NEW MEXICO BOARD OF EXAMINERS FOR ARCHITECTS

Minutes of Board Meeting
October 23, 2015
Ruidoso, New Mexico

Synopsis of Meeting Topics:
Policy and Proposals
New Business
Reports
Board Comments/Announcements
Adjournment

Board Members Present:
Raymond Vigil, Chair, Architect Member
Michael Bodelson, Architect Member
Jim Oschwald, Vice Chair, Architect Member
Robert Calvani, Architect Member
Tara Rothwell-Clark, Secretary/Treasurer, Architect Member
Geoffrey Adams, Educator, Architect Member
Mark Glenn, Public Member

Staff Present:
Wren Propp, Director/CFO
Jackie Holmes, Investigator
Michele Barela, Compliance and Records Clerk/Receptionist

Others Present:
Joseph Dworak, Assistant Attorney General
Jim Vorenberg

A. Meeting Called to Order/Roll Call
Mr. Vigil called the meeting to order at the approximate hour of 9:07 a.m. Roll was taken and a quorum was determined to be present.

B. Opening Business

1. Approval of Agenda

Mr. Vigil asked for a motion to approve the agenda.

Motion: to approve the agenda.
By: Michael Bodelson
Second: Tara Rothwell-Clark
Board Vote: Passed unanimously

2. Introduction of Guests

Mr. Vigil introduced guest Jim Vorenberg.

3. Approval of Board Meeting Minutes from August 7, 2015

Mr. Vigil asked for a motion to approve the August 7, 2015 board meeting minutes as presented.

Motion: to approve the August 7, 2015 board meeting minutes as presented.
By: Jim Oschwald
Second: Michael Bodelson
Board Vote: Passed unanimously

4. Open Meeting/Public Records Presentation

Joseph Dworak, Assistant Attorney General gave a power point presentation on the Open Meetings Act/Public Records, including Legal Representation and the Uniform Licensing Act.

Mr. Vigil announced a five minute break at 10:39 a.m.

Mr. Vigil reconvened the meeting at 10:45 a.m.

5. Public Comment
NEW MEXICO BEA October 23, 2015

There was no public comment.

C. Policy and Proposals

1. Broadly Experienced Architect Rule Proposal

Mr. Oschwald stated that on September 15, 2015 the Rules and Regulations committee members and the Exam and Reciprocity committee members met at Mr. Calvani’s office. There was a quorum present. There were guests in attendance. The committees discussed the Broadly Experienced Architect (BEA) requirements and to possibly change the current rule. The discussions involved moving back to the previous rule to allow for the Board to accept applicants who are licensed in other states without the need for an NCARB certificate. The rule was changed about ten years ago, in favor of NCARB’S Broadly Experienced Architect (BEA) path to licensure. Currently, in lieu of NCARB not having a path in place at this time, the Board should find a way to reinstate that rule.

Mr. Calvani stated that NCARB will eventually come up with a rule for the Broadly Experienced Architect (BEA) process. The Board will have to make a rule change through the Attorney General's office. A draft will need to be presented to the Board and then the Board could add this change to the other rule changes. Mr. Calvani's impression was that the guests in attendance were in support of this change.

Mr. Dworak explained that the rule changing process could take about four months, depending on meeting schedules. The process involves a final version of the recommendation coming from the committee, then there is a vote by the Board to approve and then it will need to be set for a hearing. A hearing requires about thirty (30) days and then it has to be published. Then there will be a separate rule hearing to allow for public comment. The Board could immediately vote to adopt the rule change, if they are ready, but if there are substantial changes, the Board may have to re-notice. Then there is a thirty (30) day process through the state records center. The Board could vote today to set the rule to a hearing. Procedures can come after the rule change takes place.

Mr. Calvani said that the committee has the language in the existing rule that was deleted in the past. The Board could vote on that today.

Mr. Oschwald added that the committee reviewed and approved this rule for a possible vote at today’s Board meeting.

Mr. Vigil mentioned that he hoped this could work in tandem with the proposed rule changes that the Board had worked in previously last year. Those were statute changes and there are
now some situations that have come up. The Board may need rule changes relating to fines. He asked if that can that be addressed through rule change.

Mr. Dworak stated that the changes related to fines are statute and there is no formal process to follow for recommendations on that. But for rule changes, there are specific steps to follow. There would be one hearing for all the rule changes.

Ms. Propp added that under section C. 2., staff has included the Broadly Experienced Architect (BEA) rule changes along with other proposals. The Board can vote on them as a whole under C. 2.

2. Other Rule Change Proposals

Ms. Holmes briefly reviewed the other proposed rule changes. These issues were discussed in prior board meetings.

Ms. Holmes stated that in Part I GENERAL PROVISIONS 16.30.1.7 DEFINITIONS G. (1): this is a proposal to change the incidental fine from $400,000 to $600,000 in order to be in line with what the NMBLPEPS rule states.

Ms. Propp stated that the NMBLPEPS also changed this in their statute. The Board does not have the amount in the statute but it is in the rule. In discussions with the Joint Practices Committee, the Board should increase this fee because the Construction Industries Division is using the NMBLPEPS standard for Incidental Practice and addressing Incidental Practice issues is one of the goals.

Mr. Vigil stated that the NMBLPEPS had moved on this change about four years ago and our Board did not know of this change.

Mr. Bodelson stated that the Board should have changed the amount some time ago. He felt that this change by the NMBLPEPS may have taken place at a time when the Joint Practices Committee was in turmoil.

Ms. Holmes stated that in Part 1 ORGANIZATION AND ADMINISTRATION 16.30.2.12 Meetings A. (1): this recommendation is to change the language to state that the Board should hold “at least” four (4) regular meetings and hold at least one (1) meeting each quarter.

