The Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Professional Landscape Architects was called to order at 3:07 p.m. on Monday, April 24, 2017 in the Matson Room of the Embassy Suites St. Louis/St. Charles, Two Convention Center Plaza, St. Charles, 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**

Robert N. Hartnett, Board Chair  
James C. “JC” Rearden, Chair of the Architectural Division  
Michael L. Popp, Member of the Architectural Division  
Martha K. John, Member of the Architectural Division  
Kevin C. Skibiski, Chair of the Professional Engineering Division  
Abiodun “Abe” Adewale, Member of the Professional Engineering Division  
Craig M. Lucas, Member of the Professional Engineering Division  
Michael C. Freeman, Chair of the Professional Land Surveying Division  
Daniel L. Govero, Member of the Professional Land Surveying Division  
John Michael Flowers, Member of the Professional Land Surveying Division  
Robert S. Shotts, Chair of the Professional Landscape Architectural Division  
Noel T. Fehr, Member of the Professional Landscape Architectural Division  
Eric D. Davis, Member of the Professional Landscape Architectural Division  
Sherry Cooper, Public Member

**Member Absent**

Kelley Cramm, Member of the Professional Engineering Division

**Others Present**

Judy Kempker, Executive Director  
Shantae Duren, Board Staff
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.

**Approval of Minutes**

A. A motion was made by Mr. Skibiski to approve the January 23 and 24, 2017 Open Board Meeting minutes as submitted. The motion was seconded by Ms. John and carried with Mr. Flowers and Ms. Cooper abstaining from voting since they were not present at that meeting.

B. Mr. Skibiski made a motion to approve the minutes for the April 6, 2017 Open Committee of the Chairs of the Board Conference Call as submitted. The motion was seconded by Mr. Freeman and carried by the following committee members voting in favor of the motion: JC Rearden, Kevin Skibiski, Mike Freeman and Bob Shotts.

**Public Comment – Limited to 10 minutes**

Since no one from the Public was present, no specific issue was discussed.

*In compliance with Executive Order 17-03, the Board will hold a public hearing at 3:15 p.m. to receive comments from the public regarding the following proposed rules and/or amendments:*

At 3:15 p.m., a public hearing was held on Board Rules pursuant to Executive Order 17-03. Ms. Kempker explained that, consistent with Governor Greitens’ advocacy of reducing regulatory burdens, he has directed state agencies to follow new procedures in the promulgation of administrative rules. In Executive Order 17-03, which was issued January 10, 2017, the Governor directed all state agencies to undertake a review of existing regulations and hold hearings allowing citizens to identify regulations which might be burdensome. The Order also requires state agencies to certify that existing and proposed regulations meet a variety of criteria relating to justification, costs and benefits, and burdens. Based on this Order, the Board has undertaken review of 32 proposed Amendments/Rules which were published on the Board’s website for comment but not yet adopted as of January 1. After the Board holds its hearings on these proposals, it will then move forward with submitting its recommendations to the Governor’s office for promulgation.
The first of two hearings was held at 3:15 p.m. this afternoon in the Matson Meeting Room. No members of the public were present. The Board reviewed and discussed all of the proposed changes as were presented to the following Board Rules:

<table>
<thead>
<tr>
<th>CSR Reference</th>
<th>Description</th>
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<tbody>
<tr>
<td>20 2030-11.015</td>
<td>Continuing Professional Competency for Professional Engineers</td>
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<tr>
<td>20 2030-11.025</td>
<td>Continuing Education for Architects</td>
</tr>
<tr>
<td>20 2030-11.035</td>
<td>Continuing Education for Professional Landscape Architects</td>
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<tr>
<td>20 2030-13.010</td>
<td>Immediate Personal Supervision</td>
</tr>
<tr>
<td>20 2030-15.020</td>
<td>Easements and Property Descriptions</td>
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<tr>
<td>20 2030-21.010</td>
<td>Design of Fire Suppression Systems</td>
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<tr>
<td>20 2030-21.020</td>
<td>Engineer of Record and Specialty Engineers</td>
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<tr>
<td>20 2030-3.060</td>
<td>Licensee’s Seal</td>
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<tr>
<td>20 2030-5.160</td>
<td>State Examination Covering Chapter 327</td>
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<tr>
<td>20 2030-1.020</td>
<td>Board Compensation</td>
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<tr>
<td>20 2030-1.030</td>
<td>Procedural Rules</td>
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<tr>
<td>20 2030-4.010</td>
<td>Filing Deadline—Architects, Professional Engineers, Professional Land Surveyors, Professional Landscape Architects, Engineer Interns, and Land Surveyors-in-Training</td>
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<tr>
<td>20 2030-4.050</td>
<td>Criteria to File Application Under 327.291 and 327.392, RSMo</td>
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<tr>
<td>20 2030-5.080</td>
<td>Standards for Licensure—Professional Engineers</td>
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<tr>
<td>20 2030-11.010</td>
<td>Renewal Period</td>
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<tr>
<td>20 2030-4.060</td>
<td>Evaluation—Comity Applications—Architects</td>
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<td>20 2030-4.070</td>
<td>Evaluation—Comity Applications—Professional Engineers</td>
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<td>20 2030-4.080</td>
<td>Evaluation—Comity Applications—Professional Land Surveyors</td>
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<td>20 2030-4.090</td>
<td>Evaluation—Comity Applications—Professional Landscape Architects</td>
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<tr>
<td>20 2030-5.010</td>
<td>Special Examinations Prohibited</td>
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<tr>
<td>20 2030-5.030</td>
<td>Standards for Admission to Examination - ARs</td>
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<tr>
<td>20 2030-5.050</td>
<td>Admission to Examination—Architects</td>
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<tr>
<td>20 2030-5.055</td>
<td>Passing Grade—Architects</td>
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<tr>
<td>20 2030-5.090</td>
<td>Scope of Examination—Professional</td>
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After discussion, and taking into account justification, costs and benefits, and burdens, it was decided to approve all of these proposed changes as submitted. However, with regard to the Proposed Amendment to Board Rule 20 CSR 2030-13.010, Mr. Frownfelter had proposed some suggested changes for the Board’s consideration. Upon review of Mr. Frownfelter’s recommended changes, the Board directed him to proceed with including those changes into the Proposed Amendment by bolding and underlining the language to be added and putting in brackets the information to be deleted. Once he has the Proposed Amendment with the incorporated changes in this format, it is to then be placed back on the Board’s agenda for another public hearing at the July/August 2017 meeting.

