

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

East A Meeting Room  
Sheraton Westport Hotel  
Plaza Tower  
900 Westport Plaza  
St. Louis, Missouri  
May 3, 2011

The Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects was called to order at 8:00 a.m. on Tuesday, May 3, 2011 in the East A Meeting Room of the Sheraton Westport Hotel, Plaza Tower, 900 Westport Plaza, St. Louis, 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  
James C. "JC" Rearden, 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**

Kathy W. Achelpohl, Member of the Architectural Division

**Others Present**

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

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

### **Selection of Individual to Conduct Meeting**

Since the 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. 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. Skibiski to approve the January 25, 2011 Open Board Meeting, the March 22, 2011 Open Committee of the Board Telephone Conference Call, and the March 22, 2011 Open Board Telephone Conference Call minutes as submitted. The motion was seconded by Ms. Jackson and unanimously carried.

### **Discuss Scheduling of Conference Calls – are Board Members in favor of conducting conference calls in the evenings and/or on weekends?**

Mr. Hartnett suggested to the Board that since it is difficult to obtain a quorum during the week days, that perhaps the Board should consider conducting conference calls in the evenings and/or on weekends. After much discussion, the Board Members directed Ms. Kempker to extend polling times from 7:00 a.m. to 7:00 p.m. each day to allow for additional time the Board Members can meet via conference call.

### **Discussion regarding timelines for the Board's Newsletter, *Dimensions***

Discussion was held regarding the timelines for the Board's newsletter, *Dimensions*, and why it takes sometimes months for the newsletter to be finalized after all articles have been submitted and approved by the Board and/or Ms. Kempker. During discussion, Ms. Kempker reported that she had talked about this matter with Sarah Mengwasser, the person who works in Administration with the Division of Professional Registration and who also works on many projects which includes formatting newsletters for a number of the various boards within the Division of Professional Registration. Ms. Kempker stated that Ms. Mengwasser has been doing a wonderful job and is great to work with and that she had no complaints other than the length of time it takes to get the newsletter in final form and distributed. While conversing with Ms. Mengwasser, Ms. Kempker stated that it was determined the delay in the newsletter was mostly attributed to the fact that the Division Director, Jane Rackers, and the Legislative Liaison, Connie Clarkston,

were doing their reviews after Ms. Kempker approved the final version of the newsletter. Ms. Mengwasser stated, in the future, she will ask Ms. Rackers and Ms. Clarkston to do their reviews simultaneously to Ms. Kempker's review and that she would give a one week deadline in which to complete the reviews. Ms. Kempker then explained that the Fall 2011 newsletter will be the last paper version distributed and that starting in 2012, all versions of the newsletter will be sent electronically which will result in an annual savings of approximately \$38,000.

### **Report from Subcommittee on "Consistency with Discipline"**

The Subcommittee Chair, Mike Flowers, reported that he had compiled a Summary of Assessed Discipline and Civil Penalties for the Board to review. He stated that the last two pages of the report should be utilized by the Board Members as a guideline when contemplating a civil penalty in a complaint case. The pages contain a list of violations, along with the minimum and maximum recommended penalty previously taken by the Board. After some discussion, it was decided that Mr. Adewale and Mr. Thompson along with Ms. Kempker will work together in an effort to establish some guidelines for assessing civil penalties in a "tabulated score sheet" format as such applies to the criteria in Section 327.077. Once the score sheet is developed, it is to be incorporated into the Motion Form that is currently being used by the Board. A draft of the revised Motion Form will be available for review by the Board at its August 2011 meeting.

Please note that at approximately 8:20 a.m., Mr. Rusty Saunders, MALA President, joined the meeting.

