New Mexico Board of Examiners for Architects

Minutes of Board Meeting

October 21, 2016

Las Cruces, New Mexico

Board Members Present

Raymond Vigil, Chair
Tara Rothwell-Clark, Vice Chair
Geoffrey Adams, Secretary-Treasurer
Robert Calvani, Architect Member
Michael Bodelson, Architect Member
Jim Oschwald, Architect Member
Mark Glenn, J.D., Public Member

Staff Present

Melanie Gonzales, Director
Jackie Holmes, Investigator
Patricia Wolff, Compliance and Records Clerk

Others Present

Jim Vorenberg, AIA
Heather Watenpaugh, NMSU
Joseph Fuemmeler, WDG Architects, AIA
A. MEETING CALLED TO ORDER/ROLL CALL

Mr. Vigil called the meeting to order at 10:03 a.m. Roll was taken and a quorum was determined to be present.

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

Three guests were introduced and welcomed. They were Jim Vorenberg, Heather Watenpaugh, and Joseph Fuemmeler.

Mr. Vigil described the history and renovation of Goddard Hall, built in 1913.

Motion: to approve the August 12, 2016 hearing and meeting minutes as presented
By: Jim Oschwald
Second: Geoffrey Adams
Board Vote: Passed unanimously

There were no public comments.

B. NEW BUSINESS

1. Recommendation from Legislative Sunset Committee

Mr. Vigil thanked Ms. Rothwell-Clark, Mr. Calvani, and Ms. Gonzales for joining with him to represent NMBEA at a recent meeting of the Legislative Sunset Committee. Mr. Vigil reported that the sunset committee voted to continue the NMBEA for another term of six years. The approval was coupled with a strong recommendation to revise the makeup of the board. Currently, the board consists of six architect members and one public member. The committee recommended that the NMBEA have five architect members and two public members. Board members then discussed the process of implementing the committee’s recommendation.

Mr. Vigil pointed out that one board member is required by statute to be from academia. Most of the other current board members are employed by government-related entities, while two work in the private sector. The terms of four members have expired.
Mr. Adams discussed the pending demise of the Interior Design Board, which was the only board to be sunset by the committee. He suggested that the NMBEA do what it can to support the Interior Design Board, such as writing a letter in support of the Interior Design Board that would cite the need for regulation due to health, safety, and welfare concerns. Mr. Adams also asked if NMBEA had ever received any complaints regarding our board composition. None were mentioned.

Ms. Rothwell-Clark noted that changing the composition of the board will require revising our statute. Mr. Calvani suggested that we gather information on the composition of the medical board and other technical boards. Ms. Gonzales reported that the Legislative Sunset Committee ideally would like to see public members filling one-third of all board seats. Mr. Bodelson recommended that board composition be diversified by having a certain number of seats on the board held by public domain architects.

Board members then discussed the importance of communicating the board’s concerns to legislators and the governor, with the help of AIA. Mr. Vigil said it will be difficult to get legislators to focus on the NMBEA, especially with state budget concerns looming. Mr. Vigil also pointed out that public positions on boards are the hardest to fill, so the net result will be many vacancies on boards. He suggested contacting NCARB to get information on the composition requirements of other states’ architect boards. Mr. Vigil said the NMBEA will follow legislators’ recommendations and work out implementation details as the process unfolds.

2. Proposed Changes to the NM Architectural Act

Mr. Bodelson led a discussion of proposed corrections and updates to the New Mexico Architectural Act. Major changes include:

- Reducing the number of architect members on the board from six to five.
- Increasing the maximum civil penalty on an individual who practices architecture without a valid certificate of registration.
- Requiring that a business entity primarily offering architectural services must have a registered architect holding a majority owner’s interest in the business entity.

Mr. Oschwald asked if we should be registering firms to better track the activities of large firms. The board currently relies on complaints from the public to find out if firms are not in compliance with state law. Investigator Ms. Holmes said a sworn complaint
would be necessary in order for an investigation to be launched. Mr. Oeschwald also spoke in support of increasing the civil penalty for practicing architecture without a license, saying a mistake made by an unlicensed, unqualified architect can cause many deaths.

Another proposed change, recommended by the Attorney General’s Office, would allow the NMBEA to disclose information related to disciplinary actions if it was “necessary to carry out the board’s purposes or in a judicial appeal from the board’s actions.”

Motion: to adopt the proposed statute changes to the New Mexico Architectural Act, as reviewed and modified today, and to authorize the chairman to contact AIA to help get the statutory changes approved by the legislature and governor.

By: Michael Bodelson
Second: Tara Rothwell-Clark
Board Vote: Passed unanimously

Ms. Gonzales brought attention to the resolution in board members’ binders that needed the chairman’s signature to make the board’s action official.

Motion: to have the board accept the official resolution of the New Mexico Board of Examiners for Architects adopting the recommended changes of the Architectural Act.

By: Michael Bodelson
Second: Mark Glenn
Board Vote: Passed unanimously
The resolution was later signed by Mr. Vigil.

