

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

Salon B Meeting Room  
Holiday Inn Southwest & Viking Conference Center  
10709 Watson Road  
St. Louis, Missouri  
May 1, 2012

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 1, 2012 in the Salon B Meeting Room at the Holiday Inn Southwest & Viking Conference Center, 10709 Watson Road, 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**

James C. "JC" Rearden, Chair of the Architectural Division  
Kenneth M. Frashier, Member of the Architectural Division  
Kathy W. Achelpohl, 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  
Robert N. Hartnett, Chair of the Landscape Architectural Division  
Jerany L. Jackson, Member of the Landscape Architectural Division

**Member Absent**

Daniel L. Govero, Member of the Professional Land Surveying Division

**Others Present**

Judy Kempker, Executive Director  
Sandra Robinson, Executive Assistant  
Jane Coffman, Board Staff  
Kevin Oligschlaeger, Board Investigator  
Curtis F. Thompson, General Counsel  
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, Ms. Jackson nominated Mr. Bob Hartnett to conduct the remaining business of the meeting. Mr. Adewale 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. Adewale to approve the minutes of the January 31, 2012 Open Board meeting, the March 2, 2012 Open Sub-committee of the Board Telephone Conference Call, the March 30, 2012 Open Sub-committee of the Board Telephone Conference Call, and the April 19, 2012 Open Sub-committee of the Board Telephone Conference Call as submitted. The motion was seconded by Ms. Jackson and unanimously carried.

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

Mr. Hartnett gave a progress report to the Board Members 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 the 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 requires 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.

**Discussion Regarding Possible Changes to, and the Renewal of, Curt Thompson's Contract for General Counsel Services and an update on the retention of a full-time General Counsel employee**

The Board Members discussed the possible changes to, and the renewal of, Mr. Curt Thompson's contract for General Counsel Services. Mr. Thompson stated that even with his current medical problems, he would still be able to serve as the Board's General Counsel. Upon discussion, Mr. Fugate made a motion to renew Mr. Thompson's contract as the Board's General Counsel. The motion was seconded by Mr. Rearden and unanimously carried.

Mr. Rearden asked Ms. Kempker to provide an update on the retention of a full-time General Counsel employee. Ms. Kempker stated that she had checked with Ms. Jane Rackers, Division Director for the Division of Professional Registration and was told that at this point she had not heard any more from the Governor's Office as to the hiring of a full-time General Counsel. Ms. Kempker stated that as soon as she had any more information to report that she would immediately advise the Board Members.

**Update regarding February 1, 2012 Meeting of the Professional Design Alliance**

Bob Hartnett, Ken Frashier, Kevin Skibiski, Abe Adewale, and Jerany Jackson along with Ms. Kempker attended the January 26, 2011 meeting of the Professional Design Alliance. The Board Subcommittee provided a report on Defining Incidental Practice as it relates to Architects and Engineers. ACEC/MSPE and AIA provided QBS updates. A request was received from MALA regarding possible inclusion on QBS law. Other topics of discussion were gubernatorial appointments update for all professions; discussion on legislative changes regarding appointment of the Board Chair; and, possible revisions to the Board's Rule for defining Standard of Care. No future Professional Design Alliance meeting has been set but the group may look into having another meeting in approximately three (3) months.

**Discuss and decide if the Board wants to be an Exhibitor at the 2012 Missouri Municipal League Annual Conference which is scheduled for September 9, 10, 11, and 12, 2012 at the Tan-Tar-A in Osage Beach, 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 9, 10, 11, and 12, 2012 at Tan-Tar-A, Osage Beach, Missouri. Ms. Kempker asked the Board members if they wished to be an "Exhibitor" again this year. Mr. Skibiski made a motion directing Ms. Kempker to register the Board as an "Exhibitor" at the 2012 Missouri Municipal League Annual Conference for the dates of September 9 and 10, 2012. The motion was seconded by Mr. Rearden and

unanimously carried. Messrs. Skibiski and Freeman volunteered to assist Board Staff man the booth on Sunday, September 9<sup>th</sup> and Monday, September 10<sup>th</sup>.

### **Update and/or Distribution of Board Shirt Order from Lands End**

Ms. Robinson had distributed Board shirts to each Board Member on Monday, April 30<sup>th</sup>. The Board Members indicated that they were satisfied with their order. Ms. Robinson stated that any future shirt order would be at a lower cost since the set-up fee was paid with the previous order from Lands End. Lands End will keep the Board's logo information on file for any and all future orders the Board Members may request.