Ms. Holmes stated that in Part 3 REGISTRATION AND RENEWAL, DUPLICATE CERTIFICATES, SEAL SPECIFICATIONS AND DOCUMENT IDENTIFICATION 16.30.3.9 Registration through Education, Training and Examination C. (3): this recommendation is to remove (a) (b) and (c) because this language no longer applies.
Ms. Propp stated that she took out that language because it doesn’t address NCARB’s rolling clock changes in the last five to six years and it is causing confusion on part of the candidates.

Ms. Holmes stated that in 16.30.3.10 REGISTRATION THROUGH RECIPROCITY B: this proposal is a recommendation to remove current language and insert the Broadly Experienced Architect (BEA) language from 2004 that the Rules and Regulations and the Exam and Reciprocity committees recommend to reinstate.

Ms. Holmes stated that in sub-section F: this proposal is a recommendation to change “seismic design requirements” to “comprehensive design requirements”.

Ms. Propp added that after December 1965 all national exams included seismic design testing. This requirement was for individuals prior to December 1965.

Ms. Holmes stated that in 16.30.3.11 REGISTRATION RENEWAL A: this proposal change is to make a correction as to when individuals renewed. It should read as odd-number years.

Ms. Propp stated that this does not address the splitting of renewal years, as discussed in prior meetings. That issue needs more discussion.

Mr. Vigil mentioned that the Board is looking at staggering the renewal year, either alphabetical or by last name, year they were born, social security, etc.

Mr. Bodelson suggested revising the language to accommodate the splitting renewals for the future.

Mr. Adams suggested saying “Renewal fees are paid biennially.”

Mr. Dworak and Ms. Propp mentioned that it still needed clarification.

Ms. Propp asked if the Board is asking individuals to pay a two-year registration on December 2017 or one-year registration based on this dividing device.

Mr. Bodelson mentioned that the language could be revised to something like “biennially pro-rated to the registration date” or something like that.

Mr. Dworak stated that this needed to be clarified logistically, in terms of how the Board will keep track of these individuals.
Mr. Oschwald stated that the Board had gone to a two-year cycle to reduce the load on staff and in the future, through the electronic renewal system that should also reduce the load and this should enhance a balance.

Mr. Vigil stated that part of the scenario is in terms of how the Board performs on an annual basis related to yearly budgets and measures. From a recent auditing experience, if the Board had regular income coming in, it was easier to align expenditures with costs and perhaps the Board could consider a one-year licensure versus a two-year licensure but this needs more research. He asked if the workload will decrease sufficiently with an online renewal.

Ms. Propp stated that at this time, she does not know how it will affect staff workload but the paperwork to be sent out to registrants will decrease. She supports the splitting of renewals into a year by year process and this should give staff a balanced workload. In relation to the amount of money that the Board will receive annually versus biennially, it will look like the budget is bigger in revenue and she is concerned about that. Analysts at the Department of Finance and Administration and the Legislative Finance Committee do not seem to think that it would be a big deal.

Mr. Vigil asked if the language could be worked out after the vote.

Mr. Dworak stated that there should be some language that indicates the direction and if it is cleaning up the logistics, that can be done outside of the rule. If someone would want to contest the rule change and if the Board publishes the suggested language and in the end the language was very different, that could be problematic. His recommendation was that it is better to be specific.

Mr. Vigil asked if the rule could be general and say that renewal fees are biennial and the method of how it is done in process could be worked out after.

Ms. Rothwell-Clark mentioned that the Board may not want to put in the splitting language in the rule because it may change.

Mr. Dworak stated that if it is annually or biennially that is important but if the Board wanted to leave the rest to the administrative side, it can be delegated. The Board could be explicit in the rules but to make sure that as much information is conveyed to the licensees.

Mr., Bodelson suggested to say "Renewal fees are paid bi-annually and new registrations occurring in a non-renewal year shall be prorated and shall expire in the next payment cycle."
Ms. Propp suggested saying "As of January 1, 2017, renewal and registration will occur ....." and give registrants and applicants a date of realizing that for the next two years they will be asked to renew either in a two-year or one-year cycle.

Mr. Vigil asked Ms. Propp if she would work on the details in the rule, like date and other specifics. If a date is in there then it would be comparable to the other changes the Board is making.

Ms. Propp stated that there is a "as of" statement in the continuing education rules now, she can add that to this rule. She added that the Board is planning to provide a notice, along with the renewal statement to be sent out in mid-November, alerting registrants of the rule changes and to check the website for hearing dates.

Mr. Vigil suggested moving forward on the other proposed changes while the language for this particular rule is being created by Ms. Propp.

Ms. Holmes stated that in sub-section B. (5) (c): this proposal pertains to a licensee that certifies on the renewal application that they have fulfilled the continuing education requirement but they did not fulfill the requirements, then the result could be disciplinary action.

Ms. Holmes stated that in sub-section B. (6): this proposal applies to the continuing education required and added that if someone is licensed for less than two years, they will only be required to do twelve hours of continuing education.

Ms. Holmes stated that in sub-section (7): this proposal states that if a registrant's registration expires and they ask to be reinstated, they will be required to provide proof of completing twelve continuing education hours per year for both years that were expired. In another area of the rule, it states that the maximum amount of continuing education required to reinstate is twenty four hours, even if there license has expired for five years or so. For reinstatement, the recommendation is to request a registrant to do twelve continuing education hours per calendar year and twelve for the subsequent year.

Ms. Holmes stated that in 16.30.3.13 RENEWAL OF AN EXPIRED CERTIFICATE D: the rules read that if someone's license is expired for more than three years and they request to be reinstated, they must go back to NCARB for a certificate. Ms. Holmes added that the Board needed to decide about the Broadly Experienced Architect (BEA) applicants and if their licenses expire more than three years, what will they need to provide to reinstate because they will not have an NCARB certificate.