Considerable discussion was then heard regarding Proposed Rule 20 CSR 2030-5.160 which, if passed, would require all applicants for an architectural, professional engineering, or professional landscape architectural license to pass a state specific examination covering Chapter 327, RSMo, the Board Rules, and ethics before being issued a license to practice. Mr. Frownfelter had recommended that this Proposed Rule be withdrawn since it appears to be increasing the burden on applicants to get licensed by adding another layer of examination. However, upon much discussion, it was the general consensus of the Board to proceed with this Proposed Rule because the members felt life safety of the public should be put first and this rule should increase the knowledge and awareness of our new licensees of the Board’s statute and rules which in turn protects the public. Therefore, Mr. Frownfelter was directed to keep this Proposed Rule on track for promulgation and for a second public hearing at the July/August 2017 Board Meeting.

**Update on the Board’s Strategic Plan**

Chairman Hartnett called for the committee reports on the following Strategic Plan Key Objectives:
A. Key Objective 1, Improving/updating website/making it user-friendly – Ms. John reported that this is an ongoing task and she is still working on it and will plan to have a proposed format to present to the Board at its July/August 2017 meeting.

B. Key Objective 1, Marketing package/Social Media (YouTube video – what the Board does) – Mr. Fehr suggested the Board have its four separate Open Houses on Monday, July 31st at 8:00 a.m. with the area licensees but to also hold an additional Open House on Tuesday, August 1st at 9:00 a.m. with Code Officials. He also recommended the Board award CEU Certificates to the Code Officials who attend since many of them are required to have a certain number for their positions with the Counties and/or Cities. After discussion, the Board was in favor of conducting two Open Houses and felt such would be very beneficial. It was then decided that Noel Fehr, JC Rearden and Kevin Skibiski will all work together on coming up with an agenda for the Joint Open House with Code Officials.

C. Key Objective 3, More effective use/training of technology, establish technology subcommittee – In Ms. Cramm’s absence, Mr. Skibiski gave an update on her behalf. He reported that, as a result of the conference call of the Technology Subcommittee members, they had recommended at the Board’s January 2017 meeting that the PE Division Members review applications electronically instead of using the U.S. Postal Service. This procedure has since been implemented and now all applications are posted to the secure portal and members of the Division can review them on line and respond via email. This is working well and has saved the Board on mailing costs. Since all PE applications are now being put on the portal, Ms. Kempker asked the members of the PE Division if staff should start sending the ballot sheet to all three members (excluding the Audit Chair) and take the first two matched responses realizing that some members are not able to reply as quickly due to traveling and/or work demands or if they wanted staff to continue to divide the applications and route to two members at a time. Upon discussion, it was decided that all the PE Division Members, other than the Audit Chair, should be sent an email advising applications are on the portal for their review and approval/denial and then accept the first two matched responses. Ms. Kempker was further directed to have staff send a reminder email if a response has not been received.
within a week. Ms. Kempker then reminded everyone that as a result of the Technology Subcommittee’s recommendation, the Architectural and Professional Land Surveying Divisions had also directed for their applications to be sent electronically instead of routed through the mail. Those Division Members reported that the procedure is working well for them too. The Professional Landscape Architectural Division has been reviewing their applications electronically for several years and have always been pleased with the process and had no recommendation for change.

D. Key Objective 4, Create opportunities to speak at conference and other venues – Mr. Skibiski reported several Board Members are making regular speaking arrangements and therefore he feels this topic has already been addressed. It was then decided to close this topic and remove it from future agendas.

Update from Architectural Division of the NCARB Regional Meeting held in Jersey City, New Jersey on March 9, 10 and 11, 2017

Mike Popp, Martha John, and Judy Kempker all attended the National Council for Architectural Review Boards (NCARB) Regional Meeting held in Jersey City, New Jersey on March 9, 10 and 11, 2017. Mr. Popp reported that the meeting was well attended but not a lot of resolutions were on the agenda for discussion as has been in the past. However, he said the Committee Reports were informative and the networking very valuable.