### **Update from the Sub-committee on Defining the Practice of Architecture and Engineering as well as Incidental Practice**

Mr. Skibiski provided a packet of information from the Sub-committee on defining the practice of architecture and engineering as well as "Incidental Practice." Mr. Skibiski stated that the Architectural Division Members presented the following Amendment to Section 327.091:

"Any person practices as an architect in Missouri who renders or offers to render or represents himself or herself as willing or able to render service or creative work related to architectural planning and design, which requires architectural education, training, relevant work experience and licensure. Only an architect may provide services and work such as consultation and aesthetic of any non-exempt building and site improvements or additions or alterations thereto. The services of an architect may include the preparation of drawings, specifications and related documents, expert testimony, and the coordination of services furnished by structural, civil, mechanical and electrical engineers and other consultants as they relate to architectural work. An architect may provide structural engineering services when the project size and type does not require a licensed engineer.

Mr. Skibiski presented proposed changes to Section 327.101, Unauthorized practice prohibited – persons excepted. Mr. Skibiski proposed the following amendments to Section 327.101(5):

(5) Any person who renders architectural services in connection with the construction, remodeling or repairing of any **exempt** privately owned building [described in paragraphs (a), (b), (c), (d), and (3) which follow,] **defined in the Board Rules**, and who indicates on any drawings, specifications, estimates, reports or other documents

furnished in connection with such services that the person is not a licensed architect.

[(a) A dwelling house; or

(b) A multiple family dwelling house, flat or apartment containing not more than two families; or

(c) A commercial or industrial building or structure which provides for the employment, assembly, housing, sleeping or eating of not more than nine persons; or

(d) Any one structure containing less than twenty thousand cubic feet, except as provided in (b) and (c) above, and which is not a part or a portion of a project which contains more than one structure, or

(e) A building or structure used exclusively for farm purposes;

(6) Any person who renders architectural services in connection with the remodeling or repairing of any privately owned building described in paragraphs (a), (c), (d) and (e) of subdivision (5) of this section or for a multiple family dwelling house, flat or apartment containing not more than four families, and who indicates on any drawings, specification, estimates, reports or other documents furnished in connection with such services that the person is not a licensed architect;

(7)] **(6)** Any person or corporation who is offering, but not performing or rendering, architectural service if the person or corporation is licensed to practice architecture in the state or country of residence or principal place of business.

Mr. Skibiski then presented a Proposed Rule Draft Defining Exempt and Non-Exempt Buildings. The Proposed Rule is as follows:

A. Non-Exempt Buildings

(1) Buildings requiring either an Architect or an Engineer Services

Occupancy Classification	Total Occupant Load/Dwelling Units/Stories	Total Area
A-Assembly	49 or less occupants	350-750 sf
B-Business	49 or less occupants	5,000 sf
M-Mercantile	49 or less occupants	1,500 sf main 3,000 sf upper
Storage	120 or less occupants	Less than 60,000 sf

(2) Buildings requiring both Architects and Engineer Services:

Occupancy Classification	Total Occupant Load/Dwelling Units/Stories	Total Area
A-Assembly	50 or more	more than 350 to 750 sf
B-Business	50 or more	more than 5,000 sf
E-Education	All	
F1, F2 Factory	200 or more	More than 10,000 to 20,000 sf
H-Hazardous	10 or more	2,000 sf or more
I-Institutional	All	
M-Mercantile	50 or more	1,500 sf main 3,000 sf upper
Storage	121 or more	60,000 sf or more
R-1, R-2, R-3, R-4 Residential	4 or more Dwelling Units or More than 3 stories	

(3) Buildings requiring, at a minimum, Engineer Services:

Occupancy Classification	Occupant Load/Dwelling Units/Stories	Total Area
F1, F2 Factory, Utility	199 or less occupants	5,000 to 20,000 sf
H-Hazardous	9 or less occupants	1,999 sf or less

When the work is an addition or alteration to a Classification or Occupancy or Area above, the resulting whole area after the addition or alteration, not just the addition or alteration should be considered.

B. Exempt Buildings

- (1) A single-family dwelling house,
- (2) A multiple family dwelling house, flat or apartment containing not more than four families, or family dwelling units,
- (3) Any separated garage or storage unit which is appurtenant or accessory to either (1) or (2) above,
- (4) A building or structure used exclusively for farm purposes.

Mr. Skibiski then presented a Proposed Statute defining "Incidental Practice". The Proposed Statute is as follows:

## **Incidental Practice, Defined**

Incidental practice is the performance of other professional services licensed under Chapter 327 that are related to a licensee's work; and is secondary and substantially less in scope and magnitude when compared to the work performed by the licensee in their licensed profession.