Mr. Calvani suggested to then having reinstatement applicants do section C. of that subsection. That process should be universal and it should include everyone.
Ms. Propp said that this is not rule language but the proposal states that if applicants are without an NCARB certificate and their license is lapsed for more than three years, does the Board want to remove the requirement for an NCARB certificate and create a process that everyone can follow?

Mr. Vigil suggested that these individuals should go through the Broadly Experienced Architect (BEA) process again, where they are all evaluated individually.

Ms. Propp clarified that under section D., these individuals would need to go through the process again to get their license reinstated, as sited under 16.30.3.10 D.

Ms. Propp asked if the Board had any questions. She mentioned that there are some issues with people who are becoming licensed late in the first year of the two year cycle. The Board is asking them to acquire continuing education rapidly, like within a month after becoming licensed, in order to build the requirement to receive twelve hours for each calendar year. If there was a way for people to initially become licensed in the first year of the two-year cycle, then they do not have to acquire continuing education until the second year and Ms. Propp recommended going back to that.

Ms. Holmes stated that in 16.30.3.15 ARCHITECT EMERITUS A.: this proposal is to clarify the language and add “in New Mexico.” This was requested because a question came up as to if an individual requests to receive Architect Emeritus in New Mexico, could they practice elsewhere? This language will make that clear.

Ms. Holmes stated in section C: it is proposed to say that if an Architect Emeritus allows their registration to expire, in order to reinstate their license, they may need to provide proof that they were continuously registered in another state, in good standing and that they may need to do some special continuing education step.

Ms. Holmes stated in 16.30.3.16 DUPLICATE WALL CERTIFICATES: this proposal deals with adding the word “wall” and to insert “dollars” before the ($35.00).

Ms, Holmes stated that in 16.30.3.17 DISPLAY OF A CERTIFICATE OF REGISTRATION: this is a proposal to add the word “shall” before display.

Ms. Holmes stated that in PART 4. CODE OF CONDUCT 16.30.4.10 FULL DISCLOSURE F: this is a proposal to add “or an applicant for registration.”

Mr., Bodelson asked if it should include non-registrants.
Mr. Dworak stated that the Uniform Licensing Act applies to both.

Ms. Propp added that it is a good suggestion however, it is covered in other areas of the Code of Conduct that if an architect works with someone who is not licensed, that could be considered a violation of the Act. At this time, there is not an issue with architects calling to complain about individuals who are not registrants.

Mr. Bodelson stated that he is concerned about someone who is neither an applicant nor a registrant, who is reporting on a relative who is not licensed.

Mr. Oschwald clarified that this could imply that it exempts them from reporting an issue.

Mr. Dworak stated that the standards for that are different and that language could be used to support that but it is a grey area.

Mr. Bodelson stated that the bulk of the disciplinary activity is with unlicensed individuals and he would recommend to add it if it is not covered in the rules.

Mr. Oschwald had a question in regards to 16.30.3.13 D., where it says "more than three years requires submittal of what"?

Mr. Vigil stated that it was already discussed and to refer to section D, where they have to go through the process in section D of the rules.

Ms. Holmes stated that in PART 5. ENFORCEMENT 16.30.5.8.COMPLAINTS: this proposal would include language that clarifies that a full vote of the Board is required to get an NCA issued. It is through the recommendation of the Enforcement Subcommittee but it would take a full Board vote to enforce this recommendation.

Ms. Holmes stated that for 16.30.5.9 SETTLEMENT AGREEMENTS: this proposal recommended adding "negotiate" but that the agreement is subject to approval by vote of the Board.

Mr. Dworak added that it is implied that the vote is unanimous.

Mr. Caivani made a motion to approve these proposed rules changes and get them into the process with the Attorney General's office for rules changes, with the changes suggested in the proposals. They are: 1. The changes pertained to section D related to reinstate a certificate obtained by the Broadly Experienced Architect (BEA) and if it has lapsed more than three years, it requires going back to section B. and 2. adding the word "dollars" into the Display of a Certificate section.
Mr. Vigil mentioned that there were more changes, language changes pertaining to Registration Renewal.

Ms. Propp added that another change includes language for (stops).....

Mr. Bodelson stated that the motion was seconded by him.

Mr. Oschwald suggested a friendly amendment to the motion to accept Section 1. C for the Broadly Experienced Architect (BEA) as a part of that motion. He reminded the Board that the vote is for the Broadly Experienced Architect (BEA) component, plus the other proposed changes.

Mr. Vigil clarified that the motion was not concluded because a question was asked if there were any other changes.

Mr. Calvani stated that there was another change for the Registration Renewal section A. and that is part of the motion.

Mr. Calvani restated the motion and to accept these proposed rules, send them to the Attorney General’s office with the changes to Registration Renewal, Renewal of Expired Certificate D., referring back to section B. on Registration, Reciprocity, and the change in adding “dollars” in Duplicate Wall Certificates.

**Motion:** To accept these proposed rules, send them to the Attorney General’s office with the changes to Registration Renewal, Renewal of Expired Certificate D., referring back to section B. on Registration, Reciprocity, and the change in adding “dollars” in Duplicate Wall Certificates

**By:** Robert Calvani  
**Second:** Michael Bodelson  
**Board votes:** Passed unanimously

Mr. Dworak clarified that the changes do not go to his office. What the Board votes on today will be published and then it will be set for a rule hearing. He will help with the process but any language to the rules cannot be changed after the vote. In addition, he stated that he would like to hear the language for the Registration Renewal section.

