial or manufacturing firms while 14 have no such exemption provisions. Of those states with exemptions for industrial

employees, many do not enforce licensure requirements on engineers who consult to those industries later in their careers, rather than work as employees.” The Board realizes it will take a lot of time, planning, and effort on the part of MSPE in order to be successful in eliminating the exemption; however, if this is something the Society decides it wants to pursue, it will have the support of the Board.

Update from Mike Freeman regarding the Professional Land Surveying Division’s recommendation that Section 327.312(3) be revised to increase 12 semester hours to 30 semester hours

Mr. Freeman advised the Board Members that the Members of the Professional Land Surveying Division presented to the Missouri Society of Professional Surveyors (MSPS), its recommendation that Section 327.312(3) be revised to increase 12 semester hours to 30 semester hours. Mr. Freeman advised the Board that MSPS was receptive to the proposal and that they will take this information to their Legislative Committee. Mr. Freeman said he will track the progress of this proposed legislation and keep the Board apprised of all activity.

Discuss a proposed amendment to Board Rule 20 CSR 2030-2.040 (Standard of Care) wherein reference to Section 106 is changed to Section 107 of the 2009 edition of the International Building Code

Ms. Kempker announced that she had received an email from Paul Wood, PE-24740, advising that he believed the reference to Section 106 of the 2009 International Building Code (IBC) was in error in Board Rule 20 CSR 2030-2.040 Standard of Care. Upon checking with former Board Member Randy Miltenberger, Ms. Kempker discovered that the IBC had changed its sections and that the reference to Section 106 in the Board’s rule should now be Section 107. Therefore, Ms. Kempker presented a proposed amendment to Board Rule 20 CSR 2030-2.040 Standard of Care which states:

20 CSR 2030-2.040 Standard of Care

PURPOSE: This rule provides the recipient and producer of professional architectural, engineering and/or landscape architectural services assurances that all services are evaluated in accordance with the 2009 edition of the International Building Code, Section 107.

The Board shall use, in the absence of any local building code, Section ~~[106]~~**107** only of the 2009 edition of the International Building Code, not including or applying any other sections referenced within Section ~~[106]~~**107**, as the standard of care in determining the appropriate conduct for any professional licensed or regulated by this chapter and being evaluated under Section 327.441.2(5) RSMo.

Upon discussion, Mr. Rearden made a motion directing Ms. Kempker to proceed with the standard rulemaking process to promulgate the proposed amendment to Board Rule 20 CSR 2030-2.040 Standard of Care. The motion was seconded by Mr. Fugate and unanimously carried. The Board considered the impact that the proposed change to Rule 20 CSR 2030-2.040 would have on small businesses. Several Board Members, namely, Ken Frashier, Kevin Skibiski, Mike Freeman, and Dan Govero are small business owners. These members felt the proposed change to Rule 20 CSR 2030-2.040 may help small businesses because the amendment is being made to clarify submittal documents and may keep businesses from having to hire an attorney for an interpretation of the law. The Board Members determined that there would be no cost to small businesses. As previously directed, this amendment will be posted on the Board's website in an effort to solicit comments from small business owners.

Report from Architectural Division

Mr. Frashier welcomed the newest member, JC Rearden, to the Architectural Division. Mr. Frashier announced that he was now the Architectural Division Chair and Mr. Rearden is now the Architectural Division Audit Chair.

Report from Professional Engineering Division

Mr. Fugate reported that, at this time, the Professional Engineering Division did not have anything to report. However, the Members of the Professional Engineering Division did want to also welcome Mr. Rearden to the Board.

Report from Professional Land Surveying Division

Mr. Freeman stated that, at this time, the Professional Land Surveying Division did not have anything to report. However, the Members of the Professional Land Surveying Division did want to also welcome Mr. Rearden to the Board.

Report from Landscape Architectural Division

Mr. Hartnett reported that at the CLARB annual meeting, Jerany Jackson was elected to be CLARB Secretary. Ms. Jackson, on behalf of the Landscape Architectural Division, also welcomed Mr. Rearden.

Please note that at approximately 9:45 a.m., Ms. Linda Frashier departed the meeting.

Executive Director's Report

Ms. Kempker presented the most recent information regarding the Board's Financial Report. She advised the Board that as of November 5, 2010, the financial balances were as follows:

Personal Service Balance was \$269,880.50. Originated with \$375,856. The Board has 71.81% of its PS funds remaining.