This incidental work shall be safely and competently performed by the licensee without jeopardizing the health, safety and welfare of the public. The licensee shall be qualified by education, training, and experience, as determined by the Board and in Sections 327.091, 327.181, 327.272 and 327.600, RSMo, to perform such incidental work.

Mr. Skibiski presented an Amendment to Section 327.181, RSMo. It is as follows:

### **Practice as professional engineer defined-use of titles, restrictions.**

327.181.1 Any person [practices] **practicing** in Missouri as a professional engineer who renders or offers to render or holds himself or herself out as willing or able to render any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, **expert technical testimony**, evaluation, planning, design and design coordination of engineering works and systems, **planning the use of land, air, and water**, [engineering] teaching of advanced engineering subjects or courses related thereto, **performing** engineering surveys **and studies**, the coordination of services furnished by [structural, civil mechanical and electrical] engineers and other consultants as they relate to engineering work and the inspection of construction for the purpose of compliance with drawings and specifications, any of which embraces such service or work, either purpose or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, or projects and including such architectural work as is incidental to the practice of engineering; or who uses the title "professional engineer" or "consulting engineer" or the word "engineer" alone or preceded by any word indicating or implying that such person is or holds himself or herself out to be a professional engineer; or who shall use any word or words, letters, figures, degrees, titles or other description indicating or implying that such

person is a professional engineer or is willing or able to practice engineering.

**2. Professional engineers shall be in responsible charge of all engineering design of buildings, structures, products, machines, processes, and systems that can affect the health, safety, and welfare of the public.**

[2] **3.** Notwithstanding any provision of subsection 1 of this section, any person using the word “engineer”, “engineers”, or “engineering”, alone or preceded by any word, or in combination with any words, may do so without being subject to disciplinary action by the board so long as such use is reflective of that person’s profession or vocation and is clearly not indicating or implying that such person is holding himself or herself out as being a professional engineer or is willing or able to practice engineering as defined by this section.

**4. Design coordination includes the review and coordination of those technical submissions prepared by others, including as appropriate and without limitation, consulting engineers, architects, landscape architects, surveyors, and other professionals working under the direction of the professional engineer.**

**5. Engineering surveys include all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects, but exclude the surveying of real property for the establishment of land boundaries, rights-of-way, easements, and the dependent or independent surveys or resurveys of the public land survey system.**

Lastly, Mr. Skibiski presented an Amendment to Section 327.191, RSMo. It is as follows:

**Unauthorized practice prohibited, persons excepted.**

327.191. No person shall practice as a professional engineer in Missouri, as defined in section 327.181 unless and until there is issued to such person a professional license or a certificate of authority, **if required**, certifying that such person has been duly licensed as a professional engineer or authorized to practice engineering in Missouri, and unless such license or certificate has been renewed as provided in section 327.261; provided that section 327.181 shall not be construed to prevent the practice of engineering by the following persons:

(1) Any person who is an employee of a person holding a currently valid license as a professional engineer or who is an employee of a person holding a currently valid certificate of authority pursuant to this chapter, and who performs professional engineering work under the direction and continuing supervision of and is checked by one holding a currently valid license as a professional engineer pursuant to this chapter;

(2) Any person who is a regular full-time employee of a person or any former employee under contract to a person, who performs professional engineering work for such employer if and only if all such work and service so performed is done solely in connection with a facility owned or wholly operated by the employer and occupied or maintained by the employer of the employee performing such work or service, **and does not affect the health, safety, and welfare of the public;**

(3) Any person engaged in engineering who is a full-time, regular employee of a person engaged in manufacturing operations and which engineering so performed by such person relates to the manufacture, sale or installation of the products of such person **that does not affect the health, safety, and welfare of the public;**

(4) Any holder of a currently valid license or certificate of authority as an architect who performs only such engineering work as is incidental and necessary to the completion of architectural work lawfully being performed by such architect;

(5) Any person or corporation who is offering, but not performing or rendering, professional engineering services if the person or corporation is licensed to practice professional engineering in the state or country of residence or principal place of business.

Mr. Flowers then stated that the Professional Land Surveying Division Members chose not to submit any changes, edits, or additions to the Missouri Revised Statutes (Section 327.272, RSMo) defining "Professional Land Surveying" at this time.

Ms. Jackson stated that she had made changes to Chapter 327, which included the addition of "Professional" to the title Landscape Architect and the elimination of the waiver allowing an Architect, Professional Engineer, or Professional Land Surveyor to practice Landscape Architecture. Other changes made were to the grammar and minor "clean-up" to Chapter 327.