Ms. Propp stated the language for the Registration Renewal section. She stated, “Renewal fees are paid biennially, except as of January 1, 2017, when half of the registrants will be required to pay for a single year and thereafter, biennially.”

Ms. Rothwell-Clark asked about new registrants that are in and out of state?
Ms. Propp stated that this is referring to renewals and she was not sure how explicit the rule is in regards to payment of fees.

Ms. Rothwell-Clark stated that it states in the rule, that "new registration is recurring and prorated on a yearly basis..." She recommended adding that sentence.

Ms. Propp stated that she does not feel the need to change it because it is broad enough to say, "new registrations occurring in a non-renewal year shall be prorated on a yearly basis and shall expire on December 31 of that odd numbered year." She then stated that she will need to add a bit more.

Mr. Dworak suggested to have more fine tuning to it but to be as clear as possible. The issue is dealing with the initial registration and that language should be cleared up too. That can be done today but it needed to be done when the Board votes to set it for hearing.

Mr. Vigil asked Mr. Calvani if he included that change to the Renewal section as well in the motion.

Ms. Rothwell-Clark answered that yes, it is in there.

Mr. Calvani added that it was included but that he did not quote the language.

Ms. Propp asked to state that it is the intent of the Board, in the rule change, regarding 16.30.3.11 to reflect that as of January 1, 2017, those registrations will be staggered. The Board could include the language they already have and try to get to the new registration language while the meeting continues.

Mr. Vigil asked if there was further discussion.

The Board had not further discussion.

Mr. Vigil asked about the timeline.

Ms. Propp stated that the New Mexico Register only publishes twice a month. The first step is to publish the changes.

Ms. Holmes stated that the proposed rule amendments must be finalized two weeks prior to when they will appear in print. Then the Board can have the rule hearing thirty (30) days after it appears in print. In order to have the rule hearing, the Board should find a location to have the hearing and this needed to be announced in the advertisement. The step is to give the public
an opportunity to make comments on the rules and to post the rules to the website, thirty (30) days prior to the hearing and then the Board has to set a deadline for when comments will be available. Most boards give about two weeks to give written comments and those are admitted as evidence during the rule hearing.

Ms. Rothwell-Clark asked if the Board is potentially trying to do the rule hearing in the morning, prior to the next Board meeting.

Mr. Dworak stated yes, that is good timing logistically.

Ms. Holmes announced that the next hearing is December 4, 2015.

Ms. Propp recommended having the rule hearing in a large classroom, like at the University of New Mexico, to make it more centrally located. The Board has a meeting on February 5, 2016.

Mr. Dworak added that the rule hearing can be done by a hearing officer as opposed to the full Board, but there needs to be ample amount of time for the Board to be able to review the record. This could be done by a committee.

Mr. Bodelson commented that the Board could designate a committee or even a member to conduct the hearing.

Mr. Dworak said that one person could serve as a hearing officer. If that was contested then one could argue that the Board did not take all opinions into consideration but there is evidence that the whole Board did review the record. They could adopt a statement of reason which addresses complaints or objections that were raised.

Mr. Vigil asked staff to move forward, as there is a board meeting coming up in December. If that is not feasible, then maybe the Board can set a date for the February board meeting.

Mr. Dworak stated that regardless, if the Board could not do it by the December board meeting, which is the earliest the Board could adopt the rules, the hearing is held separately. It creates extra work because there is record preparation to be done and then time to be able to provide it to the Board. Otherwise, if the Board decides to have the hearing go before the board meeting in February, there is extra time. Then you do not have to review the transcript because you are in the hearing. This second scenario is easier.

Mr. Vigil asked Ms. Holmes to look at the time frames and logistics and let the Board know of the status so they can plan ahead.
Mr. Adams recommended holding the February Board meeting at the University of New Mexico.

4. NCARB/WCARB/FARB

Mr. Calvani stated that the overall NCARB IDP will come into effect and so will the realignment of the program requirements from the six and seven experience categories. This will happen in early November. There have been discussions about the Broadly Experienced Intern. There is a group of individuals, educators, trained and experienced in architecture that did not pursue licensure. NCARB believes there are about 12,000 of these professionals, and they have experience over five years that meet the current requirements. They would have to document their work experience, present a description of projects and have that signed by their supervisor. That is in the works. There also has been some talk about the education standard and currently comments are being taken until January 12, 2016. He explained that the education standards are an EESA and NCARB evaluation and both alternatives realize that NCARB standards are criteria and the EESA evaluation is used for foreign educated applicants. The NCARB evaluation is an approximation of requirements of a professional degree and is prescriptive based and the NAAB conditions are performance based.

Mr. Calvani continued by stating that the update to the standards is in the category definitions. Under the Proposed Education Standard Outline, under General Education, currently there are forty-five (45) semester hours and that will remain as is. Under History and Theory, Human Behavior and Environment, there are currently sixteen (16) semester hours and this will be reduced to twelve (12) semester hours. Under Technical Systems, there are currently twenty-four (24) semester hours and that will be increased from twenty-four (24) hours to twenty-seven (27) credit hours. Under Design, there are currently fifty (50) credit hours and that will be reduced to forty-two (42) credit hours. Under Practice, there are currently nine (9) credit hours and NCARB will increase the hours to twelve (12) credit hours and then require three (3) credit hours of Ethics and Professional Conduct. Under Electives, there are sixteen (16) credit hours and this will be decreased to twelve (12) semester hours. So, there is an overall deduction of ten (10) semester credit hours in Proposed Standards and this includes the same percentage of architectural related course work of the current standard. The proposed total of one hundred fifty (150) total semester credit hours is also in alignment with the current requirement for the credit of Bachelor of Architecture degree through NAAB.