E&E (Expense & Equipment) Balance was \$249,347.17. Originated with \$331,587. The Board has 75.52% of its E & E funds remaining.

Fund Balance was \$3,585,794.56. Per current statute, in order to avoid a sweep of the Board's fund, the balance needs to be kept under \$3,959,943.00, or 3 times its appropriation. However, it is recommended that the Board keep a fund balance more at a level of 1.5 times its appropriation.

The Board's continuing education audits and renewals for even year renewals for each of the four professions were sent out the first of October. The Board is in the process of conducting its random continuing education audit of licensees and each Division received a status report at their meeting on Monday, November 8th. The Board audited a certain percentage of licensees plus everyone who has had a complaint filed against them during this past renewal period.

Ms. Kempker then reported that former Board Member, Rich Barr, indicated he plans to present proposed legislation to the Missouri Society of Professional Surveyors (MSPS) which would revise Section 327.011.(6), the definition of "Corporation." Mr. Barr stated it is his desire to require every architectural, engineering, land surveying and landscape architectural company to have a corporate certificate of authority regardless if they are incorporated or not. The Board discussed this matter and felt that with the articles regarding corporate certificates of authority being published in recent newsletters along with the flyers that the Board is sending to all new licensees and inserting in all renewal forms, the Board is very productive in making everyone aware of the need for corporations and LLCs to be licensed. This awareness campaign has been highly effective. A change right now, might cause major confusion among the Board's licensees. Especially since the Board has been telling them a corporate certificate of authority is NOT required if they are operating as a sole proprietor, partnership, association, or have a fictitious registration. Most entities offering the services in Chapter 327 are incorporated or registered as LLCs so the change would affect only a small portion of sole proprietors, associations, partnerships, and/or fictitious registrations. Also, the owners of all fictitious registrations have to be licensed so it would appear such a change would cause

many companies to be required to have two corporate certificates of authority. For example, if ABC Engineers is listed as the owner of a fictitious registration for XYZ Engineering and ABC has a corporate certificate of authority but not XYZ. In this case, it appears such a change would require ABC Engineers to have a corporate certificate of authority **and** XYZ Engineers to also have a corporate certificate of authority so we're looking at one company with two corporate certificates of authority and having to pay two \$200 biennial renewal fees. Ms. Kempker said she suggested to Mr. Barr that he discuss this with MSPS to make sure he has their support and then to have MSPS bring it to the Design Alliance to see if the Board and the other three professional societies are in support of it. Ms. Kempker said she also told Mr. Barr that he/MSPS would most likely not want to move forward with the proposed change unless it had the support of all of the societies as well as the Board. After much discussion, the Board decided it would not support this type of change to Section 327.011(6).

Next, Ms. Kempker provided the Board with an update on Board Rules and Rule Status. Regarding Board Rule 20 CSR 2030-6.015 – Application, Renewal, Reinstatement, Relicensure and Miscellaneous Fees **EMERGENCY AMENDMENT**, Ms. Kempker reported this Emergency Proposed Amendment was filed with SB, JCAR & SOS on July 20, 2010 and went into effect on July 30, 2010. It appeared in the *Missouri Register* on September 1, 2010 and expires on February 24, 2011. This rule was amended to reduce the Board's individual biennial renewal fee from \$60 down to \$35. This reduction will bring the Board's fund balance down at a gradual rate; however, the Board will most likely have to consider doing a fee increase in FY2017 or FY2018. Ms. Kempker explained that an Emergency Amendment was filed so that the new fee would be in effect for the upcoming renewal period. A Proposed Amendment was also filed the traditional way, which is required in order to make the fee reduction more permanent. It was filed simultaneously with the Emergency Amendment. It appeared in the *Missouri Register* on September 1st. The comment period ended on October 1st. One comment was received from a licensee who was supportive of the amendment. The Final Order of Rulemaking was filed with SB and JCAR on October 5th and with the SOS on November 4th. It is scheduled to appear in the *Missouri Register* on December 15th and in the Code on December 31st. The effective date of the rule is scheduled to be January 30, 2011.