Discussion of the difference between a “technology” drawing and an “engineering” drawing

Since Ms. Cramm was not present, Mr. Skibiski gave an update on her behalf. He reported that most authorities having jurisdiction (code enforcement departments) do not require technology drawings to be submitted for review with permit applications. The reason given is that the drawings are not governed by the building code and for the most part do not have life safety implications. Ms. Kempker polled executive directors for licensing boards in other states and there seems to be some confusion as to what constitutes a “technology drawing.” For the most part, there does not seem to be any consistent licensing requirements for those producing technology drawings. The other issue raised in Ms. Cramm’s research is that many technology consultants are not engineers. The degree programs are generally under the Computer Science department (although some are under the School of Engineering) and may be Information Technology, Network Administration, Information Systems, etc. There are some Computer Engineering Degrees but they appear to be far
outweighed by non-engineering degrees when it comes to technology. The industry relies on BICSI (Building Industry Consulting Service International) for certification of IT professionals and they offer several credentialing programs. Based on this research, Ms. Cramm did not find a solid basis upon which to classify the practice of technology consulting “engineering.” Therefore, a motion was made by Mr. Skibiski to close discussion on this topic. The motion was seconded by Mr. Adewale and unanimously carried.

**Discussion regarding the application process; especially as it relates to requiring an original official transcript to be submitted by either the applicant or directly from the University**

Ms. Cooper gave an update on the research done by staff and said her concerns have primarily been addressed especially since she learned that the exams are prepared, administered and graded by NCARB, NCEES, and CLARB, and are reported in the Council Record for comity applicants or directly to the Board for examination applicants. Regarding foreign exams, Ms. Kempker told her the Board can likely deny acceptance of these exams as Section 327.381, RS Mo, requires a comity applicant to have qualifications which are at least equivalent to the requirements for licensure in Missouri. Board Rules recognize the NCARB, NCEES and CLARB examination as the examination required for licensure. Also, Ms. Kempker advised her that the Board has always required an original transcript from its US applicants and has just recently changed its applications to require the applicants request the university submit their transcript directly to the Board office instead of them getting an original copy and then the applicant sending it to the Board.

In the case of foreign applicants and the National Architecture Accrediting Board (NAAB) not requiring original transcripts directly from the universities, Ms. Kempker said this represents a more serious problem. NAAB only provides NCARB with their evaluation of the transcript which was submitted by the applicant. NCARB requires only this evaluation and does not require the applicant to submit a transcript (copy or original) to be included in their council record. That is why when the Board receives one of these records, the Board’s staff has been contacting the applicant and requiring them to supplement their application by filing an original transcript of grades and notarized copy of diploma evidencing award of the degree and the date it was awarded. Ms. Kempker said they further advise the applicants that they must contact the university and request the university forward their original transcript directly to a United States independent, unbiased translation service, who in turn, is to forward the official translation to the Board office. Often times, the applicant says they can’t get their original transcript but ever since the Bargate case, Ms. Kempker said they’ve been standing firm on this. If they can’t get an original, she said they tell them the Evaluation Service who reviewed their transcript must then submit a letter to the Board certifying that when they did their evaluation it was done based on the original transcript. Inasmuch as the Board’s Statutes/Rules do not address evaluation of
degrees for architects, this continues to be a gray area and left to the Board’s discretion (Section 327.381, RSMo). The applicant must apply for licensure in Missouri by comity inasmuch as the Statute for original licensure requires a NAAB accredited degree and certified AXP record with NCARB. Technically, according to Board’s Statutes and Rules, a foreign educated architect does not qualify for licensure in Missouri. Ms. Kempker also said that due to the agreement with Canada regarding architects, the Board received only a couple of documents from NCARB – no transcript or exam scores and the agreement does not permit the Board to request these documents. She said the Board does not receive many of these now but with this type of agreement eventually being extended to other countries (Australia and New Zealand), the Board might see more applications of this type in the future. However, since the Board withdrew from NCARB’s Letter of Undertaking, it currently only has to continue to deal with these issues regarding Canadian applicants. Ms. Kempker said she remembered the Board processing an application not long ago in which the NCARB record contained nearly nothing more than verification of licensure in Canada. Since it seemed like any lingering concerns were all centered on architectural applicants, the members of the Architectural Division were directed to address these concerns at the NCARB Annual Meeting in June 2017.

Discussion of potential changes to Board Rules 20 CSR 2030-14.020, 20 CSR 2030-14.030 and 20 CSR 2030-14.040

Mike Flowers reported that he had asked Dr. Richard Elgin, Exam Consultant to the Board, to review Board Rules 20 CSR 2030-14.020, 20 CSR 2030-14.030 and 20 CSR 2030-14.040 and then provide feedback regarding changes that he recommends be made to the members of the PLS Division. However, since Dr. Elgin has not yet provided that feedback, this topic was tabled until the July/August 2017 Meeting.

Discussion of potential changes to Board Rule 20 CSR 2030-8.020 which would propose to delete the requirement for 8 “contact” hours

Dan Govero said it is the recommendation of the PLS Division to keep the requirement for contact hours in the rule as it is currently written. The PLS Division members feel the personal contact is beneficial and necessary and believes a lot of the online courses are lacking. Mr. Govero said he checked with representatives of the Missouri Society of Professional Surveyors (MSPS) regarding their position and said they too are in favor of keeping the 8 contact hours. Therefore, no further action is deemed necessary.

Review and discussion of 2017 Legislative Bills of interest
Ms. Kempker gave an update on the status of the following bills of interest to the Board.


**HB 318, Neely**, Requires spouses of members of the active duty component of the Armed Forces to be given first priority in the processing of all professional licensure applications – On February 9, 2017, Voted Do Pass (H); Referred: Rules – Administrative Oversight(H).

**HB 385, Plocher**, Requires the state auditor to perform, on a one-time basis a comparative audit of at least 5, but no more than 10, of the largest state agencies and each chamber of the general assembly – On March 29, 2017, Referred: Government Efficiency(H).


