

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

Salons A & B Meeting Room
Adams Pointe Conference Center
1400 NE Coronado Drive
Blue Springs, Missouri
Monday, August 8, 2011

The Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects was called to order at 4:00 p.m. on Monday, August 8, 2011 in the Salon A & B meeting Room of the Adams Pointe Conference Center, 1400 NE Coronado Drive, Blue Springs, Missouri. The Board met in both open and closed sessions during the meeting as reflected in the minutes. Ms. Kempker declared the meeting open for business.

Members Present

Kenneth Frashier, Chair of the Architectural Division
Kathy 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
Mike Freeman, Chair of the Professional Land Surveying Division
Dan Govero, Member of the Professional Land Surveying Division
Mike Flowers, Member of the Professional Land Surveying Division
Bob Hartnett, Chair of the Landscape Architectural Division
Jerany Jackson, Member of the Landscape Architectural Division

Member Absent

Abiodun "Abe" Adewale, Member of the Professional Engineering Division

Others Present

Judy Kempker, Executive Director
Shawn Hagerty, Board Investigator
Sandra Robinson, Executive Assistant
Jane Coffman, Board Staff
Laurie Koelling, Board Staff
Curtis Thompson, General Counsel
Edwin Frownfelter, Assistant Attorney General
Trooper Long, Missouri State Highway Patrol

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

Motion to Close

At approximately 4:05 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. Ms. Jackson 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. Govero. A roll call vote was taken and unanimously carried. Mr. Hartnett asked that all visitors leave the room. After Mr. Frownfelter and Trooper Long's departure, Mr. Hartnett declared the meeting closed to the general public.

Return to Open Session

At approximately 4:10 p.m., the Board reconvened its Open Session for the purpose of continuing to discuss its open agenda items.

Please note that at approximately 4:11 a.m., Mr. Frownfelter and Trooper Long re-joined the meeting.

Disciplinary Hearing of Larry Wayne Baker

At 4:15 p.m., the Board conducted a Disciplinary Complaint Hearing in the matter of the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects vs. Larry Wayne Baker. Mr. Baker 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. 11-002. When the hearing was concluded (at approximately 4:30 p.m.), Mr. Frownfelter was told that the Board would issue an Order soon after it has completed its deliberations.

Probation Violation Hearing of Dennis Stanley Nelson

At approximately 4:31 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. Dennis Stanley Nelson. Mr. Nelson 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. 10-001. When the hearing was concluded (at approximately 4:40 p.m.), Mr. Frownfelter was told that the Board would issue an Order soon after it has completed its deliberations.

Probation Violation Hearing of the National Architect Corporation

At approximately 4:44 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. the National Architect Corporation. No one appeared to represent the National Architect Corporation. 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. 11-003. When the hearing was concluded (at approximately 5:00 p.m.), Mr. Frownfelter was told that the Board would issue an Order soon after it has completed its deliberations.

Motion to Close

At approximately 5:00 p.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 for the purpose of

deliberation and to continue discussion of pending litigation, complaint matters, and any confidential or privileged communication between this agency and its attorney. Ms. Jackson seconded the motion. A roll call vote was taken and unanimously carried. Mr. Hartnett asked that all visitors leave the room. After Mr. Frownfelter and Trooper Long's departure, Mr. Hartnett declared the meeting closed to the general public.

Return to Open Session

At approximately 6:55 p.m., the Board went back into Open Session for the purpose of recessing until 8:00 a.m., Tuesday, August 9, 2011.

Tuesday, August 9, 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, August 9, 2011 in the Salon A & B meeting Room of the Adams Pointe Conference Center, 1400 NE Coronado Drive, Blue Springs, Missouri. The Board met in both open and closed sessions during the meeting as reflected in the minutes. Mr. Hartnett declared the meeting open for business.

Approval of Minutes

A motion was made by Mr. Skibiski to approve the May 3, 2011 Open Board meeting minutes as submitted. The motion was seconded by Mr. Govero and unanimously carried.