### **Update from Strategic Planning Committee**

Mr. Hartnett passed out an update from the Strategic Planning Committee. The handout was the update on short term initiatives. Mr. Hartnett stated that the following objectives have changed since the last quarterly report: 1) "Present to Department Director and Governor's Office on the need to expedite the appointment of a Chair in 2010 (preferably with Board experience) as well as vacant and expired terms." The objective of this goal was to prepare summary and set preliminary meeting with Department Director. Mr. Hartnett reported that an email had been sent to the Governor's Office and Professional Registration Division Director Jane Rackers on April 11, 2011. Ms. Deborah Price, Acting Director of Boards and Commissions, indicates there will be some action taken after the Legislative Session has ended. 2) "More consistency among professions when discussing complaints – may require additional time to hold joint meetings for collaboration purposes." Mr. Hartnett reported that this objective was completed by the report from the Ad-hoc Committee for Consistency on discipline. Mr. Hartnett stated that the remaining goals and/or objectives are pending the appointment of a new Board Chair or are ongoing.

**Discuss and decide if the Board wants to be an exhibitor at the 2011 Missouri Municipal League Annual Conference which is scheduled for September 11, 12, 13, and 14, 2011 at the Hyatt Regency in Kansas City, Missouri**

Ms. Kempker stated she had received a flyer from the Missouri Municipal League inviting the Board to register as an “Exhibitor” at their annual conference on September 11 and 12, 2011 at the Hyatt Regency in Kansas City, Missouri. Ms. Kempker asked the Board if they wished be an “Exhibitor” again this year. Mr. Skibiski made a motion directing Ms. Kempker to register the Board as an “Exhibitor” at the 2011 Missouri Municipal League Annual Conference for the dates of September 11 and 12, 2011. The motion was seconded by Mr. Frashier and unanimously carried. Mr. Hartnett volunteered help Board Staff man the booth on Sunday, September 11<sup>th</sup> and half of the day on Monday, September 12<sup>th</sup>. Mr. Frashier indicated that he may also be available to be at the booth for part of the time.

**Discuss whether construction staking is considered professional services or construction work**

The Board Members discussed whether construction staking is considered professional services or construction work. After much discussion, it was the consensus of the Board Members that construction staking is considered a professional service as it relates to surveying and engineering and therefore it does not come under the Prevailing Wage for Fair Labor. However, Mr. Thompson stated that the Department of Labor controls this matter and their determination will overrule the Board's.

Please note that at approximately 8:45 a.m., Mr. Andrew Bonderer, PE-27614, joined the meeting.

**Discuss ways to be more proactive with cities, counties, and fire districts, to make them more aware of Chapter 327, RSMo**

The Members of the Board discussed ways to be more proactive with cities, counties, and fire districts, to make them more aware of Chapter 327, RSMo. Mr. Govero suggested that the Board draft a tri-fold brochure letting people know when they need to hire an architect, professional engineer, land surveyor, and landscape architect. The brochure could be placed in offices of Fire Protection Districts as well as Planning and Zoning offices. It was also suggested that these brochures be at the booths when the Board is an exhibitor at the Missouri Municipal League's annual meeting and the Missouri Association of Counties' annual meeting. Upon discussion, the Board Members decided that each Division Chair is to draft some language for each Division to be submitted to Ms. Kempker to compile into a “tri-fold” brochure.

The language is to be submitted to Ms. Kempker by July 1<sup>st</sup> so that a draft of the brochure can be presented to the Board when it next meets on August 9, 2011.

**Discuss news article submitted by Greg Coats with the City of Lamar, Missouri, entitled, *Lamar R-1 School Board votes to accept proposal from Allgeier, Martin and Associates*. In this article Dr. Dennis Wilson, Lamar R-1 Superintendent, questioned the use of architects for a metal building that the school proposes to build and use as a weight room. (For informational purposes and/or discussion)**