**HB 480 (HCS HBs 480, 272, 413 & 609), Ross**, Establishes guidelines for the regulation of occupations and professions not regulated by the Division of Professional Registration – Public Hearing Held on Monday, April 24, 2017 (S).

**HB 557, Ross**, Removes the requirement that land surveyors submit letters of reference in order to be licensed – On April 27, 2017, Reported Do Pass (S).


**HB 669, Korman**, Changes educational requirements for a person to apply for enrollment as a land surveyor-in-training – On May 12, 2017, Referred: Select Committee on Local, State, Federal Relations and Miscellaneous Business (H).
HB 673, Curtis, Establishes safeguards concerning discriminatory practices against persons who have been convicted of certain offenses – On March 8, 2017, Referred: Judiciary (H).

HB 770, McGaugh, Specifies that any regulation that is revenue producing shall have a sunset provision and will require legislative approval for re-issuance – On May 12, 2017, Referred: Select Committee on Local, State, Federal Relations and Miscellaneous Business (H).

HB 792, McGaugh, Modifies provisions relating to emergency rules – On February 16, 2017 Referred: Judiciary (H).

HB 815, Basye, Provides ways a professional licensee or holder of a permit certificate, or registration may submit payment and information to a board – On May 4, 2017, Reported Do Pass (S)

HB 816, Marshall, Authorizes a person to engage in the practice of specified professions without being licensed if he or she does not hold himself or herself out as being licensed – On May 12, 2017, Referred: Select Committee on Local, State, Federal Relations and Miscellaneous Business (H).

HB 864, Trent, Specifies that any rule promulgated by a state agency that will have a major impact on any persons or entities in the state shall be approved by the General Assembly and the Governor – On March 8, 2017, Referred: Rules – Administrative Oversight (H).

HB 904, Sommer, Provides ways a professional licensee or holder of a permit certificate, or registration may submit payment and information to a board – On March 1, 2017, Public Hearing Completed (H).

HB 1074, Chipman, Provides that a person has a right to a jury in certain administrative proceedings – On March 8, 2017, Referred: Judiciary (H).

HJR 36, Ross, Establishes a permanent Joint Committee on Administrative Rules to review the promulgation of
rules by state agencies – On March 29, 2017, Referred: Special Committee on Government Oversight (H).

SB 122, Munzlinger, Creates new provisions relating to the Missouri Accountability Portal – On May 12, 2017, Informal Calendar S Bills for Perfection.

SB 125, Wasson, Provides acceptable ways a professional licensee may submit payment, application, requests for educational time extensions or notify his or her licensing board – On May 12, 2017, S Bills with H Amendments – SB 125-Wasson, with HCS, as amended

SB 316, Rowden, Creates new provisions relating to password protection – On May 12, 2017 – Informal Calendar S Bills for Perfection--SB 316-Rowden, with SCS.

SB 429, Rowden, Establishes legislative procedures for regulating previously unregulated professions – On February 23, 2017 – Second Read and Referred S Professional Registration Committee.

SB 447, Rowden, Establishes legislative procedures for regulating previously unregulated professions – On February 23, 2017 – Second Read and Referred S Professional Registration Committee.

SB 468, Hegeman – Modifies the process for promulgating an emergency rule by a state agency – On May 12, 2017 – Informal Calendar S Bills for Perfection.


She also gave an update on the budget issue where Senator Dan Brown is proposing to sweep one million dollars from the Board’s fund to be transferred to the Missouri University of Science & Technology (MS&T) and Missouri State University (MSU) to establish a satellite engineering program at MSU. The funding would support both the one-time start-up expenses of establishing the program and the on-going cost of operating the program. Ms. Kempker reminded the Board Members that Senator Brown met with her and the Executive Directors of the Healing Arts Board, Dental Board, Pharmacy Board, and the Veterinary Medical Board on April 5th to discuss a proposal for their boards to voluntarily give money (via scholarships) to partially fund state university programs:
- Healing Arts – He wants 5 million
- Pharmacy – He wants 2 million
- Dental – He wants 1 million
- APEPLSPLA – He wants 1 million dollars
- Veterinary Medical – He wants 75% of their fund (approximately $500,000)

Senator Brown’s plan is for the boards to voluntarily transfer this money and get credit for giving something back to their professions instead of the money being swept into General Revenue and being used for Medicaid. He described such a transfer as a “friendly sweep.” He needs a total of 12 million dollars and was hoping to get the majority of that from these boards.

He then said if the boards didn’t agree to his “friendly sweep,” he would get it swept into General Revenue. However, all but two boards within the entire Division of Professional Registration are below the amount available for sweep via statute; therefore, he would get very little ($18,500 from Accountancy and $2,200 from Acupuncture for a total of $20,700). Currently, the statute requires any funds in excess of three times our appropriation, are swept into General Revenue. Therefore, if he wants to sweep any of our funds in General Revenue, he would have to amend the statute to lower the “three times our appropriation” to “two times our appropriation” which has been tried a number of times before and always failed once the associations were made aware of it. Also, if he amends the language in the statute to lower the sweep language from three times to two times it will affect ALL Professional Registration Boards and not just the five listed above.