Mr. Adams stated that taking credits out of history, liberal arts and the design part and putting it into technology and professional practice seems predictable coming from NCARB and NAAB. He is hopeful that the trend will swing back in the other direction. ACSA should stand up for the liberal arts component but there are no major objections. EESA is the set of requirements that NCARB uses to identify the education for the Broadly Experienced Architect (BEA). Because when you deal with something that is not an accredited degree, a pre-professional degree or
related discipline, University of New Mexico does the same process. Perhaps this can be used for the Broadly Experienced Architect (BEA) process of evaluation. He added that knowledge of history and design contributes to health, safety and welfare.

Ms. Rothwell-Clark suggested bringing comments in regards to NCARB’s proposed changes to the next Board meeting.

Mr. Calvani added that there will be a regional summit to be held March 11-14, 2016, and there is funding for member boards to send up to five (5) members and a scholarship fund for a public member. He added that NCARB should resolve the Broadly Experienced Architect (BEA) issue by the annual meeting. In addition, he stated that there was an article in the Wall Street Journal stating that architect licensing needs a gut rehab, in that it is almost impossible to get licensed. NCARB put out a statement stating that pursuing licensure is at an all-time high and in 2014 there were more than 37,000 aspiring architects on the path to licensure.

Mr. Oschwald updated the Board on WCARB. The WCARB executive committee will meet in December 2015 and discuss the regional charges. The charges include creating an interactive website for WCARB. They are also working on a “white paper,” which is a needed piece for state boards. Also, Mr. Oschwald met with the regional leaders to talk about the regional agenda and the venue for the March meeting. He is looking forward to the March regional meeting.

Mr. Calvani updated the Board on FARB (Federation of Associations of Regulatory Boards). The meeting was held in October 2015. The big conversation was the North Carolina dental Board issue and regulating “weed.” Now, boards have little effect on competition or that, everything affects competition. The Federal Trade Commission (FTC) discussed issues where boards increase prices for services that can be a drag on the economy. And those regulatory boards create barriers to the entry to the profession and that these boards are controlled by market participants. The market participants really need to abstain in matters with financial impact. The Board needed to indemnify themselves from anti-trust actions, look at inventory of current statutory options or the Board authority by statute “to do what a Board does.” There was also a discussion regarding active supervision, where supervisors can veto or modify but they cannot be a market participant. There was another discussion about a common submittal of professional licensing where it asks if Board’s actions stifle the economy with pricing and jobs, like the cost of college. The topic of immigration came up, too. In addition, there was talk about psychiatry and mental illness. There was discussion about record requests and the nature of that request. The Board’s concern should be indemnifying the board from anti-trust and the dental board issue. NCARB stated that most board’s members are appointed by the state, removed by the state and function through state employees and they rely on state attorneys for legal advice.
Mr. Vigil stated that Item 3. Proposed Amendments to the Architectural Act was skipped previously.

3. Proposed Amendments to the Architectural Act

Mr. Vigil asked to verify if the Board has memorialized the work that was postponed last year with the Legislature and can the staff pick up that document and continue with it. He felt it was unlikely that the proposed change will be considered for the next upcoming legislative session.

Mr. Bodelson stated that the Board should find sponsorship and make a concerted effort.

Ms. Propp stated that the Board’s actions throughout the last few years have been memorialized and the document was included in the materials. It is the most active document because it includes all of the proposals that were approved by the Board. Also it makes note of what actually occurred in the bill. If the Board decided to move towards having that passed in this next legislative session, the Board has made contact with Senator Mary Kay Papen, D-Las Cruces, who is president pro tempore of the Senate and she has expressed interest. Also, the gentleman with licensure in Texas and California has expressed interest and Mr. Vigil suggested having this bill introduced in the thirty (30) day legislative session coming up.

Mr. Vigil stated that he thought there was areas to adjust but was not sure.

Ms. Rothwell-Clark stated that the Board had pulled out one section because it was too controversial.

Ms. Propp stated that this document includes all of the original language that the Governor’s office has suggested to take out. It is not the actual bill. She suggested leaving in the fine section and to talk to the Governor’s office because there has been some history created with them now. There are businesses that are not owned by architects or engineers that are having some problems and the Board can at least argue that.

Mr. Vigil agreed. Does he need to do anything to move it forward?

Ms. Rothwell-Clark will contact Senator Mary Kay Papen.

Ms. Propp stated that Mary Kay Papen is on the committee that determines whether a proposed bill is germane to the legislative session’s agenda. In addition, she can ask Sen. Joseph Cervantés, D-Las Cruces to sponsor the bill. Last year, the Legislature acted like they were upset regarding the Board’s proposal to penalize up to $25,000, when the highest amount, by the (BLPEPS) is $7,000.
Mr. Dworak suggested passing a formal resolution by the Board and that the best approach should be a clear legal statement to start with. He brought up an issue with the State Supreme Court that deals with statute and authority that is coming up. Depending on the outcome, that could be some strong leverage for the necessity of at least some changes.

Mr. Vigil stated that there is a standing resolution and he does not think it has changed.

Mr. Dworak stated that the Board can continue but the question is- is the Board speaking on behalf of the new Board, as there are new members this year? And the resolution is a year old. There may be new language especially considering this new issue with the Supreme Court and if they grant the appeal.

Ms. Propp stated that she will start checking immediately with sponsorship on the bill and she will begin the groundwork. December 15, 2015 is the legislative pre-file deadline.

Mr. Vigil stated that the Board has a resolution and that our new member, Mark Glenn was on the Board at the time it was passed. He will talk to the Governor’s office about the resolution.

Mr. Glenn stated that he did participate in that vote.