The Board discussed the news article submitted by Mr. Greg Coats with the City of Lamar, Missouri entitled, *Lamar R-1 School Board votes to accept proposal from Allgeier, Martin and Associates*. In this article Dr. Dennis Wilson, Lamar R-1 Superintendent, questioned the use of architects for a metal building that the school proposes to build and use as a weight room. After much discussion, Mr. Rearden made a motion directing Mr. Thompson to send a letter to Ms. Melissa Randol, Deputy Executive Director and General Counsel for the Missouri School Boards' Association, advising that the Board has reviewed a newspaper article which quotes a representative of the Missouri School Boards' Association that school districts are not mandated to use architects for the construction or remodeling of school buildings. Mr. Thompson is to advise Ms. Randol that the Board has received a letter from the Missouri Attorney General's Office which confirms the Board's position that such work must be acquired through the Qualifications Based Selection (QBS) process. A copy of the Attorney General's Office QBS letter is to be enclosed. Mr. Thompson is to ask Ms. Randol to provide a response to the Board to confirm that the Missouri School Boards' Association understands that its members are bound to comply with the provisions of Chapter 327 RSMo despite the statements in the news article. Mr. Rearden also directed Ms. Kempker to send a letter to Ms. Pat Amick, Executive Director for AIA Missouri, enclose a copy of Mr. Thompson's letter to Ms. Randol as well as a copy of the QBS letter from the Missouri Attorney General's Office, and ask that AIA-Missouri's attorney also send a letter to Ms. Randol at the Missouri School Boards' Association, to enhance the awareness among the school districts regarding the requirement for architects. The motion was seconded by Mr. Fugate. A roll call vote was taken and unanimously carried.

**Update on Board's inquiry regarding whether the Attorney General letters on "Public Nuisance" and "Quality Based Selection (QBS)" are official Attorney General Opinions**

Mr. Thompson advised the Board Members that he has not been able to determine if the letters on "Public Nuisance" and "Quality Based Selection (QBS)" from the

Missouri Attorney General's Office were official opinions, but that he would continue to find out that information for the Board if the Board feels it is necessary for him to pursue the matter. Ms. Kempker then announced that copies of the Attorney General letters had been scanned and placed on the Board's web site. Upon discussion, Board Members were of the opinion that these letters were a quick and correct reference and were consistent with the Board's position. The Board Members directed Ms. Kempker to leave the letters on its web site and to continue directing the public to view the letters at the web site. The Board Members then directed Mr. Thompson to discontinue pushing the matter further in determining if the Attorney General letter on "Public Nuisance" and "Quality Based Selection (QBS)" were official opinions.

### **Discuss the Board's concern with political subdivisions that are continuing to solicit "bids" for professional services and fees**

Messrs. Rearden and Govero discussed their concerns with political subdivisions that are continuing to solicit "bid" for professional services and fees. During discussion, Mr. Thompson stated that there is no agency or elected official who has enforcement authority of the Mini Brooks Bill. In order to enforce the Mini Brooks Bill, it will require the filing of a Writ of Mandamus, Writ of Prohibition, or Injunction by a party that has standing to bring such an action. Therefore, the Board Members decided that since they were made aware of the problem, they felt that the professional societies (American Institute of Architects-Missouri (AIA-MO); Missouri Society of Professional Engineers (MSPE); Missouri Society of Professional Surveyors (MSPS); and, Missouri Association of Landscape Architects (MALA) should proceed with educating the public regarding QBS, specifically with the soliciting of "bids" for professional services and fees.

### **Discuss Curt Thompson's "Draft" newsletter article on QBS**

The Board Members reviewed and discussed Mr. Curt Thompson's "draft" newsletter article on "Quality Based Section" (QBS). The Board agreed with the article and directed Ms. Kempker to proceed with publishing it in the Board's next newsletter. If anyone from the Division of Professional Registration Administration makes any changes to the article, Ms. Kempker is to let Mr. Thompson know of the changes to determine if he agrees with the changes.

### **Discuss Curt Thompson's "Draft" newsletter article on Public Nuisance**

The Board Members also reviewed and discussed Mr. Thompson's "Draft" newsletter article on Public Nuisance. The Board agreed with the article and directed Ms. Kempker to proceed with publishing it in the Board's next newsletter pending any changes by the Division of Professional Registration Administration.

**Electronic signing and sealing of documents pursuant to Board Rule 20 CSR 2030-3.060 (please see materials previously sent)**

Mr. Adewale, Chair of the Electronic Signing and Sealing Committee of the Board, along with the Members of the Committee, JC Rearden, Mike Freeman and Jerany Jackson, stated that they were currently cataloging the information they have gathered thus far and will continue to study the matter. The Members of the Committee stated that they did not want to dictate the kind of software anyone uses and there was no way to monitor how equipment is used. The Committee Members recommended to the Board that no further action be taken at this time other than to continue to monitor the matter.