When the Chairs met the morning after Ms. Kempker’s meeting with Senator Brown for their pre-board meeting conference call, this was discussed since Senator Brown wanted a decision, or at least a feeling of how the Board will react to his proposal, as soon as possible. Concerns mentioned during that meeting were as follows:

- Once they get the money (scholarship funding), they may start to expect it every year.
- Our licensees pay a fee not a tax and that fee, by statute, is to pay for the operation of the four professions of the Board; therefore, according to legal counsel, cannot be used to fund a university program.
- Objection was raised with regard to the money going to serve only one profession when the Board regulates and collects fees from four professions.
- The Board is already using its reserve to offset its reduced fees. If one million dollars is transferred now, a fee increase will be needed much sooner than if the Board retains that million dollars. With the atmosphere of the current legislature to deregulate and reduce the obstacles and/or burdens placed on licensees, it could be perceived that if the Board took
action which would require a fee increase of its licensees sooner rather than later that it is then placing an unnecessary financial burden on those licensees that could have been avoided or delayed for a much longer period of time.

- The Hyatt Regency walkway collapse – The Chairs felt that the Board needs to keep a comfortable reserve in its fund in the event it would ever experience a similar disaster in the future. At the time of the Hyatt collapse, the Board did not have a healthy reserve and therefore had to do an emergency rule to increase the fees paid by its licensees to cover the costs to litigate this case.

- The Board and staff have been fiscally responsible which is why the APEPLSPLA Board has a healthy reserve and therefore should not be penalized for it.

Based on the concerns aforementioned, the Chairs were of the opinion that the APEPLSPLA Board would not support the voluntary transfer of one million dollars to a state university and would rather take the chances of any excess funds being swept into General Revenue since this can only be accomplished if the statute is changed which would affect all Professional Registration’s boards. At that time, Chairman Hartnett directed the Division Chairs to contact their associations to let them know that they should be on the lookout for an amendment to change the sweep authority.

Since then, Ms. Kempker said she shared all other information as it became available. She further said one day it seems like the threat is imminent, the next day it seems like the threat is gone but then the next day the threat is back in a stronger form so she said this is something the associations definitely need to remain vigilant. In accordance with current statute, Ms. Kempker reported the Board needs to keep its funds below $3,839,859 but if the statute is changed to two times its appropriation the Board will then need to keep it under $2,559,906. Currently the Board’s fund balance is $3,327,319 which is $512,540 below sweep based on the three times its appropriation calculation and $767,413 over sweep based on a calculation of two times its appropriation. Mr. Rearden then reported that he has been working with AIA and they are watching it very closely. Mr. Skibiski said he is working with MSPE and they too are watching it very closely. Mike Freeman said MSPS and its lobbyist will band with the others to oppose the sweep. Mr. Shotts said he has been in contact with MALA and they too are actively encouraging licensees to contact their legislators. At that time, Mr. Shotts and Ms. Cooper both said they contacted their state legislators about the proposed sweep as individual constituents and not as representatives of the Board. Since it appears this threat will not go away this year, Mr. Skibiski volunteered to develop a white paper to show why the Board needs three times its appropriation in its fund. Ms. Cooper, Mr. Popp, and Chairman Hartnett all agreed to work with Mr. Skibiski on this task.
Discussion of potential budget item requests, if any

Ms. Kempker suggested for the FY2019 budget, that the Board may want to consider requesting some of its personal service dollars be transferred to its E&E fund since all litigation expenses are now being paid out of E&E instead of by way of a transfer. Upon discussion, the general consensus of the Board was to pursue such a transfer.

Recess

At approximately 5:04 p.m., the Board recessed its open meeting until 8:00 a.m. on Tuesday, April 25, 2017.

Tuesday, April 25, 2017

The Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Professional Landscape Architects was called to order at 8:00 a.m. on Tuesday, April 25, 2017, in the Matson Meeting Room at the Embassy Suites St. Louis/St. Charles, Two Convention Center Plaza, St. Charles, 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

Robert N. Hartnett, Board Chair
James C. “JC” Rearden, Chair of the Architectural Division
Michael L. Popp, Member of the Architectural Division
Martha K. John, Member of the Architectural Division
Kevin C. Skibiski, Chair of the Professional Engineering Division
Abiodun “Abe” Adewale, Member of the Professional Engineering Division
Craig M. Lucas, Member of the Professional Engineering Division
Michael C. Freeman, Chair of the Professional Land Surveying Division
Daniel L. Govero, Member of the Professional Land Surveying Division
John Michael Flowers, Member of the Professional Land Surveying Division
Robert S. Shotts, Chair of the Professional Landscape Architectural Division
Noel T. Fehr, Member of the Professional Landscape Architectural Division
Eric D. Davis, Member of the Professional Landscape Architectural Division
Sherry Cooper, Public Member

Member Absent

Kelley Cramm, Member of the Professional Engineering Division
Others Present

Judy Kempker, Executive Director
Shantae Duren, Board Staff
Dawn Wilde, Board Investigator
Curtis F. Thompson, General Counsel
Edwin Frownfelter, Litigation Counsel

Report from Architectural Division

Mr. Rearden reported that they had a good turnout out at their Open House Monday morning with lots of good questions. He also reported that he, Mike Popp, Martha John, and Judy Kempker will all be attending the NCARB Annual Meeting in June. He further stated that he recently gave a presentation on electronic seals at the AIA Annual Meeting in Jefferson City and also appeared as a speaker for the St. Louis Code Officials and that his presentations at both events were very well received.

Report from Professional Engineering Division

Mr. Skibiski reported that from the Professional Engineering Division he, Abe Adewale, and Craig Lucas will all be attending the NCEES Joint Zone Meeting in May. He also addressed the possibility of adding seismic engineering language into the definition of engineering of record in the statute and proposed to put examples of typical cases and outcomes in the next edition of the newsletter. He too said their Open House was well attended and rendered good discussion especially as it related to electronic seals and 3D submittals as well as the possibility of adding plumbing questions to the NCEES Mechanical Exam.