Update from Strategic Planning Committee

Mr. Hartnett passed out a Status Report regarding the Board's Strategic Plan. The handout was an update on short term initiatives. Mr. Hartnett stated that the following objectives have changed since the last quarterly report: 1) "Follow-up 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 he had made a phone call to Professional Registration Division Director Jane Rackers on July 20, 2011. 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 a report from the Ad-hoc Committee for Consistency on discipline, which will be presented later in the day. Mr. Hartnett stated that the remaining goals and/or objectives are pending the appointment of a new Board Chair or are ongoing.

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 aware of Chapter 327, RSMo. Ms. Kempker provided the Board Members with a draft copy of a tri-fold brochure she made for the Board Members to review and critique. Mr. Govero suggested that the Board rename the brochure from Chapter 327 State of Missouri Requirements to "What you need to know before building commercial buildings." However, since the brochure also includes noncommercial building information such as land surveying and landscape architectural services other members felt the suggested name may be misleading. Therefore, Ms. Kempker was directed to move "Chapter 327" to the bottom of the brochure and then keep all else on the cover the same. Mr. Freeman suggested that changes be made to question number 3, "Can Professional Engineers prepare and seal surveying plans?" by changing the word "plans" to "plats or maps" and add engineering surveys. This change was unanimously agreed on and will be made. Ms. Kempker stated that she would make the suggested changes and have the Board's informational brochures available at the MML and MAC annual conferences. Mr. Hartnett then recommended that Ms. Kempker also contact 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) to obtain copies of their informational brochures to be distributed at the Board's booth at the Missouri Municipal League's (MML) annual conference on September 11 and 12, 2011 as well as at the Missouri Associations of Counties (MAC) annual conference on October 27 and 28, 2011. Ms. Kempker indicated she would make contact with the societies upon her return to the office.

Please note that at approximately 8:30 a.m., Mr. Frownfelter joined the meeting.

Report from Subcommittee on "Consistency with Discipline" (This item relates to item #6 on the Closed Agenda)

At the Board's May 2011 meeting, Mr. Adewale and Mr. Thompson along with Ms. Kempker agreed to 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. A score sheet has been developed and has been incorporated into the Board's Motion Form which was used during the Division meetings on Monday, August 8th. It was the consensus of the Members of the Board to adopt the form with a few minor changes. The Board will continue discussing the score sheet later in the day during its closed session meeting.

Report from Subcommittee on Electronic Signing and Sealing of documents pursuant to Board Rule 20 CSR 2030-3.060

The Members of the Board discussed electronic signing and sealing of documents pursuant to Board Rule 20 CSR 2030-3.060. Mr. Rearden stated that he wants to view ARX, Inc.'s system which was discussed by Mr. Sam Aviram, Sales Manager for ARX, Inc., at the Board's subcommittee meeting held on March 22, 2011. However, Mr. Rearden stated he had been unable to locate the system in St. Louis, Missouri. Ms. Jackson stated that Mr. Mel Eakins, P.E., a Principal at Great River Associates, would most likely be willing to discuss and/or demonstrate to the Board, the "Practical Practitioner's Take on Electronic Signing and Sealing of Documents." Ms. Jackson stated that she thought this could be arranged for the Board's November 8, 2011 meeting in Springfield, Missouri. Ms. Jackson explained that Mr. Eakins would present a practical presentation on how to put the use of electronic seals into practice. The Board directed Ms. Jackson to ask Mr. Eakins to provide his presentation at noon on Tuesday, November 8, 2011. The Board asked Ms. Jackson to keep the presentation to one hour.

Motion to go back into Closed Session

At approximately 9:08 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 of 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 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.

Return to Open Session

At 9:30 a.m., the Board reconvened its open meeting for the purpose of continuing discussing its open agenda items.

Please note that Mr. Marvin Eaves and Mr. David Duree joined the meeting at approximately 9:30 a.m.