Please note that at approximately 9:50 a.m., Mr. Rusty Saunders departed the meeting.

**Disciplinary Hearing**

At approximately 10:00 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 Renner. Mr. Renner 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. 10-006. When the hearing was concluded (at approximately 10:27 a.m.), Mr. Renner and Mr. Frownfelter were told that the Board would issue an Order soon after it has completed its deliberations. They then departed.

**Motion to go into closed session**

At approximately 10:27 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. Mr. Fugate seconded the motion. A roll call vote was taken as follows: Kenneth Frashier – Yea; Kathy Achelpohl – Absent; JC Rearden – Yea; Royce Fugate – Yea; Kevin Skibiski – Yea; Abe Adewale – Yea; Mike Freeman – Yea; Dan Govero – Yea; Mike Flowers – Yea; Bob Hartnett – Yea; and, Jerany Jackson – Yea. Motion carried. Mr. Hartnett then asked Mr. Bonderer to please leave the room. Upon Mr. Bonderer's departure from the meeting, Mr. Hartnett declared the meeting closed to the general public.

### **Go Back into Open Session**

At approximately 10:55 a.m., the Board went back into Open Session for the purpose of continuing to discuss their open agenda items.

Please note that at approximately 10:57 a.m., Mr. Bonderer re-joined the meeting.

### **Discuss which Board Members would like to attend the 2011 NCARB Annual meeting scheduled for June 22, 23, 24 and 25, 2011 in Washington, D.C.; the 2011 NCEES Annual Meeting scheduled for August 24, 25, 26 and 27, 2011 in Providence, Rhode Island; and, the 2011 CLARB Annual meeting scheduled for September 15, 16, 17 and 18, 2011 in Chicago, Illinois**

The Board discussed which Members would like to attend the 2011 NCARB Annual meeting scheduled for June 22, 23, 24 and 25, 2011 in Washington, D.C.; the 2011 NCEES Annual Meeting scheduled for August 24, 25, 26 and 27, 2011 in Providence, Rhode Island; and, the 2011 CLARB Annual meeting scheduled for September 15, 16, 17 and 18, 2011 in Chicago, Illinois. Mr. Frashier stated that he wished to attend the 2011 NCARB annual meeting. Messrs. Adewale and Freeman stated they wished to attend the 2011 NCEES annual meeting. Ms. Kempker stated that she would also request out-of-state travel for the NCEES annual meeting since she has not attended an NCEES meeting in at least three (3) years. Ms. Jackson stated that she plans to attend the CLARB annual meeting and that her expenses would be covered by CLARB since she currently holds the office of Secretary. Mr. Hartnett stated he also wished to attend the CLARB annual meeting. The Board Members directed Ms. Kempker to request out-of-state travel for each of the individuals requesting to attend these meetings.

### **Report from Architectural Division**

Mr. Frashier reported that, at this time, the Architectural Division Members did not have anything to report.

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

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

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

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

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

Ms. Jackson reported that the Landscape Architectural Division Members met with Members of the Missouri Association of Landscape Architects (MALA) on Monday, May 2<sup>nd</sup>. Those present were: MALA representatives Rusty Saunders and Randy Mardis along with ASLA Representative Susan Maag. Ms. Jackson said Mr. Saunders reported at the Landscape Architectural Division meeting that there was no word yet on new appointments to the Board's LA Division. He also discussed MALA's support for Senate Bill 326 and gave a brief review on the different bills that are being discussed this legislative session.

### **LEGISLATION:**

Ms. Kempker provided the following Legislation report the Board Members:

**HB 7 – Sponsor: Silvey – Appropriates money for the expenses and distributions of the departments of Economic Development; Insurance, Financial Institutions and Professional Registration; and Labor and Industrial Relations.** Ms. Kempker reported that on April 15, 2011, a Public Hearing was scheduled. (It was noted after the Board's meeting that this bill was Truly Agreed To and Finally Passed on May 5, 2011.)