Ms. Propp added that she will go forward with the resolution that was passed last year and she will communicate with lawmakers and then if they do not like it, it would be beneficial if the Board passed another resolution this year and then have it available in time for the December meeting.

Mr. Vigil added that the Board never got a formal approval but the Board will do their due diligence to make sure they are informed. There will also be new players involved in the Governor’s office, so this will be new to some of them. The Board will do their best to inform them. No vote is required and the Board is all in agreement to move forward on this item.

5. State Use Act

Ms. Propp passed out a handout. It was the language of the motion passed from the Council for Purchasing from Persons with Disabilities at their regularly scheduled Meeting on October 14, 2015. The Council decided to remove the services of architects, archeologists, engineers, surveyors, landscape architects, medical arts, practitioners, scientists, management and systems analysts, certified public accountants, registered public accountants, lawyers, psychologists, planners, researchers, construction managers and construction services and that these services were no longer suitable for offering under the State Use Act. It is important to remember that the Council for Purchasing from Persons with Disabilities went on to state that the removal of these services should not be construed to mean that people with disabilities
cannot perform these professional duties, they just cannot do these services under the (State Use Act). It conflicts with other parts of state law, including the Procurement Code.

6. FY 17 Appropriation Request

Ms. Propp passed out a handout a letter to the State Budget Division and the Legislative Finance Committee, dated August 31, 2015. She stated that there are some items that are going to draw the attention from the Legislature. She was asking for a budget that is higher than the FY16 budget. She has heard from both the Legislative Finance Committee and Department of Finance and Administration that they are going to try to cut the budget for the total request. Also, there have been some issues with the two reclassifications. Plus, in the last three years, there have been three different analysts during the time staff was filing the appropriation and operations budget. She felt that now, there was a sympathetic analyst on board, who represents the executive. The Department of Finance and Administration and the Legislative Finance Committee may be looking to cut $4200. from Personnel Services under employee benefits. They are also looking at cutting $2,000 from moving expenses. They may have questions in regards to the rent.

Mr. Bodelson asked if the analyst understands that the Board is self-funded through fees that are generated from 60-70% out of state registrants..

Ms. Propp stated yes, the new analyst understands that the Board is self-funded.

Mr. Bodelson wanted to understand the motives to cut the budget. How is the Board saving money by cutting these small amounts? If the Board takes space at the Regulation and Licensing Department building, it prevents another agency -- like the Children, Youth and Family Department, for instance -- that could use the space and are not self-supported.

Ms. Propp stated that the budget included a cushion to be able to move money up and these financial committees have found the cushion. If the Department of Finance and Administration and the Legislative Finance Committee find that agencies are taking too many steps to move up, they question it. She will bring up the issue about general funded agencies at the budget hearing. Ms. Propp added that she thought the (fund balance) is still too small to sweep but permission is needed each year before the Board can spend any money. In addition, she stated that the Board needed to find public space for Board's offices and instead of paying rent, using the funds for personnel.

Mr. Vigil stated that the contact agency is through the Regulation and Licensing Department.

Mr. Bodelson stated that the deeds are controlled by Property Control Division. They have the statutory authority over who occupies state buildings through the General Services Department
that are state owned under the executive. The contact is Mr. Edward Burckle, Cabinet Secretary at the General Services Department.

Ms. Propp stated that she could go into conversations with conditions clearly stated, like not being involved with the other boards and commissions. She also stated that the current building has issues with the lack of care. She recommended looking at moving in the near future. The lease (is perpetual) but it increases every year, except for these current three years but it will increase again in September 2017.

Mr. Vigil recommended communicating with Pat McMurray, Construction Industries Division Director/Regulations and Licensing Department. He would then contact Property Control to start those conversations.

Mr. Bodelson stated that there are two ways out of a state lease. One is that if the Legislature fails to fund the Board and the other is to move to state office space. An agency cannot break the lease. He offered to assist to sort out and find state space options.

(Item 7. was skipped-see below)

8. Assigned vs. Unassigned Fund Balance

Ms. Propp passed out a handout-Assigned/Unassigned Balance. She recommended turning some of the unassigned funds in the interest bearing account from unassigned to assigned. There is more than $600,000 in that fund and she would like to put two years worth of budget into an assigned category and it would be approximately $368,000. It would be assigned for FY 17 and then $368,000 would be assigned for FY 18. That is also a recommendation from the auditor stating that any unassigned monies could be taken away.

Mr. Bodelson made a motion to approve the request to make the adjustments from unassigned to assigned fund balances.

Motion:  motion to approve the request to make the adjustments from unassigned to assigned fund balances.
By: Michael Bodelson
Second: Geoff Adams
Board votes: passed unanimously

7. BAR/Special BAR Requests

Ms. Propp passed out a handout-2016 Legislative Session Request for Special Language and BAR Authority. In Section 4, she explained that she placed the language in since the other
state fund appropriation to the Board was $17,529 for salary increases tied to reclassification for two positions. She is asking for additional funds on top of the FY 17 budget that may be cut. The Department of Finance and Authority analyst is on board with that.

She continued by saying that in the additional FY16 BAR authority, this means that the Board could get additional money just for FY 16 and she was expecting a $38,000 shortfall, if there are no additional funds under this BAR. So this is a special BAR that allows the Board to go above 5% of the budget. One of the primary problems with the FY 16 budget was pay increases as this was a challenge and also, the agency ended up with very little amount of money for retirement contributions. The mistake was made by the Department of Finance and Administration, where it is now short $8,100. This budget would include that change, plus increases for the two reclassifications. There are no guarantees that the Board would get this money but all of these funds outlined on the document are recurring funds. The Board will always need this money. In FY 17, the retirement contributions are correct to the current salaries.