Mr. Skibiski stated he anticipated that the Board will have a more complete review of the Sub-committee's findings and any updates of changes to the definitions of

each discipline and the definition of “Incidental Practice” at its August 2012 meeting.

**Discussion of possible Recission of Board Rule 20 CSR 2030-2.040 Standard of Care as it Relates to Comments Submitted by Bill Quatman, A-4887**

Mr. Bill Quatman sent a letter to the Board stating that the Standard of Care rule is a cause for concern and should be rescinded because it misstates the “standard of care” as set out in Missouri Approved Jury Instructions (MAI) and Missouri case law on the standard of care for design professions. Mr. Quatman and AIA/Missouri urged the Board to repeal 20 CSR 2030-2.040, Standard of Care, for the following reasons:

1) The regulation is inconsistent with section 2.010(3), Missouri court cases and jury instruction; 2) Section 107 of the 2009 IBC relates only to building construction and does not encompass the wide variety of other design services, e.g. bridges, roads, treatment plants, surveys, etc.; 3) Section 107 is titled “Submittal Documents” and is aimed at building officials and the submittal process, rather than on the standard of care for professional practice; and, 4) The standard of care cannot be codified in 2 pages of the IBC, as it requires expert testimony unique to the individual area of practice in questions. Upon discussion, the Board Members decided that the Subcommittee on Incidental Practice can also review this matter and have a draft ready for review at the Board’s August 2012 meeting.

**Update from Dan Govero regarding 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)**

Since Mr. Govero had not yet arrived at the meeting, Ms. Kempker stated that Mr. Govero did not have any new information regarding the 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 had previously reported that the Board members of the Missouri Society of Professional Surveyors (MSPS) voted at their last meeting to proceed with the proposed revisions to Section 327.312 through the legislative process which would require a minimum of 30 semester hours of surveying coursework with 5 of those hours being in Legal Aspects of Boundary Survey. Mr. Govero had stated that MSPS will be handling this change through the legislative process but no bill number has yet been assigned.

### **Report from Architectural Division**

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

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

Mr. Fugate reported that, during the Professional Engineering Division's meeting on April 30, 2012, they discussed an email received from Mr. Martin Kator, Environmental Specialist IV with the Missouri Department of Natural Resources (DNR), inquiring if the Board prohibits Spill Prevention Control and Countermeasure (SPCC) Plan self-certification. The Division Members directed Ms. Kempker to respond to Mr. Kator advising that at their April 30, 2012 meeting, the Members of the Professional Engineering Division revisited his email inquiry regarding Self-Certifying Tier I SPCC Plans. Upon discussion, the Members of the Division decided to stand by their original response (Which was sent to Mr. Kator on March 13<sup>th</sup>) that the preparation and self-certification of SPCC Plans are engineering responsibilities. Therefore, pursuant to Section 327.181 of the law, the members determined that SPCC Plans are required to be prepared by licensed Professional Engineers.

Mr. Fugate also reported that the Division Members discussed the computer based testing with NCEES as well as the signing up for the FE Exam directly through NCEES and the impact it would have on the Board with Ms. Kempker and Ms. Jan Gilliam, Board Staff. Ms. Kempker explained that a number of states have recently been discussing on the ListServe that once the FE exam is computer based whether or not they will have NCEES do the approval of the FE exam applicants or continue that approval at the Board level. Ms. Kempker said it appeared from the online discussion that once the switch is made to Computer Based Testing (CBT) that a number of states plan to turn their FE application approval process over to NCEES. In fact, Ms. Kempker understood that this might be a lively topic of discussion at the Annual Meeting. Therefore, so that the members of the Division will be brought up to speed on the topic, Ms. Kempker had directed Ms. Gilliam to contact Pam Powell and/or Cindy Flowers with NCEES to get more information on the process so that we could weigh the pros and cons. Ms. Gilliam advised the members that she had discussed this matter with Ms. Pam Powell, Director of Exam Administration Services for NCEES. Ms. Powell explained that NCEES currently has a pre-approval program whereby the applicant completes a one page application form attesting that (a) they hold an ABET accredited degree, which could be a technology degree; (b) hold senior status; or, (c) have a favorable evaluation from NCEES. Some states require that a transcript be submitted along with the application for verification of status purposes. NCEES charges the examinee a \$30 fee for the pre-approval process. NCEES is currently working on a standardized application for use in the pre-approval process. Ms. Powell had also reported to Ms. Gilliam that boards are expressing interest in a "paperless"