**HB 45 – Small Business Tax Relief, Sponsor: Hoskins – Changes the laws regarding the Big Government Get Off My Back Act and provides an income tax deduction for certain small businesses that create new full-time jobs. On 4-11-11, referred to Senate Committee on Senate-Ways and Means and Fiscal Oversight.** Ms. Kempker advised the Board Members that on April 27, 2011, this bill was Truly Agreed To and Finally Passed.

**HB 92 – Design-Build Contracts by School Districts, Sponsor: Molendorp – Authorizes school districts to enter into design-build contracts for construction projects. On 01-20-11, referred**

to House Committee on House-General Laws. Ms. Kempker announced that HB 92 was rolled into the Professional Registration (PR) Omni Bill.

**HB 265 – Professional Licenses, Sponsor: Smith** – This substitute requires any board, commission, committee, council, or office in the Division of Professional Registration within the Department of Insurance, Financial Institutions and Professional Registration to notify any known current employer of a change in a licensee’s license or discipline status. An employer may provide any board, commission, committee, council, or office in the division with a current list of licensed employees and request in writing to the board, commission, committee, council, or office to be notified regarding any change in the licensure status of any employee. (Companion Bill – SB 325) On 4-7-11, second read and referred to Financial and Governmental Organizations and Elections. Ms. Kempker announced that HB 265 was rolled into the Professional Registration (PR) Omni Bill. (It was noted after the Board’s meeting that this bill was Truly Agreed To and Finally Passed on May 12, 2011.)

**HB 303 – Courtesy Professional Licenses for Nonresident Military Spouses, Sponsor: Day** – Requires any state agency or board that regulates an occupation or profession to establish rules for the issuance of a courtesy license to a nonresident spouse of certain active duty military members. Ms. Kempker announced that the last action was on April 11, 2011, when HB 303 was set on the House Calendar.

**HB 402 – Architects, Professional Engineers, Land Surveyors, Landscape Architects, and Well Diggers, Sponsor: Diehl** – Increases the extent of acreage authorized for a lien on property to secure payment for work performed by an architect, engineer, land surveyor, landscape architect, or well digger. On 4-7-11, referred to Senate Committee on Senate-General Laws. Ms. Kempker reported that the last action was on April 7, 2011, - Rules - Reported Do Pass (H). HB 402 was rolled into the Professional Registration (PR) Omni Bill.

**HB 568 – Peer Review for Certain Design Professionals, Sponsor: Elmer** – Establishes a peer review process for services provided by a licensed architect, landscape architect, professional land surveyor, or professional engineer. (Companion Bill – SB 326) On 3-30-11, Pubic hearing completed. Ms. Kempker reported that the last action was on April 13, 2011, - Voted Do Pass (H). HB 568 was rolled into the Professional Registration (PR) Omni Bill.

**HB 697 – State Agency Administrative Rules, Sponsor: Smith** – Specifies that any administrative rule proposed, adopted, or

amended by a state agency after August 28, 2011, must automatically terminate six years after its effective date. **(Companion Bill – SB 350)** Ms. Kempker advised that on April 15, 2011, HB 697 was set on the House calendar. (It was noted after the Board's meeting that this bill was reported to the House with (S) on May 13, 2011.)

**HB 732 – Professional Registration and the Board of Registration for the Healing Arts, Sponsor: Brandom** – Changes the laws regarding disciplinary and administrative procedures applying to professions and business regulated by the Division of Professional Registration. **(Companion Bill – SB 303)** Ms. Kempker reported that on April 6, 2011, HB 732 was referred to House Committee on House-Rules. HB 732 was rolled into the Professional Registration (PR) Omni Bill. (It was noted after the Board's meeting that the last action was on May 10, 2011 - Second Read and Referred: Financial and Governmental Organizations and Elections (S).)