Ms. Kempker further reported that other Rule changes which are pending are as follows: Board Rule 20 CSR 2030-2.050 – Title Block. This rule is being amended to include land surveying entities. Board Rule 20 CSR 2030-11.015 – Continuing Professional Competency for Professional Engineers. This rule is being amended to allow a one time award of ten (10) PDHs for obtaining a work related patent. Also, Board Rule 20 CSR 2030-11.035 – Continuing Education for Landscape Architects is being amended to allow a one time award of ten (10) CEUs for obtaining a work related patent. A fourth rule change in the process is the rescission of Board Rule 20 CSR 2030-14.050 – Definition of Degree in Science as Used in Section 327.391, RSMo which is no longer necessary or correct due to

recent statutory changes in Section 327.391. These proposed amendments have been forwarded to the Division of Professional Registration for review and/or approval. As previously directed, they were posted on the Board's website in an effort to solicit comments from small business owners. Ms. Kempker stated that we had not received any comments as a result of the posting.

Ms. Kempker welcomed new Board Member James C. "JC" Rearden who replaced Randy Miltenberger. Ms. Kempker stated that the Board is still waiting to hear of other Board Member appointments. Currently, the Board has four vacant positions on the Board. They are the Board Chair, the Public Member (Munnie Pacino gave her verbal resignation but Ms. Kempker had not yet seen her resignation in writing), a Professional Engineering Division Member, and a Landscape Architectural Division Member. Three members are serving in expired terms. They are Royce Fugate, Mike Freeman, and Jerany Jackson.

The next edition of the newsletter is scheduled to go out in January 2011. Ms. Kempker announced that she will need all newsletter articles by absolutely no later than December 15th but preferably by December 1st. Therefore, Ms. Kempker asked all Board Members who have not yet submitted their articles to please do so as soon as possible.

Ms. Kempker announced that the renewal forms were mailed in early October and the biennial renewal fee is now \$35. A notice explaining the reduced fee was included with the renewal form. Also included with the renewals, was a notice advising that the Board's 2012 and subsequent newsletters will only be available in electronic format; therefore, in order to receive those newsletters, the licensees were informed that they must provide us with an email address. In addition, audit notices were included for those chosen for the random continuing education audit as well as the C of A Flyer advising the Board 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 and encouraging them to make sure their corporation or LLC is operating in compliance with Chapter 327 RSMo. Ms. Kempker said the inclusion of this flyer with the renewals has been very beneficial. The Board office has received numerous applications in response to that flyer. Ms. Kempker advised the Board Members that she thought this was a very smart pro active move. These same notices will also be included in next year's renewals since only half of the Board's licensees are due to renew this year.

Ms. Kempker then gave a report on the two Attorney General Opinion requests which had been submitted to Jane Rackers, Director of Professional Registration. One was regarding "public nuisance" and the other was relating to "QBS." Ms. Rackers forwarded them to John Huff, Department Director, on January 15th and Mr. Huff made the formal requests to the Attorney General's Office on February 10th. Ms. Kempker stated that she just recently received the Opinion on QBS and that Opinion has been added to the Board's agenda for discussion. The Board is still waiting for the Opinion on Public Nuisance. As soon as that Opinion is issued

and received in the Board office, it will be scanned and sent to the Board Members.

In light of the recent article in the Jefferson City News Tribune regarding the arrest of an individual who had previously met with the Board and for whom the Board still has an open complaint case, Mr. Thompson and Ms. Kempker had discussed the possible need for security at some of the Board's meetings. Therefore, if in the future the Board Members direct Ms. Kempker to invite an individual to meet with them and they feel there is a safety concern, Ms. Kempker asked if they would please make part of their motion that she make arrangements to have the Highway Patrol posted outside the meeting room at the time of the questionable appearance. The Board was receptive to Ms. Kempker's suggestion and agreed to make the need for security a part of the Board's motion when safety is a concern.

In May 2010, Ms. Kempker prepared a Board Member Orientation Manual for the Board Members to use for easy reference. Ms. Kempker hopes that the Members all are finding the manual helpful. However, due to recent changes to Chapter 327; completion of our Strategic Plan; revision of the Attorney General Referral Form; and, updates to the Continuing Education Fact Sheets, it was necessary to revise the Board Member Orientation Manual in order to keep it accurate and up to date. Ms. Kempker made all appropriate updates and distributed replacement pages to all members. She explained that each page is numbered or marked as an appendix. She asked that each Board Member please pull out and destroy the old correspondence and insert the new. Ms. Kempker stated that she will make a continuous effort to always keep the manual current as new changes occur.