application completed through the current Examinee Management System (EMS). In this case, the applicant would register for the examination as they currently do, take the examination and then the Board checks the examinee's qualifications and collects the filing/enrollment fee before enrolling them as an engineer intern. There is no cost to the applicant if this procedure is utilized; however, it appears that verification of eligibility prior to taking the examination is limited and more or less depends on the honesty of the applicant when completing the application. Qualifications are checked by the Board at the time of enrollment as an engineer intern which is after the applicant has already taken and passed the exam. Ms. Kempker stated that this procedure causes her and Ms. Gilliam great concern in the fact an individual with a technology degree could take and pass the exam and then apply to the Missouri Board for enrollment. When the Missouri Board then advises the applicant that Missouri does not accept technology degrees, Ms. Kempker fears that the applicant will be more determined to fight the Board on the denial since he/she has already passed the exam than what he/she would have been had he/she never even had the chance to take it. Ms. Kempker suggested NCEES consider processing only the applications for exam approval for those applicants who would be classified as Model Law applicants which would be anyone who has an ABET accredited degree in engineering or who can provide proof of holding Senior Status in an ABET accredited university in pursuit of a degree in engineering. Mr. Fugate stated that this information will be helpful to the Professional Division Members when they participate in discussion at the upcoming Annual Meeting.

Mr. Fugate reported that the Members of the Professional Engineering Division also discussed at their April 30<sup>th</sup> meeting an email received from Mr. Ben Ross, P.E., 2011-2012 Past Presidents Committee Chair, where he discusses MSPE's draft position statement regarding expert technical testimony. The Members of the Division stated that until the Board changes the definition of engineering in Section 327.181, the Board cannot assess civil penalties on unlicensed individuals for testifying at a court hearing. The courts would most likely override the Board's decision. Mr. Fugate stated that Mr. Skibiski had volunteered to send an email response to Mr. Ross advising that the Board did discuss adding "expert technical testimony", as well as other important edits to the definition of Professional Engineering and the other licensed professions. The Board is still editing other areas in Chapter 327, and the Board's position was to hold the proposed edits in abeyance until the final document was ready for release. Mr. Skibiski is to assure Mr. Ross that the final document will be one that strengthens the Board's ability to function, and clarifies areas of past confusion. Mr. Skibiski further is to advise Mr. Ross that the Board is hopeful to have the document ready for release after the Board's August 7, 2012 meeting.

Mr. Fugate further reported that the Professional Engineering Division Members discussed House Bill 1904 and its direct conflict with Board Rule 20 CSR 2030-21.010 – Design of Fire Suppression Systems. Mr. Fugate reported that MSPE is against HB 1904 and their lobbyist has testified against it. However, should HB

1904 pass, the law will then override Board Rule 20 CSR 2030-21.010 and the Board would need to amend its rule to allow the design of fire suppression systems to be done by NICET Level IV and III technicians in addition to professional engineers.

### **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 MALA representatives Rusty Saunders and Randy Mardis along with ASLA representatives Susan Maag and Noel Fehr on Monday, April 30<sup>th</sup>. Mr. Saunders reported that the bills which have been filed this legislative session regarding Chapter 327 and landscape architectural issues have not made any progress at this point. Ms. Maag reported that a group will be going to Washington DC to speak of perceptions for Advocacy on May 9 to 12, 2012. Ms. Maag also stated that a conference call was held with Perry Gateway on how we move ahead with QBS. Ms. Maag would like to get an update from Sam Licklider on the status regarding QBS. She also stated that ASLA would like to schedule a time with Mr. Licklider to come to Jefferson City to share with him what ASLA does.

Ms. Jackson reported that she and Bob Hartnett attended CLARB's spring meeting on February 24 and 25, 2012 in Coral Gables, Florida. Ms. Jackson stated that attendance was down from the previous CLARB meetings. Mr. Hartnett and Ms. Jackson met with ASLA representative, Julia Lent, at the spring meeting in regard to the PLA designation. Mr. Hartnett also stated that during the meeting, the transition process of the exam going to an electronic format was discussed.

Ms. Jackson stated that out-of-state approval requests have been submitted to Professional Registration Administration for Mr. Hartnett, Ms. Jackson and Ms. Kempker to travel to San Francisco, California to attend the 2012 CLARB Annual Meeting on September 6, 7, and 8, 2012. At this time, nothing has been approved.

### **Review of the Board's 5 year Financial Projections (For information and/or discussion)**

Ms. Kempker provided the Board with its five (5) year Financial Projections. This item was presented for informational purposes; therefore no action was taken.