Update regarding work of Professional Design Alliance Subcommittee on defining the practice of architecture and engineering as well as incidental practice

Mr. Skibiski provided a report from the Professional Design Alliance Subcommittee on defining the practice of architecture and engineering as well as incidental practice. On May 26, 2011, the subcommittee met and discussed the following items:

1. The subcommittee members will work on a definition of “incompetency” as it relates to the design professional governed by Chapter 327, RSMo. The wording discussed would include the phrase “practicing outside the area of expertise, defined by education, experience and training.”
2. A discussion was held on possibly relying on a group of peers assisting the Board Members on a case by case basis, in the determination of incompetency.
3. A discussion was held on the possibility of removing from the statutes and rules the term “incidental practice”, and relying solely on competency of the individual as the basis for discipline.
4. The subcommittee members discussed the definitions of “Architect” and “Professional engineer” in Chapter 327, RSMo and the need for updating the definitions, based upon recent court rulings.
5. The subcommittee members looked at the Model Law sections of NCEES and NCARB as a starting point for discussions on the definitions. The members discussed possibly addressing Sections 327.010(5) and (6) in the Board Rules.
6. Mr. Skibiski provided excerpts from two “Conclusions of Law” issued by the Administrative Hearing Commission. One excerpt was from the Bruce Bird case and the other was from the Marvin Eaves case.

Mr. Skibiski stated that the subcommittee members are to meet again in late August or September and he was hoping to have an update from that meeting to present to the Board at its November 2011 quarterly meeting.

Disciplinary Hearing of Marvin Eaves

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. Marvin Eaves. Mr. Eaves personally appeared with legal counsel, David Duree. 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. 2008-003560. When the hearing was concluded (at approximately 10:32 a.m.), Messrs.

Eaves, Duree and Frownfelter were told that the Board would issue an Order soon after it has completed its deliberations. They then departed.

Motion to go back into Closed Session

At approximately 10:35 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 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.

Return to Open Session

At 10:44 a.m., the Board reconvened its open meeting for the purpose of holding the Disciplinary Hearing of Thomas Miller, the Probation Violation Hearing of Jon Langerak and to continue discussing the Board's remaining open agenda items.

Disciplinary Hearing of Thomas Miller

At approximately 10:46 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. Thomas Miller. Mr. Miller personally appeared with legal counsel, Tom Rynard. 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. 11-004. When the hearing was concluded (at approximately 11:23 a.m.), Messrs. Miller, Rynard and Frownfelter were told that the Board would issue an Order soon after it has completed its deliberations. Messrs. Miller and Rynard departed the meeting.

Probation Violation Hearing of Jon Langerak

At approximately 11:24 a.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 11:36 a.m.), Mr. Frownfelter was told that the Board would issue an Order soon after it has completed its deliberations. Mr. Frownfelter then departed.

Please note that at approximately 11:36 a.m., Ms. Achelpohl departed the meeting.

Does a person with a degree in architectural engineering qualify to do architecture?

Mr. Rearden asked if a person with a degree in architectural engineering would qualify to practice architecture. Upon discussion, the Members of the Board determined that a person with a degree in architectural engineering would be qualified to apply to the Board for examination or comity for a professional engineering license, provided all other qualifications were met. However, a person with a degree in architectural engineering would not be qualified to apply by comity or examination to the Board for an architectural license. In fact, if an architectural engineer practices architecture beyond incidental his/her license could be subject to discipline.

Review Kansas City Star's article regarding state building codes after Joplin tornado (For informational purpose and/or discussion)

The Board Members reviewed the article in the Kansas City Star regarding state building codes after the Joplin, Missouri tornado. Since the Board has no plans in the immediate future to pursue statewide building codes, this matter was considered for informational purposes; therefore no action was taken.