**HB 769 – Registration of Fire Sprinkler System Contractors, Sponsor: Wells** – This bill requires any contractor who engages in the installation or service of fire sprinkler systems to register with the State Fire Marshal within the Department of Public Safety. Ms. Kempker reported that on April 13, 2011, a public hearing was completed on HB 769.

**HB 774 – Unexpended State Appropriations, Sponsor: Korman** – Specifies the distribution of any unexpended state appropriation at the end of a fiscal year by a state department, agency, or office. Ms. Kempker reported that on April 20, 2011, a public hearing was completed on HB 774.

**HB 797 – Land Survey Program, Sponsor, Korman/Cauthorn** – Transfers all powers, duties, and functions of the Land Survey Program within the Department of Natural Resources to the Department of Agriculture. **(Companion Bill – SB 368)** Ms. Kempker reported that on April 5, 2011, a public hearing was completed on HB 797.

**HB 889 – Sewer Service Line Repair Fees, Sponsor: Gatschenberger** – Authorizes any city, town, village, sewer district, or water supply district to impose, upon voter approval, a fee for the repair or replacement of sewer service lines due to failure. Substitute Version 05 included the proposed wording, *“Notwithstanding any other provision of the law to the contrary, no person building a new commercial or residential structure in a county of the third classification shall be required to have an architect’s seal on any construction plans,”* but it was removed in the 06 version. Ms. Kempker reported that on April 6, 2011, a public hearing was completed on HB 889. On April 28, 2011, this

House Bill was referred to House Committee for House Rules Pursuant to Rule 25(32)(f).

**SB 220 – Sponsor: Wasson – Modifies liens for certain design professionals.** Ms. Kempker reported that on April 6, 2011, a public hearing was completed. (It was noted after the Board's meeting that this bill was Truly Agreed To and Finally Passed on May 11, 2011.)

**SB 303 – Sponsor: Engler – Modifies disciplinary and administrative procedures for professions and businesses licensed under the Division of Professional Registration, including those licensed by the Board of Registration for the Healing Arts.** Ms. Kempker reported that this is a Companion Bill to HB 732. The last action was on March 14, 2011, voted do pass as substitute from committee on Senate-Financial/Gov. Org. and Elections. SB 303 is also a part of the Professional Registration (PR) Omni Bill.

**SB 325 – Sponsor: Wasson – Requires boards, commissions, committees, councils, or offices to notify a licensee's employer of a change in the licensee's license status. (Companion Bill – HB 265)** Ms. Kempker announced that HB 92 was rolled into the Professional Registration (PR) Omni Bill. (It was noted after the Board's meeting that on May 11, 2011, emergency clause was adopted on Truly Agreed To Bill.)

**SB 326 – Sponsor: Wasson – Authorizes a peer review process for architects, landscape architects, land surveyors, and engineers, including providing for immunity from liability and prohibiting the disclosure of certain documents and testimony. (Companion Bill – HB 568)** On 4-4-11, voted do pass from committee on Senate-Financial/Gov. Org. and Elections. Ms. Kempker reported that the last action was on April 19, 2011 when it was placed on Informal Calendar.

**SB 350 – Sponsor: Dixon – Requires the sunset of all administrative rules proposed, adopted or amended after August 28, 2011, and allows an agency to repromulgate a rule that is set to sunset. (Companion Bill – HB 697)** On 3-3-11, referred to Senate Committee on Senate-Judiciary Civil/Criminal Jurisprudence. Ms. Kempker reported that the Division of Professional Registration is watching this bill closely.

**SB 368 – Sponsor: Stouffer – Transfers land survey duties from the Department of Natural Resources to the Department of Agriculture.** Ms. Kempker reported that SB 368 is a Companion Bill with House Bill 797 and that on April 11, 2011, Second Read. However, after the Board met, it was noted that on May 4, 2011, this was Referred: Tourism and Natural Resources.

**SB 380 – Sponsor: Green – Requires the state treasurer to transfer the balance in any fund in excess of 200% of the**

**previous fiscal year's expenditures into the state general revenue fund.** Ms. Kempker reported that the last action on this bill was on March 3, 2011, Second Read and Referred to Senate Ways and Means and Fiscal Oversight Committee.