## Legislation

Ms. Kempker provided the following Legislative status report to the Board Members:

- **HB 1030 – Flanigan – Changes the laws regarding the collection of money owed to the state and establishes a state amnesty program.** A Senate Public Hearing is scheduled for Tuesday, May 15, 2:00PM, in Senate Conference Room 2.
- **HB 1094 – Wieland – Requires the Commissioner of the Office of Administration to develop a statewide system or to contract with a third party to allow the state agencies and departments accept electronic payments.** A Senate Public Hearing Scheduled for Wednesday, May 2, 2012 at 2:45 p.m. in the Pershing Conference Room.
- **HB 1135 – Smith – 150 requires the termination of all administrative rules based on the time of promulgation and allows an agency to repromulgate a rule that is set to terminate. The companion bill in the Senate is SB 469.** A Senate Public Hearing is scheduled for Wednesday, May 2, 2:45 p.m. in the Pershing Conference Room.
- **HB 1222 – Brattin – Requires a two-year itemized zero-based budget analysis to be submitted by each state department to the chairs of the House Budget Committee and the Senate Appropriations Committee.** A House budget hearing was held on February 8, 2012.
- **HB 1280 – Elmer – Establishes a peer review process for services provided by a licensed architect, landscape architect, professional land surveyor, or professional engineer. The companion bill in the Senate is SB 667.** On May 1, 2012, Second Read and Referred: Financial and Governmental Organizations and Elections (Senate).
- **HB 1291 – Nance – Requires a person conducting a home inspection to be licensed by the Division of Professional Registration within the Department of Insurance, Financial Institutions and Professional Registration.** On 2/8/12, a House Public Hearing was Completed.

- **HB 1297 – Davis – Changes the laws regarding the professional licensure and certification requirements of current and former military personnel.** On 2/7/12, was referred to Professional Registration and Licensing (House).
- **HB 1852 – Brandom – modifies the composition of the Missouri Board for APEPLSLA (Board Chair). The companion bill in the Senate is SB 780.** On 3/21/12, the House voted do pass.
- **HB 2007 – Budget Bill.** On April 30, 2012, the House Refused to Concur, requested Senate to Recede; on 5/1/12, the Senate Refused to Recede, Grants Conference. Senate Conference Committee Appointed Senators Shaefer, Brown Kraus, Green and Curls. House Conference Committee Appointed Representatives Silvey, Stream, Hough, Lampe and Kelly.
- **HB 2082 – Marshall – makes licensure or registration of certain professions including landscape architects, elective.** On 4/12/12, was referred to Professional Registration and Licensing (House).
- **SB 469 – Dixon – Requires the sunset of all administrative rules based on the time of promulgation, and allows an agency to repromulgate a rule that is set to sunset. The companion bill in the House is HB 1135.** House Committee Substitute (HCS) Reported Do Pass H Rules Pursuant Committee.
- **SB 667 – Wasson – Creates a peer review process for architects, landscape architects, land surveyors and engineers. The companion bill in the House is HB 1280.** On 4/26/12, was Referred to Rules Committee pursuant to Rule 25(32)(f).
- **SB 780 – Wasson – modifies the composition of the Missouri Board for APEPLSLA (Board Chair). The companion bill in the House is HB 1852.** On 4/26/12, was Referred to Rules Committee pursuant to Rule 25(32)(f).
- **SB 814 – Brown – modifies provisions relating to State Land Surveyor duties.** On 3/5/12, Voted Do Pass Senate Financial and Governmental Organizations and Elections Committee.

- **SB 899 – Green – Requires a one-time transfer of certain fund balances to the state general revenue fund (Sweep Bill).** On 4/17/12, Hearing Conducted Senate Commerce, Consumer Protection, Energy and the Environment Committee.

### **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 27, 2012, the financial balances were as follows:

Personal Service Balance was \$132,581.82. Originated with \$375,856. The Board has 35.28% of its PS funds remaining.

E&E (Expense & Equipment) Balance was \$156,737.00. Originated with \$331,587. The Board has 47.35% of its E & E funds remaining.

Ms. Kempker announced that the Board's Fund Balance was \$3,845,764.14.

Ms. Kempker stated the Board's FY 2013 Budget request is still pending approval. She further stated that the Board requested no changes in its FY 2013 appropriation. However, the Governor recommended a 5% decrease related to In-State Travel, Out-of-State Travel, Professional Development, and supplies. In accordance with the Governor's recommendation, if passed via HB 7, the Board's E&E appropriation will be decreased by \$6,991. This specific amount is based on the Board's projections provided in the Class Code form which was completed during the budget process last summer. This reduction is only in the Board's E & E and not personnel service.