Discuss and decide if the Board wants to be an exhibitor at the 2011 Missouri Association of Counties' Annual Conference which is scheduled for October 27 and 28, 2011 at Tan-Tar-A Resort in Osage Beach, Missouri

The Members of the Board discussed having an exhibit booth at the 2011 Missouri Association of Counties' (MAC) Annual Conference which is scheduled for October 27 and 28, 2011 at Tan-Tar-A Resort in Osage Beach, Missouri. Upon discussion, the Board Members decided to have an exhibit booth at the 2011 Missouri Association of Counties' Annual Conference on October 27 and 28, 2011. Ms. Kempker stated that she and other Board staff would man the booth. Mr. Freeman stated that he would also be attending the MAC conference and volunteered to assist with the exhibit booth.

When Board Members receive copies of drawings, would they prefer that the drawings are transmitted electronically via email, or on a CD, or by hard copy? If by hard copy, what size? 24x36 or 11x17?

Ms. Kempker asked the Board Members if they would prefer copies of drawings to be transmitted electronically via email, or on a CD, or by hard copy. Most of the Board Members stated that they preferred scanned copies of full size drawings that are emailed to them and labeled with the name of the complaint case/project instead of being identified with only a number. If the Board does not have a full size drawing to scan, the Board's Investigator is to then obtain a full size drawing from the appropriate source.

Discuss Possible Revisions to Section 327.312 Land surveyor-in-training applicant for examination and enrollment, qualifications—certificate issued when; and, Board Rule 20 CSR 2030-14.040 Definition of Twelve Semester Hours of Approved Surveying Course Work as Used in Section 327.312.1(3)

Mr. Govero advised the Board Members that he is the Chair of the Education Committee for the Missouri Society of Professional Surveyors (MSPS). In that light, Mr. Govero said the Committee wants to increase the 12 semester hour route toward licensure to where future licensees will be required to obtain a total of 30 semester hours of education to become licensed. MSPS is going to try to get this proposed legislative issue supported by the Design Alliance Task Force. Mr. Govero stated that MSPS will be meeting in October 2011 and will discuss this matter further.

Report from Architectural Division

Mr. Frashier reported that at this time, the Architectural Division did not have anything to report other than that his term with the Board expires on September 30, 2011.

Report from Professional Engineering Division

Mr. Fugate reported that the Members of the Professional Engineering Division discussed the Division of Insurance's request for assistance from the Professional Engineering Division Members of the Board regarding engineering inspection reports being done in Joplin, Missouri. Ms. Kempker advised that the staff from the Division of Insurance had contacted her because they had been receiving a large amount of complaints from consumers who are stating that the contractor is not agreeing with the Engineering Report. They have asked if the Board had a committee of engineers established to review the engineer reports pro bono. Mr. Skibiski advised that he had been involved in the same sort of situation wherein the insurance company had sent an engineer from Colorado who was not licensed

in Missouri to review the home and provide a report. It should be noted that the corporation was not licensed by the Missouri Board. The homeowner had asked Mr. Skibiski to provide an engineering report. The two reports were contradictory. Ms. Kempker stated that the Division of Insurance had asked Ms. Kempker if there was a Professional Engineer on the Board who would appear at a Forum/Trade Show from 10 a.m. until 3 p.m. on September 24, 2011 at the Missouri Southern University to be available to answer engineering related questions. Mr. Skibiski stated that he would check his schedule to see if he would be available. Mr. Fugate also stated that he might be available as well, to attend the September 24th. Both Messrs. Skibiski and Fugate will contact Ms. Kempker later in the week to let her know if they are available. Ms. Kempker then stated that she had already suggested the Division of Insurance contact Mr. Bruce Wylie at MSPE to see if there were any engineers in the association who might be available to provide pro bono work that is being requested by the Division of Insurance.