Mr. Bodelson motioned to approve the additional FY 16 amounts be the authority to transfer funds as described in the BAR authority explanation.

Motion: to approve the additional FY 16 amounts be the authority to transfer funds as described in the BAR authority explanation.
By: Michael Bodelson
Second: Tara Rothwell-Clark
Board votes: passed unanimously

Mr. Bodelson also stated that in the future, the Board needs to be thinking about adjusting the dues.

Ms. Propp stated that item # 9-FY17 Special Appropriations Request will move into the December agenda.

D. New Business

Mr. Vigil entertained a motion to move into Executive Session at 12:55 p.m.

Mr. Jim Oschwald motioned to move into closed Executive Session to deliberate over matters listed on the agenda.

Motion: to move into closed Executive Session to deliberate over matters listed on the agenda.
By: Jim Oschwald
Second: Tara Rothwell-Clark
Board votes: passed unanimously
Roll call was taken. There was a quorum. Executive session begins at 12:55. Recorder off.

Mr. Vigil announced that the Board is back in open session. The time is 1:37pm. The matters discussed in the Executive Session were limited only to those specified in the motion for closure and that no votes or official action was taken during the Closed Session.

1. Reciprocity, Reinstatement and Exam Applicants

**RECOMMENDED APPLICANTS FOR REGISTRATION BY RECIPROCITY**

<table>
<thead>
<tr>
<th>Committee Review August 7, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sanjiv Chadha</td>
</tr>
<tr>
<td>Chicago, IL</td>
</tr>
<tr>
<td>Thomas A. Cornelius</td>
</tr>
<tr>
<td>Austin, TX</td>
</tr>
<tr>
<td>Robert Lara</td>
</tr>
<tr>
<td>Plantation, FL</td>
</tr>
<tr>
<td>Kurtis Morton</td>
</tr>
<tr>
<td>Las Cruces, NM</td>
</tr>
<tr>
<td>Paul Rheinlander</td>
</tr>
<tr>
<td>Austin, TX</td>
</tr>
<tr>
<td>Glen A. Selligman</td>
</tr>
<tr>
<td>St. Louis, MO</td>
</tr>
<tr>
<td>Michael F. Sofarelli, Jr.</td>
</tr>
<tr>
<td>Clearwater, TX</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Committee Review September 22, 2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Terry W. Barker</td>
</tr>
<tr>
<td>Chattanooga, TN</td>
</tr>
<tr>
<td>Daryl Brown</td>
</tr>
<tr>
<td>Scottsdale, AZ</td>
</tr>
<tr>
<td>Carrie E. Byles</td>
</tr>
<tr>
<td>San Francisco, CA</td>
</tr>
<tr>
<td>Jeremy N. Dreskin</td>
</tr>
<tr>
<td>Albuquerque, NM</td>
</tr>
<tr>
<td>Paul Andrew Georges</td>
</tr>
<tr>
<td>Philadelphia, PA</td>
</tr>
<tr>
<td>Mark Reid Griffith</td>
</tr>
<tr>
<td>Huntington Beach, CA</td>
</tr>
<tr>
<td>David Kaselak</td>
</tr>
<tr>
<td>Avon, CO</td>
</tr>
<tr>
<td>Kristie M. Nelsen</td>
</tr>
<tr>
<td>Laekwood, CA</td>
</tr>
<tr>
<td>Sam Olshin</td>
</tr>
<tr>
<td>Philadelphia, PA</td>
</tr>
<tr>
<td>Rebecca L. Olsen</td>
</tr>
<tr>
<td>Bloomington, MN</td>
</tr>
<tr>
<td>Stephen C. Springs</td>
</tr>
<tr>
<td>Dallas, TX</td>
</tr>
<tr>
<td>Tara Rachel Street</td>
</tr>
<tr>
<td>Baton Rouge, LA</td>
</tr>
<tr>
<td>Randall P. Syphus</td>
</tr>
<tr>
<td>Nampa, ID</td>
</tr>
<tr>
<td>Danie-Rene Valenzuela</td>
</tr>
<tr>
<td>Austin, TX</td>
</tr>
<tr>
<td>Donald J. Wallin</td>
</tr>
<tr>
<td>Chicago, IL</td>
</tr>
</tbody>
</table>
NEW MEXICO BEA October 23, 2015

APPLICANTS FOR REINSTATEMENT

Richard R. Brown
Oklahoma City, OK

APPLICANTS FOR REGISTRATION BY EXAMINATION
RECOMMENDED FOR LICENSURE PENDING COMPLETION OF THE A.R.E

Aeje Rhyu
Los Angeles, CA

Mr. Oschwald read the names of the applicants for Registration by Reciprocity as listed in the above report. He made a motion to accept the applicants for Registration by Reciprocity as listed in the above report.

Motion: to accept the applicants for Registration by Reciprocity as listed in the above report.
By: Jim Oschwald
Second: Geoff Adams
Board votes: passed unanimously

Mr. Oschwald read the names of the applicants for Registration by Reinstatement as listed in the above report. He made a motion to accept the applicants for Registration by Reinstatement as listed in the above report.

Motion: to accept the applicants for Registration by Reinstatement as listed in the above report.
By: Jim Oschwald
Second: Geoff Adams
Board votes: passed unanimously

Mr. Oschwald read the names of the applicants for Registration by Examination as listed in the above report. He made a motion to accept the applicants for Registration by Examination pending completion of the ARE, as listed in the above report.

Motion: to accept the applicants for Registration by Examination pending completion of the ARE, as listed in the above report.
By: Jim Oschwald
Second: Geoff Adams
Board votes: passed unanimously
NEW MEXICO BEA October 23, 2015

2. Registration/Application Quarterly Report

Ms. Holmes read the report. She explained that report reflects the number of active registrants which is 2,282. The in-state registrants are 717 and the out-of-state registrants are 1,565. The number of reciprocity applicants pending is eight. The number of new registrants for this period is 42.