Ms. Kempker then announced that the House of Representatives had approved a 2% cost of living (COLA) increase for all state employees who make \$70,000 per year or less but the Senate only approved a 2% COLA for all state employees who make \$45,000 or less. If the Senate version is passed and signed by the Governor, \$5,806 will be added to the Board's FY2013 Personal Service appropriation, effective July 1, 2012.

The Board's FY 2012 Personal Service (PS) and Expense and Equipment (E&E) Appropriation was \$707,443 and the proposed PS and E&E Appropriation for the Board for FY 2013 is \$706,258. The Board's budget also includes a proposed \$122,100 for funds to be transferred for administrative costs to the General Revenue Fund (i.e., AHC & AG expenses) and \$278,472 to be transferred for payment of "operating expenses" to the PR Fees Fund.

Ms. Kempker also provided an update to the Board on Board Rules. The update is as follows:

- 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 is in the process, which 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.

The Final Orders of Rulemaking for all of these proposed amendments and the proposed rescission appeared in the *Missouri Register* on April 16, 2012 and in the *Code of State Regulations* on April 30, 2012. The code effective date for each is May 30, 2012.

The Proposed Rule for 20 CSR 2030-4.055 – Criteria to File Application Under 324.008.1 for a Temporary Courtesy License; and, the Proposed Amendments to Board Rules 20 CSR 2030-6.015 – Application, Renewal, Reinstatement, Relicensure, and Miscellaneous Fees; and, Board Rule 20 CSR 2030-11.015 – Continuing Professional Competency for Professional Engineers were all submitted to the Division of Professional Registration for review and/or approval on March 28, 2012. A review of the rules took place by Admin. representatives and Ms. Kempker on April 16, 2012, at which time Ms. Kempker was informed everything looked good and no problems were anticipated.

Ms. Kempker advised the Board that the purpose of Proposed Rule 20 CSR 2030-4.055 (Criteria to File Application Under 324.008.1 for a Temporary Courtesy License) is to state the requirements and procedures for a nonresident spouse of an active duty member of the military who is transferred to this state in the course of the member's military duty to obtain a temporary courtesy license to practice architecture, engineering, land surveying, or landscape architecture for one hundred eighty days which may be extended, at the discretion of the Board and upon receipt of an additional fee, for another 180 days.

Ms. Kempker stated that Board Rule 20 CSR 2030-6.015 (Application, Renewal, Reinstatement, Relicensure, and Miscellaneous Fees) is being amended to include a fee for a temporary courtesy license for nonresident spouses of active duty members of the military who are transferred to this state in the course of the members' military duty and to eliminate the \$10 verification fee.

Ms. Kempker advised the Board that Board Rule 20 CSR 2030-11.015 (Continuing Professional Competency for Professional Engineers) is being amended to bring it into compliance with Section 327.031, RSMo, which was recently revised to increase the number of members comprising the Professional Engineering Division of the Board from three members to four. This statutory change went into effect on August 28, 2010. Therefore, paragraph (2)(D) of this rule is being amended to reflect that change.

Ms. Kempker then advised the Board Members, that currently, the Board has three vacant positions on the Board (Board Chair, Public Member, and PE Division Member) and six members serving in expired terms (Royce Fugate, Mike Freeman, Jerany Jackson, Bob Hartnett, Ken Frashier, and Kevin Skibiski). Ms. Kempker announced that Mr. Robert S. "Bob" Shotts was just recently appointed to serve on the Landscape Architectural Division and he will be confirmed on Wednesday, May 2, 2012. Mr. Shotts previously served, for a short time, on the Board and did an excellent job. Ms. Kempker stated that she was happy to have Mr. Shotts back on the Board. According to a conversation Ms. Kempker had with Ms. Jane Rackers a week or two earlier, it appears that two or three other individuals are near-ready to be appointed to our Board. However, Ms. Rackers indicated the appointments most likely will not be made until this Legislative Session ends since there will not be sufficient time in which to get them all confirmed. It appears that the Board might be back up to (or at least close to) having a full membership again soon.

Ms. Kempker stated that she had just received a draft copy of the Board's newsletter, which is scheduled to be sent out electronically some time in early May. Ms. Kempker is still waiting for the recent rule amendments to go into effect so that they can be pulled and included. At this point, Ms. Kempker distributed draft copies of the Board's newsletter. She advised the Board Members that the newsletter has a different look from what the Board had been used to seeing. In the past, the Board was limited to using only two colors because of the cost. However, since the Board has gone green that cost barrier is no longer an obstacle. The Board can now send the newsletter in full color. Therefore, Ms. Kempker thought now might also be an opportune time to give the Board's newsletter a "facelift" which gives it a more professional look and makes it more visually appealing. Ms. Kempker stated that she hoped the Board liked the newsletter, but if not, Ms. Kempker said she can revert back to the old traditional "red, white and blue" style that everyone had been accustomed to seeing. The Board Members were very complimentary of the newsletter and its new look.