Report from Professional Land Surveying Division

Mr. Freeman reported the Members of the Professional Land Surveying Division discussed a letter received from Mr. Christopher M. Wickern in which he asked the Board to answer his questions: "When is a practicing Land Surveyor required to record their survey?" and "Is a Surveyor guilty of misconduct (60.659) if they fail to record a survey that has not been recorded under other provisions of law (60.657(2))?" Since the Board is unable to interpret the law, Mr. Freeman made a motion directing Mr. Thompson to draft a letter a letter to Mr. Wickern under Executive Director's, Judy Kempker's signature advising that the Board appreciates the concerns expressed in his letter regarding certain perceived inconsistencies within Missouri statues relating to obligations of professional land surveyors to file surveys and upon review, the Board was in agreement with him that the law has limited provisions that mandate filing of plats. One provision is Section 60.650 that provides: "*For the purpose of preserving evidence of land surveys, every surveyor who establishes, restores, or reestablishes one or more corners that create a new parcel of land shall file the results of such survey with the recorder of deeds in the county or counties in which the survey is situated within sixty days after the survey has been certified.*" The Board believes that another example when a surveyor must file a survey he creates is when a client requests that the surveyor files the survey and the surveyor agrees to do so. The statues also specify that certain surveys do not have to be filed. See Section 60.657. Mr. Wickern is to be further advised that the Board cannot identify all instances in which a survey might be created and need not be filed with the recorder, but it is clear that surveys must be recorded when they fall within the provisions of Section 60.650 or the client requests it. Further requirements for filing surveys could be mandated by statutory change. The Standards Committee is encouraged to continue working with the professional societies and individual surveyors in drafting such language. Section 60.659 states: "*Any surveyor who fails to comply with any provisions of this chapter shall be guilty of misconduct in*

the practice of land surveying.” Board Rule 20 CSR 2030-2.010(15) states: *“Licensees having knowledge of any alleged violation of this Code shall cooperate with the proper authorities in furnishing information or assistance as may be required.”* Therefore, if an individual feels a land surveyor is guilty of misconduct, he or she should file a complaint with the Board. Upon receipt of the complaint, the Board will investigate and make a determination at that time. The motion was seconded by Mr. Fugate and unanimously carried.

Report from Landscape Architectural Division

Ms. Jackson stated that CLARB's annual meeting is scheduled for September 15, 16, 17 and 18, 2011 in Chicago, Illinois. Both Ms. Jackson and Mr. Hartnett will be attending the meeting. This meeting will be held at the Wit Hotel, which is very expensive. Mr. Hartnett stated that he intended to ask CLARB to set future meetings at less expensive hotels.

Executive Director's Report

Ms. Kempker presented the most recent information regarding the Board's Financial Report. She advised the Board that as of August 5, 2011, the fund balances were as follows:

Personal Service Balance was \$350,993.46. Originated with \$375,856. The Board has 93.39% of its PS funds remaining.

E&E (Expense & Equipment) Balance was \$313,414.63. Originated with \$331,587. We have 94.52% of our E & E funds remaining.

Fund Balance was \$3,575,422.98. Although the Board's fund balance at the current time is still close to being 3 times its appropriation, it won't be for long with the "reduced" \$35 biennial renewal fee that was collected. The Board's fund balance has decreased an additional \$100,000 since the Board's last meeting, for a total reduction of \$300,000 in the fund balance within the last year.

The Board's FY2012 Budget Request, which was submitted via HB7, was truly agreed and finally passed and approved by the Governor on June 10, 2011. The Board's FY2012 budget will remain the same as what was appropriated in the FY2011 budget.

For FY 2012, the Board was appropriated a total of \$707,443 for Expense and Equipment and Personal Service (\$331,587 was appropriated for E&E and \$375,856 for PS); \$122,100E for transfers (i.e., AHC & AG); and, \$278,472E for payment of operating expenses to PR. Fringe Benefits expenses are not included in the Board's appropriation but they run approximately \$105,462/year.) This last

fiscal year (FY2011), the Board lapsed approximately \$57,500 in its PS and \$111,000 in its E&E.