Mr. Oschwald pointed out that this is the highest number of registrants.

3. NMMEA 2014_03 Hearing Officer’s Report

Mr. Bodelson made a motion in NMMEA 2014_03 to accept and for Mr. Dworak to prepare a response indicating an acceptance of the Finding of Facts with the exception of the question of Ms. Durham being aware of the requirement for the affidavit, considering her long standing business practice and due to the ambiguity in the statute noted in the hearing, that the Board assess no fines at this time.

Motion: to accept in the case of NMMEA 2014_03 to accept for Mr. Dworak to prepare a response indicating an acceptance of the Finding of Facts with the exception of the question of Ms. Durham being aware of the requirement for the affidavit considering her long standing business practice and due to the ambiguity in the statute noted in the hearing, that the Board assess no fines at this time.
By: Michael Bodelson
Second: Geoff Adams
Board votes: passed unanimously

4. NMMEA_2012_08 Appeal

Mr. Dworak announced that there are no actions in related to NMMEA 2012_08.

5. NMMEA 2013_15 Request to Petition Court

Ms. Holmes explained that NMMEA 2013_15 is a case where the Enforcement Subcommittee recommended issuing a Notice of Alleged Violation against the respondent who represented himself as an architect. He is not licensed with the Board. He identified himself as an architectural designer on his website and was overheard claiming that he did the architectural services for the Robert Redford home. A notice of Alleged Violation was issued against him and it was difficult to serve him after three attempts. By hiring a Process Server, he was finally served. He did not respond to that. At that time, the issue came back to the Board and the Board voted to request a NCA be issued against him. That notice was received but he did not request a hearing. It was then brought back to the Board and the committee asked for a Default Order against him. Mr. Dworak drafted that order and the Board fined him $1000, and gave him sixty (60) days to pay. He did not respond to that order. Now, it
is back to the Board and the Enforcement sub-committee is asking the Board to vote on the final
move, which is to petition the District Court to enforce the Board’s previous final order.

Mr. Bodelson had a question for Mr. Dworak. What is the likelihood of the court to enforce it and what
methods do they use to make it effective?

Mr. Dworak stated that District Court could issue a court order and if the respondent does not comply
with that order, then they could be held in contempt of court. The only issue with this is that this
person is not practicing architecture. He was not sure how often the court grants these types of
orders but this is not done often.

Ms. Propp added that there had been some public complaints on this individual as well. Witnesses
say they will testify if needed.

Ms. Rothwell Clark asked for a motion to accept reference to NMBEA 2013_15 Request to Petition
the Court and grant authorization to petition District Court to enforce the Board’s final order.

**Motion:** to accept in reference to NMBEA 2013_15 Request to Petition the Court and grant
authorization to petition District Court to enforce the Board’s final order.

*By:* Tara Rothwell-Clark  
*Second:* Jim Oschwald  
*Board votes:* passed unanimously

E. Reports

1. Chairman

Mr. Vigil stated that there is a meeting with Mr. Dworak on November 4, 2015 at 2:30p.m. along with
Ari Biernoff, Acting Director of the Litigation Division and Peggy Jeffers, Assistant Attorney General.
The purpose of the meeting will be to discuss process, timing of the NCAs, communication bringing
cases forward and the priority of those cases.

Ms. Holmes stated that there are three Board members that will be present. Ms. Jeffers will
emphasize what type of information and investigation their office requires to consider a case.

Mr. Vigil stated that it will be a good opportunity to discuss outside consultation as this had been
discussed in prior Board meetings.

2. Secretary/Treasurer

Ms. Rothwell-Clark stated that there is a report by Ms. Propp in the Director portion of the agenda.
NEW MEXICO BEA October 23, 2015

3. Director

Ms. Propp stated that staff is working toward a paper renewal. Notices for the rule hearing will be sent with the renewals and that information will be also on the website. The expenditures so far are on track for most areas. She is trying to spend robustly without going overboard but the deficit in the retirement contributions of $9,000 has been spent and there is only $24,000 in that account. It is important to receive the BAR. In addition, she is working with a designer from DoIT on the website.

4. Rules and Regulations Committee

Mr. Calvani stated that the issues have been covered in prior discussions.

5. Joint Practices Committee

Mr. Vigil stated that there is a meeting coming up but there is nothing new to report. Ms. Barela has created a new database to memorialize issues that have come in so that the committee has source and history on various subjects. He asked Ms. Barela to let him know what is found in researching the Incidental Practice $600,000 issue.

F. Board Comments/Announcements

Mr. Dworak stated that the Administrative Procedures Act (APA) is on their website. There are only a few boards and commissions that apply portions of the Act but it sets out some really good markers in terms of best practices. If there are question or if the Board would like more information, he is available.

Mr. Vigil stated that item C. 9. FY 17 Special Appropriations Request will be tabled for the December meeting.

G. Adjourn

Mr. Vigil motioned to adjourn the meeting at 1:58 p.m.

Motion: to adjourn the meeting at 1:58 p.m.
By: Ray Vigil
Second: Jim Oschwald
Board Vote: Passed Unanimously
NEW MEXICO BEA October 23, 2015

Whereupon the regular open meeting of the New Mexico Board of Examiners for Architects adjourned by Mr. Vigil at the approximate hour of 1.58 p.m.

Respectfully submitted,

Mr. Raymond Vigil, Chair

Ms. Tara Rothwell-Clark, Secretary/Treasurer

12/4/15
Date

12-4-15
Date