Report from Professional Land Surveying Division

Mr. Freeman reported that he will be attending the NCEES Joint Zone Meeting in May as the representative from the PLS Division. He also reported that the PLS Open House was well attended and that the discussion was primarily about writing property descriptions and easements. He then said MSPS has submitted names to the Governor’s Office for consideration of Board appointments.

Report from Professional Landscape Architectural Division

Mr. Shotts reported that they had approximately six licensees attend their Open House and they had a very good discussion about a variety of topics. He also said Mr. Fehr had reviewed the Continuing Education Fact Sheet for Professional Landscape Architects’ (PLA) in an effort to make revisions and in the process
noted that many of the proposed revisions affect all four professions. At that time, Mr. Fehr gave an update on suggested changes to the PLA continuing education fact sheet and log which were reviewed and discussed by the other PLA Division Members during their meeting on Monday, April 24th. Since many of the suggested changes are ones which could also be incorporated into the continuing education fact sheets and logs that the other three professions use, Ms. Kempker was directed to forward the suggested revisions to all Board Members for review and comment along with the links for the current fact sheets and logs which are posted on the web. Once the Board Members receive this information from Ms. Kempker, they are to review their profession’s fact sheet and log, note in red any recommended changes, and then send them back to Ms. Kempker so she can add them to the Board’s July/August 2017 Board Meeting agenda for further discussion.

Executive Director’s Report

Ms. Kempker presented the most recent information regarding the Board’s Financial Report. She advised that as of April 21, 2017, the Board’s financial balances were as follows:

Personal Service Balance was $136,065. Originated with $398,599.

E&E (Expense & Equipment) Balance was $133,003. Originated with $301,397.

The Board’s current Fund Balance is $3,327,319. Per Section 327.081, RSMo, in order to avoid a sweep of the Board’s fund, the balance needs to be kept under $3,839,859 or 3 times our appropriation (3 x $1,279,953). So, right now, the Board is $512,540 **BELOW** sweep. She said no changes were requested in the Board’s FY 2018 appropriation which is determined by HB 7.

Board Member Terms and Appointments: The Board currently has 11 of its 15 members serving in expired terms (Bob Shotts, JC Rearden, Mike Popp, Martha John, Kevin Skibiski, Abe Adewale, Kelley Cramm, Craig Lucas, Mike Freeman, Mike Flowers, and Dan Govero). Ms. Kempker announced that AJ Fox is still serving as the Director of Boards and Commissions for the Division of Professional Registration and that she just happened to see him last week at which time he told her that he has 2-3 really good replacements for Ms. Cramm. He also said if any current members on expired terms are ready to go off, to please let him know. Ms. Kempker then said that if any Board Member had served longer than what they had planned and are ready to be relieved by someone else, please let her or Chairman Hartnett know. Chairman Hartnett acknowledged that he too had talked to Mr. Fox.

Ms. Kempker announced that the Board’s next newsletter is slated to be posted the first part of May and as of now, it is on target for meeting that date. All articles
have been submitted and a draft of the newsletter was return to Ms. Kempker on Friday of the previous week.

Next, Ms. Kempker provided an update on Board Rules and Rule Status. In regard to the joint filing with the Missouri Department of Agriculture (MDA), the amendments to the Board/MDA joint Surveying Standards filed with JCAR and SOS before the change in Administration, the Proposed Amendments to Rules 20 CSR 2030-19.010 Surveyor's Real Property Report; 20 CSR 2030-19.020 Required Work Order Form (which is proposed to be withdrawn); and, 20 CSR 2030-20.030 Certification of the Map were filed with SOS, JCAR, and SBRFB on 10/31/16 and appeared in the Missouri Register on 12/1/16 with an “End of Comment” date of 12/31/16. No comments were received so the Final Orders of Rulemaking were filed with JCAR on 1/3/17 and with SOS on 2/2/17. On 2/10/17 the Final Orders were filed with SOS, on 3/15/17 the Final Orders appeared in the Missouri Register, on 3/31/17, they appeared in the Code of State Regulations and will become effective on 4/30/17. All of the other rule changes affecting Chapters 16, 17, 18, 19 and 20 were filed with SOS, JCAR and SBRFB on 11/18/16 and appeared in the 1/3/17 Missouri Register. The “End of Comment” period was 2/2/17 at which time the Final Orders of Rulemaking were filed with JCAR and SBRFB. On 3/20/17, the Final Orders were filed with SOS and on 5/1/17 they are scheduled to appear in the Missouri Register. The rule should then appear in the Code of State Regulations on 5/31/17 and become effective on 6/30/17.

As previously stated, all other Proposed Amendments to Board Rules have been returned to the Board for review once more to reconsider before moving forward with resubmittal. Most of the changes are due to SB 809 which went into effect August 28, 2014 and therefore aren’t increasing the burden of licensure. The proposed changes are to bring the Board’s rules into compliance with state statute amendments or to clarify rules based on feedback from licensees or staff. Ms. Kempker had Mr. Frownfelter perform a thorough review of the Board’s proposed changes since many of them were drafted over two years ago and his comments were reviewed and discussed yesterday during the Board’s open hearings for comment and direction.