Ms. Kempker discussed past legislation with the Board. Items of interest to the Board are as follows:

SB325 – This Bill addresses two issues related to the professions regulated by the APELSLA Board: They are:

1.) LIENS FOR ARCHITECTS, ENGINEERS, LANDSCAPE ARCHITECTS, AND LAND SURVEYORS (Section 429.015)

Currently, architects, engineers, landscape architects, land surveyors, and corporations licensed to do the work of these professions who perform work on buildings or land have a lien on the building or land to the extent of one acre. This act increases the lien to encompass three acres.

2.) STATUTE OF LIMITATIONS FOR ACTIONS AGAINST LAND SURVEYORS (Section 516.098)

Under current law, a person must file a lawsuit based on errors in a land survey within five years of discovering the error. This act modifies this deadline to require that the lawsuit against the land surveyor be filed within ten years from the completion of the survey.

The Final Action on this bill was that it was truly agreed and finally passed. Governor Nixon signed it on July 7, 2011 with its effective date of August 28, 2011.

SB220 – This Bill increases the lien to encompass three acres and changes the statute of limitations for actions against land surveyors from 5 years after the discovery of an error or omission to 10 years from the completion of the survey as was passed in SB325. However, this act also authorizes the establishment of a peer review process for architects, professional engineers, professional land surveyors, or landscape architects.

Peer reviewers and each person who testifies before them, provides information to them, acts upon their recommendation, or participates in the peer review process are immune from civil liability for these actions, as long as the actions are performed in good faith, without malice and are reasonably related to the scope of inquiry of the peer review process.

Certain documents created during the peer review process are privileged and are prohibited from being released to any person. These documents are not admissible in any judicial or administrative action for failure to provide appropriate architectural, landscape architectural, land surveying, or engineering services. A person who participated in the peer review process shall not be

permitted or required to disclose information they learned from the peer review process.

This Bill does not limit the authority of the Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects to obtain information from a peer reviewer.

FINAL ACTION on SB220: This bill was also truly agreed and finally passed; however, Governor Nixon VETOED it on July 11, 2011.

Ms. Kempker provided the Board Members with the following update of amendments to Board Rules:

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.

Also, 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.

A fifth 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.

Ms. Kempker stated that all of these proposed amendments had been forwarded to the Division of Professional Registration in December 2010 and have been sitting at “Division Review” since January 11, 2011 and at Department/GO Review/Approval since 5/19/11. Ms. Kempker said that she had inquired of Professional Registration Division staff on Thursday morning, August 4th as to when the Board could expect these rules to get filed and as of the close of business on August 5th, Ms. Kempker had not yet received a response.

Currently, the Board has four vacant positions on the Board (Board Chair, Public Member, PE Member, and LA Member); three members serving in expired terms (Royce Fugate, Mike Freeman, and Jerany Jackson); and, three other Board Members serving on terms that will expire September 30th of this year (Bob

Hartnett, Ken Frashier, and Kevin Skibiski). Ms. Kempker stated that she had a discussion with Jane Rackers, Division Director for the Division of Professional Registration, several weeks ago and Ms. Rackers indicated some appointments were scheduled to be made prior to our August Board Meeting; however, since there was talk of the Governor calling a special session in September, Ms. Kempker suspected they have now decided to hold off with making any appointments until after that session so that they wouldn't have withdraw the appointments and then do reappointments again after the special session ended.

Ms. Kempker announced that the newsletter is at State Printing and is scheduled to be mailed out around the first part of September. It will be the Board's last paper newsletter. All others will be distributed electronically. Ms. Kempker is planning for the next newsletter to go out in the Spring of 2012 (March or April).