Date and Location of November 2011 Board Meeting

The Board Members discussed the date and location of the November 2011 Board Meeting. Upon discussion, the Board decided that the November meeting for 2011 will be held on November 7, 8 and if necessary, 9, 2011 in the Springfield or Branson, Missouri area. Mr. Freeman advised Ms. Kempker that it appeared to him that a new Hilton Garden Inn was being constructed near the intersection of Missouri Highway 60 and South Glenstone Avenue. He suggested that Ms. Kempker check into securing that hotel for the Board's November 2011 meeting.

Review and discuss the AG Opinion regarding QBS

The Members of the Board reviewed the letter to the Department of Insurance, Financial Institutions, and Professional Registration's Director, John M. Huff, from Assistant Attorney General Jonathan M. Hensley regarding Quality Based Selection. Given that the opinion was issued in letter format, the Board Members

were unclear if this letter constituted an official "Attorney General Opinion." Therefore after much discussion, Mr. Adewale made a motion directing Mr. Thompson to find out if the letter from Assistant Attorney General Hensley is an official "Attorney General Opinion." The motion was seconded by Mr. Freeman and carried with one abstention by Mr. Rearden.

Discuss Board Members serving as Expert Witnesses and whether or not such service is a conflict of interest

The Board Members discussed serving as Expert Witnesses and whether or not such service is a conflict of interest with the Board's General Counsel, Curt Thompson. Mr. Thompson advised the Board Members that serving as an Expert Witness would not be a conflict of interest unless the matter would result in a complaint being filed with the Board. If a complaint is filed, the Board Member would then have to recuse him/herself from voting on any issues regarding that complaint.

Disciplinary Hearing of John R. Bryan

At approximately 10:30 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. John R. Bryan. Mr. Bryan did not appear. 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. 10-005. When the hearing was concluded (at approximately 10:45 a.m.), Mr. Frownfelter was told that the Board will issue an Order soon after it has completed its deliberations. Mr. Frownfelter departed from the meeting.

Motion to Close

At approximately 10:45 a.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. Skibiski 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. The motion was seconded by Mr. Frashier. A roll call vote was taken and unanimously carried. Mr. Hartnett asked that all visitors leave the room. There being none, Mr. Hartnett declared the meeting closed to the general public.

Reconvene in Open Session

At approximately 11:05 a.m., the Board reconvened its open meeting for the purpose of conducting the disciplinary hearing of Unified Design Services, LLC.

Please note at approximately 11:05 a.m., Mr. Frownfelter rejoined the meeting.

Disciplinary Hearing of Unified Design Services, LLC

At approximately 11:05 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. Unified Design Services, LLC. No representative or General Counsel appeared for Unified Design Services, LLC. 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. 10-004. When the hearing was concluded (at approximately 11:25 a.m.), Mr. Frownfelter was told that the Board will issue an Order soon after it has completed its deliberations. He then departed.

Motion to Close

At approximately 11:25 a.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. Govero 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. The motion was seconded by Ms. Jackson. A roll call vote was taken and unanimously carried. Mr. Hartnett asked that all visitors

leave the room. There being none, Mr. Hartnett declared the meeting closed to the general public.

Reconvene in Open Session

At approximately 1:15 p.m., the Board reconvened its open meeting for the purpose of conducting probation violation hearings of David Fenton and Jon Langerak.

Probation Violation Hearing of David Fenton

At approximately 1:15 p.m., the Board conducted a Probation Violation 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 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. 09-005. When the hearing was concluded (at approximately 1:56 p.m.), Mr. Fenton and Mr. Frownfelter were told that the Board will issue an Order soon after it has completed its deliberations. Mr. Fenton then departed.

Probation Violation Hearing of Jon Langerak

At approximately 2:00 p.m., the Board conducted a Probation Violation Hearing in the matter of the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects vs. Jon Langerak. Mr. Langerak did not appear. 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. 08-001. When the hearing was concluded (at approximately 2:15 p.m.), Mr. Frownfelter was told that the Board will issue an Order soon after it has completed its deliberations. He then departed.

Motion to Close

At approximately 2:15 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. Govero 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. Ms. Jackson seconded the motion. A roll call vote was taken unanimously 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 approximately 5:25 p.m., the Board reconvened its open meeting for the purpose of adjournment.

Adjournment

A motion was made by Mr. Govero to adjourn the meeting. Mr. Adewale seconded the motion and it unanimously carried. The meeting adjourned at 5:25 p.m. on Tuesday, November 9, 2010.

ATTEST:

Executive Director

Approved by the Board on: _____