Next, Ms. Kempker provided an update on potential legislation. Ms. Kempker reported earlier that the deregulation bill (HB 816) is not moving and neither is the bill to increase the educational requirements for land surveyors (HB 669). However, the bill to eliminate the requirement for three PLS letters of reference (HB 557) is moving.

Ms. Kempker announced that the Board’s staff is still using PROMO. At the Board’s January 2017 meeting, Ms. Kempker reported that Professional Registration decided to pull out of the contract on the new system called PRISM and instead to move forward with enhancing PROMO. Ms. Katie Steele-Danner reported at the most recent PR Manager’s meeting that the new administration is aware of the history of this transition to a new and/or upgraded licensing system.
and seems to be on board with the Division moving forward with enhancing PROMO.

Ms. Kempker stated she will continue to schedule future Open Houses in the area of the upcoming Board Meetings until the Board directs her otherwise.

Ms. Kempker stated that she believes the Board is receiving approval for travel to national meetings because the Board has the funds. She also stated that she believes the Division and/or the Department realizes that attendance at these meetings is essential to all four of the Board’s professions and that it is a good use of Board funds. Ms. Kempker advised the Board that she recently had a conversation with Ms. Steele-Danner about this matter. Ms. Kempker advised Ms. Steele-Danner that this is a good way to use some of the funds instead of it being a temptation to state legislators. Ms. Kempker said that she thanked Ms. Steele-Danner for approving the Board’s out-of-state travel requests and also told her that the Board sincerely appreciates her assistance.

Ms. Kempker announced that Messrs. Rearden and Popp, Ms. John and Ms. Kempker have all been approved to attend the NCARB Annual Meeting in Boston in June. They are all being funded by NCARB and/or Region 4 so it is zero cost to the Board.

Ms. Kempker advised the Board that the NCEES Central Zone Meeting is coming up in May for which NCEES will fund three delegates. Messrs. Freeman, Skibiski and Adewale are all attending as funded delegates. Mr. Lucas was approved to attend the meeting at the Board’s expense. Ms. Kempker then asked who all plans to attend the NCEES’ Annual Meeting on August 23-26, 2017 in Miami, Florida. After discussion, she was told to request approval for Mr. Skibiski, Mr. Adewale, Mr. Lucas, Mr. Freeman, Chairman Hartnett, Ms. Cooper, and Ms. Kempker. While on the topic of travel, Ms. Kempker inquired of the members as to who all wants to attend the CLARB Annual Meeting on September 13-16, 2017 in Boise, Idaho. Upon discussion, Ms. Kempker was directed to request approval for Mr. Shotts and Chairman Hartnett to attend the CLARB Annual Meeting.

As of now, Ms. Katie Steele Danner continues to serve as the Division Director for Professional Registration and Ms. Chlora Lindley-Myers was recently appointed and confirmed to serve as the new Director for the Department of Insurance, Financial Institutions and Professional Registration. Ms. Kempker stated she has met Ms. Lindley-Myers and stated she seems very professional and personable.

Ms. Kempker reported that all of the APEPLSPLA Board Members have timely filed their Personal Financial Disclosure Statements.

Ms. Kempker announced that the Board’s renewals were mailed out the first part of October 2016 to every licensee who was originally licensed in an even year. Approximately 92% of the Board’s licensees had completed the renewal process
and had been approved prior to December 31st. Of those who had renewed, approximately 85% renewed online. Effective March 31st, the Board had 1,139 people fail to renew; therefore, their licenses officially expired on December 31, 2016.

Ratification of decisions on licensure and enrollments made by the Architectural Division, Professional Engineering Division, Professional Land Surveying Division, Professional Landscape Architectural Division and/or Staff:

- **Architects** – Mr. Rearden made a motion to ratify the corporate licenses for architectural corporations, reauthorizations for architectural corporations and the licenses and relicensures of Architects for the period January 1, 2017 to March 31, 2017. The motion was seconded by Mr. Popp and unanimously carried.

- **Professional Engineers and Engineer Interns** – Mr. Skibiski made a motion to ratify the corporate licenses, reauthorizations for engineering corporations and the licenses and relicensures of Professional Engineers as well as enrollments as Engineer-Interns for the January 1, 2017 to March 31, 2017. The motion was seconded by Mr. Adewale and unanimously carried.

- **Professional Land Surveyors and Land Surveyors-in-Training** – Mr. Freeman made a motion to ratify the corporate licenses, reauthorizations for land surveying corporations and the licenses and relicensures of Professional Land Surveyors as well as enrollments as Land Surveyors-in-Training for the period January 1, 2017 to March 31, 2017. The motion was seconded by Mr. Govero and unanimously carried.

- **Professional Landscape Architects** – Mr. Shotts made a motion to ratify the corporate licenses, reauthorizations for landscape architectural corporations and the licenses, relicensures, and denials of Professional Landscape Architects for the period January 1, 2017 to March 31, 2017. The motion was seconded by Mr. Davis and unanimously carried.

Date and Location of April/May 2018 Board Meeting

The Board Members discussed possible dates for the April/May 2018 meeting. It was noted that the NCEES’ Central Zone meeting is scheduled for May 3, 4 and 5, 2018 in Rapid City, South Dakota. Therefore, the Board Members set the April/May 2018 meeting for April 23 and 24, 2018 to be held in or near St. Louis, Missouri. The Board requested that Ms. Kempker continue to 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 into closed session**

At approximately 8:44 a.m., Chairman 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, 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 carried. Mr. Lucas seconded the motion. A roll call vote was taken and unanimously carried. Chairman Hartnett asked that all visitors leave the room. There being none, Chairman Hartnett declared the meeting closed to the general public.