The Division of Professional Registration has received the approval and support of the Department of Insurance, Financial Institutions and Professional Registration to replace Professional Registration's current licensing system, PROMO. The new system should accommodate all of the Board's current business requirements that are used in the existing PROMO system as well as provide for many new and/or unmet business requirements that currently do not exist in PROMO. However, before proceeding with signing on for a new licensing system, the Division of Professional Registration is requesting written confirmation from each of the licensing boards stating their support of this project before moving forward. This written confirmation is to include the fact that the Board is willing and able to obligate the necessary funds in order to complete the project. A commitment for paying for the new licensure system cannot be completed without the written confirmation and such confirmation must be received from ALL boards before the Division of Professional Registration will move forward. The new system should provide advanced technologies and a lot more efficiencies than what are currently being provided by the existing PROMO system. Therefore, Ms. Kempker suspects all of the other boards will support it. The "estimated" cost of the new licensing system (\$1.9 million) has already been figured into the Board's projections so if the Board supported the purchase of the new licensing system it should not affect the Board's fees or have a huge impact on the Board's fund balance. In fact, the Board's estimated cost allocation (which is based on its 3 year licensee average) of the new system is \$118,560. Since the Board has lapsed over \$170,000 in its appropriation this past fiscal year, that amount alone is more than the projected expense of the new system. According to the Board's five year projections, the Board should still be able to operate for at least 4, 5, or more, years at the reduced biennial renewal fee of \$35. After some discussion, Mr. Freeman made a motion directing Ms. Kempker to notify the Division of Professional Registration that this Board is in favor of going forward with the new licensing system. The motion was seconded by Mr. Fugate and unanimously carried.

Ms. Kempker announced that Ms. Jan Gilliam, a Licensing Technical II with the Board, celebrated 15 years of service on August 6, 2011. Ms. Gilliam is primarily

responsible for processing all of the architectural and engineer intern applications. She was awarded a wall plaque during a staff meeting in late July. Ms. Kempker reported that Ms. Gilliam is an exceptional employee and an extremely valuable asset to the Board. The Board Members directed Ms. Kempker to convey a “thank you” to Ms. Gilliam on behalf of the Board.

Date and Location of August 2012 Board Meeting

The Board noted that the NCEES Annual Meeting will be held on August 22, 23, 24, and 25, 2012 in St. Louis, Missouri. Therefore, the Board’s August 2012 meeting will be held in the Kansas City, Missouri area on August 6, 7, and if necessary 8, 2012.

Ms. Jackson asked if Board Members other than the Members of the Professional Engineering and Professional Land Surveying Divisions could attend the NCEES Annual Meeting which will be held in St. Louis, Missouri in 2012. Ms. Kempker stated that all Board Members would be welcome at the meeting and encouraged to attend the meeting but that she would need to check with Administration regarding reimbursement of expenses incurred. Therefore, Ms. Jackson made a motion encouraging all Members of the Board and Board Chair, if appointed; to attend the NCEES Annual Meeting will be held on August 22, 23, 24, and 25, 2012 in St. Louis, Missouri. The motion was seconded by Mr. Frashier and unanimously carried.

Motion to Go Back Into Closed Session

At 1:25 p.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 of 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 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.

Return to in Open Session

At approximately 5:40 p.m., the Board reconvened its open meeting for the purpose of discussing one remaining item on the Open Agenda and to adjourn.

Update on Board directed letter sent by Curt Thompson to Missouri School Board Association and their response regarding 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 the 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.)

The Members of the Board discussed the letter sent by Mr. Thompson to the Missouri School Board Association and their response regarding 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, Martina and Associates*. Upon discussion, Mr. Rearden made a motion directing Mr. Thompson to send a follow-up letter to Ms. Melissa Randol, Deputy Executive Director and General Counsel for the Missouri School Boards' Association, advising that the Board is waiting on a response to its May 10, 2011 letter confirming 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 newspaper article. The motion was seconded by Mr. Skibiski. A roll call vote was taken and unanimously carried.

Adjournment

A motion was made by Mr. Govero and seconded by Mr. Skibiski to adjourn. The motion carried unanimously. The meeting adjourned at approximately 5:49 p.m. on Tuesday, August 9, 2011.

ATTEST:

Executive Director

Approved by the Board on: _____