### **Probation Violation Hearing**

At approximately 11:09 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. Robert Alan Walz. Mr. Walz 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. 11-001. When the hearing was concluded (at approximately 11:17 a.m.), Mr. Frownfelter was told that the Board would issue an Order soon after it has completed its deliberations.

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

Ms. Kempker presented the most recent information regarding the Board's Financial Report. She advised the Board that as of April 29, 2011, the financial balances were as follows:

Personal Service Balance was \$111,235.21. Originated with \$375,856. We have 29.60% of our PS funds remaining.

E&E (Expense & Equipment) Balance was \$145,265.59. Originated with \$331,587. We have 43.84% of our E & E funds remaining.

Ms. Kempker announced that the Board's Fund Balance was \$3,696,334.91. Ms. Kempker announced that 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 (3 x \$1,319,981). It is recommended to keep the balance more at a level of one and half times the Board's appropriation. Although the Board's fund balance at the current time is close to being 3 times its appropriation, it won't be for long because of the "reduced" \$35 renewal fee that was recently collected has already reduced the fund balance by over \$200,000 in the last 3 months.

As previously been reported by Ms. Kempker, all Information Technology (IT) services in state government have been consolidated into the state's Office of Administration (OA). Several months ago, OA came through the office and placed labels on all of the Board's computer equipment identifying it as "Property of OA ITSD." Ms. Kempker stated that she just learned the previous week that the Board will be charged approximately \$84 per month per computer for usage and support.

Upon learning this, Ms. Kempker inquired of Professional Registration Administration that since the Board initially purchased its computers and printers at what rate will OA be paying the Board back for the computer equipment and when will the Board be charged the monthly \$84/computer ITSD Service Fee. Ms. Kempker stated that she also asked if OA will back charge from the time they affixed their inventory stickers to the equipment, or, if the charges will start with the new fiscal year? PR Administration was of the impression that no payment would be made back to the boards but they did admit that after Ms. Kempker raised the question, it was a very valid one with merit, so they agreed to ask it when they meet the following week with representatives from OA ITSD. Ms. Kempker stated that this will be an additional amount of \$10,000 per year in expenditures for the Board.

Ms. Kempker provided the following update on Board Rules and Rule Status to the Board Members:

- Board Rule 20 CSR 2030-2.040 – Standard of Care. This rule is being amended to reflect the current edition of the International Building Code, Section 107.
- 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.
- Board Rule 20 CSR 2030-11.035 – Continuing Education for Landscape Architects is also being amended to allow a one time award of ten (10) CEUs for obtaining a work related patent.
- Board Rule 20 CSR 2030-14.050 – Definition of Degree in Science as Used in Section 327.391, RSMo is the rescission of which is no longer necessary or correct due to recent statutory changes in Section 327.391, RSMo.

All of the above proposed amendments had been forwarded to the Division of Professional Registration in December 2010 and have been sitting at “Division Review” since January 14, 2011. As previously directed by the Board, these amendments were posted on the Board’s website in an effort to solicit comments from small business owners. The Board had not received any comments as a result of the posting.

Ms. Kempker stated that currently, the Board has four vacant positions on the Board which include the Board Chair position, the Public Member position, a Professional Engineer Member, and a Landscape Architect Member. She also advised that there are three members serving in expired terms. Those members are Royce Fugate, Mike Freeman, and Jerany Jackson. Ms. Kempker said there are three more members serving on terms that will expire September 30<sup>th</sup> of this year. Those members are Bob Hartnett, Ken Frashier, and Kevin Skibiski. Ms. Kempker stated that she had a discussion with Professional Registration Division

Director Jane Rackers several weeks ago at which time Ms. Rackers indicated some appointments will most likely be made in June 2011.

Ms. Kempker advised the Board that on Monday, May 2<sup>nd</sup>, she was suppose to receive a notice of all House Bill 600 suspensions advising which licensees failed to come into compliance with the Department of Revenue. Upon returning to the Board's office after this meeting, she will send a letter to everyone on that list informing them that their license had suspended on April 23<sup>rd</sup>.