**Return to Open Session**

At approximately 10:12 a.m., the Board reconvened its open meeting for the purpose of discussing engineering technology degrees.

**Further Discussion Regarding Engineering Technology Degrees**

Upon discussion, a motion was made by Mr. Adewale to present to the Design Alliance at its next meeting a proposal to change the statute to allow an individual with an engineering technology degree to qualify for licensure in Missouri as long as he/she has 12 years of satisfactory engineering experience. The motion was seconded by Mr. Lucas and unanimously carried. As a result of the discussion regarding engineering technology degrees, Chairman Hartnett suggested an Ad Hoc Committee be created to draft the proposed language to be presented to the Design Alliance. He also suggested that this Ad Hoc Committee review the educational requirements of all four professions of the Board to see if any changes should be made to those sections of the law as well. Since Craig Lucas had done some past research on engineering technology degrees, he volunteered to Chair the Committee. Martha John, Mike Flowers, Bob Shotts, Abe Adewale, and Dan Govero all volunteered to serve on the Committee.
Motion to go back into Closed Session

At approximately 10:15 a.m., Chairman Hartnett called for a motion to go back into closed session for the purpose of finishing discussing items on the Board’s Closed Agenda. Mr. Govero made a motion to go back into closed session for the purpose of finishing discussing items on the Board’s Closed Agenda. Mr. Lucas seconded the motion. A roll call vote was taken and unanimously carried. Chairman Hartnett asked that all visitors leave the room. There being none, Chairman Hartnett declared the meeting closed to the general public.

Return to Open Session

At approximately 12:30 p.m., the Board reconvened its open session for the purpose of approving the contracts of Curt Thompson and Edwin Frownfelter.

Additional Agenda Item

Discussion regarding the renewal of Curt Thompson’s and Edwin Frownfelter’s contracts for general counsel and litigation counsel services

The Board discussed the contracts of Curt Thompson for general counsel services and Edwin Frownfelter for litigation services. Upon a brief discussion, a motion was made by Mr. Shotts to approve Curt Thompson’s contract as presented. The motion was second by Mr. Rearden and unanimously carried. A motion was then made by Ms. John to approve Edwin Frownfelter’s contract as presented. The motion was seconded by Mr. Govero and unanimously carried.

Motion to go back into Closed Session

At approximately 12:36 p.m., Chairman Hartnett called for a motion to go back into closed session for the purpose of finishing discussing items on the Board’s Closed Agenda. Mr. Govero made a motion to go back into closed session for the purpose of finishing discussing items on the Board’s Closed Agenda. Mr. Adewale seconded the motion. A roll call vote was taken and unanimously carried. Chairman Hartnett asked that all visitors leave the room. There being none, Chairman Hartnett declared the meeting closed to the general public.

Return to Open Session

At approximately 1:34 p.m., the Board reconvened its open meeting for the purpose of discussing SCS House Bill 3.
Discussion Regarding SCS HB 3

Ms. Kempker read an email she received from Ms. Katie Steele Danner regarding movement on SCS HB 3 which proposed to sweep one million dollars from the Board’s fund. As a result of the proposed transfer of the Board’s funds being amended to this bill and because of its recent movement, a motion was made by Mr. Shotts to ratify the speaking comments generated from the April 6, 2017 Board/Division Chairs’ conference call and to also grant the Division Chairs permission to share with the associations all of the reasons given to oppose this transfer including those reasons given by the Board’s General Counsel which are as follows:

1) There are legions of case law that holds that legislative acts cannot be accomplished through appropriation bills. Because there are current laws that speak to sweeps of boards' funds, changing those laws through the appropriation process is inconsistent with those case holdings. Mr. Thompson believes there are lots of state cases on this point.
2) There is no fiscal note required for appropriation bills but are required for statutory changes. This action defeats the purposes of the statutory requirement for fiscal notes and works hand in glove with the first reason.
3) Because there are constitutional issues involved with the proposal, a constitutional challenge can be raised on the floor of either house of the general assembly and ought to be if an association can convince a representative or senator to do so.
4) If passed, the Board and the associations should urge the Governor to veto for all the reasons discussed in open session as well as these listed.

The motion was seconded by Ms. John and unanimously carried. The Board then authorized Curt Thompson to share the Board’s actions with regard to SCS HB 3 with the Executive Director of the Pharmacy Board since the sweep of funds from the Pharmacy Board is also included in the bill.

At 1:45 p.m., the Board recessed so that the Division Chairs could contact their respective associations to share this information with them and remind them to stay vigilant on their watch of this bill.

Motion to go back into Closed Session

At approximately 2:00 p.m., Chairman Hartnett called for a motion to go back into closed session for the purpose of continuing its review and discussion of complaint
cases. Mr. Govero made a motion to go back into closed session for the purpose of continuing its review and discussion of complaint cases. Mr. Adewale seconded the motion. A roll call vote was taken and unanimously carried. Chairman Hartnett asked that all visitors leave the room. There being none, Chairman Hartnett declared the meeting closed to the general public.

Return to Open Session

At approximately 3:27 p.m., the Board reconvened its open meeting for the purpose of adjournment.

Adjournment

Ms. John made a motion to adjourn the meeting. The motion was seconded by Mr. Govero and unanimously carried. The meeting adjourned at 3:27 p.m. on Tuesday, April 25, 2017.

ATTEST:

_______________________________________
Executive Director

Approved by the Board on: _________________