However, Mr. Hartnett suggested that the pictures on the left side of the newsletter be representative of structures in the state of Missouri. Mr. Rearden stated that he had an excellent photo of the St. Louis arch he would be happy to supply to Ms. Kempker for the newsletter. Ms. Kempker requested the link be sent to her by May 4, 2012.

Ms. Kempker then announced that the Board will use "GovDelivery" as its vehicle of delivering the newsletter to all of its licensees and code officials. Ms. Kempker had mentioned to the Board Members in an email the week before that "GovDelivery" is a new email subscription service that most of the Professional Registration Boards have started using. With "GovDelivery", the Board can now send short, informative emails to its licensees how ever often it chooses for the purpose of updating them on current issues. Ms. Kempker thinks this service, once in full swing, will assist the Board in doing a better job in communicating with its licensees. Last week, Ms. Kempker sent a "welcome" email to all of the Board's licensees encouraging them to sign up for other topics of interest. She also sent an email, via "GovDelivery", to all of the Board's licensed architects encouraging them to participate in an important NCARB Survey. Now that the Board has "GovDelivery" set up and in operation, it makes sending announcements/publications very quick and easy.

Ms. Kempker advised the Board Members that on April 1, 2012, it lapsed 861 licensees due to failure to renew. Ms. Kempker said this number is fairly consistent from year to year.

Ms. Kempker then reminded the Board Members that the NCEES annual meeting will be held on August 22, 23, 24 and 25, 2012 in St. Louis, Missouri at the Hyatt Regency St. Louis at the Arch. The registration is now open and the fee is \$450 per person. Ms. Kempker said she needed to know exactly who will be attending so that she can get each person registered and not register someone who can't attend. It's not always easy, or even guaranteed, that the Board can obtain a refund back once registered. Ms. Jackson stated that she would be only attending the Friday evening (August 24<sup>th</sup>) dinner where she will be delivering the invocation. Messrs. Hartnett, Skibiski, Adewale and Freeman stated that they would be attending the full NCEES annual meeting.

### **Date and Location of May 2013 Board Meeting**

The Board Members set the May 2013 meeting for May 6, 7, and 8, 2013 to be held in St. Louis, Missouri in the region of Westport or near the airport. 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.

### **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. Jim Cotter d/b/a Construction Design and Engineering, Inc. Mr. Cotter 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. 12-002. When the hearing was concluded (at approximately 10:47 a.m.), Messrs. Frownfelter and Cotter were told that the Board would issue an Order soon after it has completed its deliberations.

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

At approximately 10:47 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. Mr. Flowers seconded the motion. A roll call vote was taken as follows: JC Rearden – Yea; Kenneth Frashier – Yea; Kathy Achelpohl – Yea; Royce Fugate – Yea; Kevin Skibiski – Yea; Abe Adewale – Yea; Mike Freeman – Yea; Dan Govero – Absent; Mike Flowers – Yea; Bob Hartnett – Yea; and, Jerany Jackson – Yea. Motion carried. Mr. Hartnett asked that all visitors leave the room. Upon the departure of Messrs Frownfelter and Cotter, Mr. Hartnett declared the meeting closed to the general public.

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

At approximately 12:00 noon, the Board went back into Open Session for the purpose of attending the working lunch presentation given by Ms. Jackson and Mr. Hartnett regarding CLARB Training Regarding Public Welfare and Outreach.

**12:00 NOON (Working Lunch) – CLARB Training Regarding Public Welfare and Outreach**

At approximately 12:00 Noon, the Board Members and staff attended a working lunch presentation, which was held in the Kirkwood Room. The presentation was given by Ms. Jackson and Mr. Hartnett on CLARB Training Regarding Public Welfare and Outreach. The Board Members found the presentation informative and enjoyable.

Please note that at approximately 1:25 p.m., Mr. Dan Govero joined the meeting.

**Motion to go back into Closed Session**

At approximately 1:27 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. Adewale 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. Mr. Rearden 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 4:02 p.m., the Board reconvened its open meeting for the purpose of adjournment.

**Adjournment**

A motion was made by Mr. Fugate and seconded by Mr. Rearden, to adjourn. The motion carried unanimously. The meeting adjourned at 4:02 p.m. on Tuesday, May 1, 2012.

ATTEST:

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

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