Ms. Kempker announced to the Board Members that 859 licensees lapsed due to failure to renew. Ms. Kempker stated that she had directed Board staff to send letters to each of these licensees along with instructions to apply for reinstatement. Mr. Flowers asked Ms. Kempker to provide a breakdown by profession of the 859 licensees who did not renew. Ms. Kempker stated that upon returning to the Board office on Wednesday, May 4<sup>th</sup>, she will gladly email the information to all of the Board Members.

Ms. Kempker stated that she has been informed that all of the APELSLA Members and Staff have promptly filed their Personal Financial Disclosure Statements with the Ethics Commission.

### **Update regarding January 26, 2011 meeting of the Professional Design Alliance**

Bob Hartnett, Ken Frashier, Kevin Skibiski, Abe Adewale, and Mike Flowers along with Ms. Kempker attended the January 26, 2011 meeting of the Professional Design Alliance. Ms. Kempker reported that she provided the Professional Design Alliance Committee with a report of the Board's financial balances and statistics from the year end report. The Committee also discussed the progress of future Board appointments and the defining of the practice of architecture and engineering as well as the overlapping incidental practice. Other topics of discussion were restraint of Trade/Practice Issues, QBS update and the Missouri Office of Administration isn't allowing Landscape Architects to be prime consultants, it is restricted to architects and engineers. Committee Members from ACECMO, AIA, MSPS and MALA provided the committee members with legislative updates. Another Professional Design Alliance meeting may be held sometime in July, 2011.

### **Date and Location of May 2012 Board Meeting**

The Board Members set the May 2012 meeting for April 30, May 1, and if necessary, May 2, 2012 to be held in St. Louis, Missouri. Since Board Members Rearden and Govero live in Jefferson County, which is just south of St. Louis, they requested that

the Board look into booking the May 2012 Board meeting at the Holiday Inn St. Louis Southwest – Viking Conference Center. Also, the Board requested that Ms. Kempker negotiate Wi-Fi with all future hotel contracts. The Board feels that free Wi-Fi would be a valuable tool to be used during all quarterly meetings since there have been numerous occasions where a search of the internet was helpful in deciding on an issue that has become before the Board.

### **Motion to go back into Closed Session**

At approximately 11:48 a.m., Mr. Hartnett called for a motion to go back into closed session to continue discussing pending litigation and complaint matters as well as any confidential or privileged communication between this agency and its attorney. Mr. Govero made a motion to go back into closed session to continue discussion pending litigation and complaint matters as well as any confidential or privileged communication between this agency and its attorney. Ms. Jackson seconded the motion. A roll call vote was taken unanimously carried. Mr. Hartnett asked that all visitors leave the room. After Mr. Andy Bonderer's departure, Mr. Hartnett declared the meeting closed to the general public.

### **Return to Open Session**

At 6:20 p.m., the Board reconvened its open meeting for the purpose of voting on Mr. Thompson's contract and adjournment.

Please note at approximately 6:20 p.m., Mr. Thompson returned to the meeting.

### **Discussion regarding possible changes to, the renewal of and voting on the renewal of Curt Thompson's contract for general counsel services**

After much discussion, Ms. Jackson made a motion to renew Mr. Thompson's contract for general counsel services to include the hourly rate increase from \$75 per hour to \$125.00 per hour. The motion was seconded by Mr. Adewale. A roll call vote was taken as follows: Kenneth Frashier – Yea; Kathy Achelpohl – Absent; James C. "JC" Rearden – Yea; Royce Fugate – Absent; Kevin Skibiski – Yea; Abiodun "Abe" Adewale – Yea; Mike Freeman – Yea; Dan Govero – Yea; Mike Flowers – Yea; Bob Hartnett – Yea; and, Jerany Jackson – Yea. Motion carried.

### **Adjournment**

A motion was made by Ms. Jackson and seconded by Mr. Adewale, to adjourn. The motion carried unanimously. The meeting adjourned at 6:25 p.m. on Tuesday, May 3, 2011.

ATTEST:

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Executive Director

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