3. Recommendation for the NMBEA Broadly Experienced Architect Pathway

Mr. Adams reported on the status of a new program that will allow broadly experienced architects to register in New Mexico without having an NCARB membership. The plan will go into effect on January 1, 2017 and sunset at the end of the year. Mr. Adams urged a review of the five-page application form to make sure it is accurate and up to date. He recommended that the plan not be offered to foreign applicants and that the application fee be raised from $500 to $1,000. The application form will be revised to reflect current law and requirements. The plan will be reviewed and voted on at the December 2, 2016 board meeting.
Motion: to revise the order of agenda items to hear committee reports first, and then go into executive session to discuss personnel matters.
By: Michael Bodelson
Second: Tara Rothwell-Clark
Board vote: Passed unanimously

C. REPORTS

1. Chairman: Mr. Vigil thanked board members for all their tremendous work and volunteering. He also expressed appreciation for staff and urged all board members to visit the new office space in Santa Fe, if they hadn’t already done so. The question of what to do with NMBEA’s artwork is yet to be answered, he said, as wall space is limited. Ms. Gonzales said the board could look at the artwork at its next meeting in Santa Fe and decide which pieces to keep and display. Mr. Vigil said he and Ms. Gonzales will attend the NCARB meeting in Ohio later in the month.

2. Secretary-Treasurer: Ms. Gonzales and Mr. Adams agreed there was nothing to report, except the status of the budget which will be discussed later in the meeting.

3. Director: Ms. Gonzales reported that she will attend the LFC budget hearing on October 27 at the capitol. She said she is working to get better signage for the office and noise-reducing walls around office cubicles that are adjacent to the Construction Industries Division public reception area. Ms. Gonzales also introduced Ms. Wolff, the new compliance clerk and office receptionist.

4. Exam and Reciprocity Committee:
   (a) Reciprocity, Reinstatement, and Exam Applicants: Mr. Adams said the Examination and Reciprocity Committee met and reviewed the qualifications of the applicants for New Mexico architectural registration by reciprocity and examination.

Motion: to move for board approval of the recommended applicants for New Mexico architectural registration by reciprocity: Jeffery Hatch, John Bardin, Andrew Cohen, Andrew Erstad, Matthew Goelzer, Russell Hazzard, James Kalvelage, and Janice Tifrea.
By: Geoffrey Adams
Second: Jim Oschwald
Board Vote Passed unanimously
Motion: to move for board approval of the recommended examination applicants for New Mexico architectural registration: Lee Fisher and Jennifer Penner.

By: Geoffrey Adams  
Second: Jim Oschwald  
Board vote: Passed unanimously

(b) Registrant/Application Quarterly Report: Ms. Holmes said the current number of active registrants is 2,120. The number of in-state registrants is 680, while the number of out-of-state registrants is 1,440. She said the number of reciprocity applicants pending is six and the number of new registrations for this period is 13, five of which result from examination and eight of which result from reciprocity. Ms. Holmes discussed a chart showing registration history since fiscal year 2005. Finally, she announced that four people passed the A.R.E. between August 12 and October 20, 2016: Rebekah Bellum, Gregory Scott Everett, Jennifer Renee Penner, and Keri Stevenson.

5. Finance and Operations Committee: Ms. Gonzales reviewed the budget status report for the period ending September 30, 2016. She reported that $43,570.93 has been spent in the 200 category (personal services) with $229,029.07 remaining. In the 300 category (contractual services), $2,532.57 has been spent, leaving $4,575.43. In the 400 category (other), she reported $23,392.13 spent, with $60,122.04 remaining. Ms. Gonzales said that of the total approved budget of $387,700, $69,495.63 has been expended to date, leaving a balance of $293,225.54.

Mr. Vigil questioned the cost of IT services, the largest expense in the 400 category. He also asked about when we can begin accepting online payments. Ms. Gonzales said there is still a moratorium on accepting credit cards online. Mr. Oschwald expressed concerns about IT problems such as our website not displaying on mobile devices. Ms. Gonzales said we have a contract with DOIT and they are still working on these problems. She said the membership roster can be viewed on a mobile device, but other parts of the website are still not viewable. Mr. Oschwald said he wanted to register his extreme dissatisfaction with what we are getting for the money we are paying. Ms. Gonzales said DOIT is understaffed and she understands the board’s frustration. Mr. Vigil said we should let DOIT know of our concerns and if necessary, look at private alternatives.

6. Planning and Development Committee: Ms. Rothwell-Clark said the committee intends to meet sometime in the next month to set a timeline once the budget is determined.
7. **Rules and Regulations Committee**: Mr. Calvani said he talked with Ms. Holmes about possibly incorporating Nevada-style settlement agreement offers wherein agency costs are covered for investigations, prosecutions, and closing of cases. Ms. Holmes agreed it should be looked into and proposed running the idea by our new attorney from the AG’s office. Mr. Vigil said we are currently restricted to imposing a civil penalty of $1,000 on violators.

Ms. Holmes added that our revised rules became effective September 15. After minor errors were discovered, the rules were corrected and refiled with the State Records Center. The corrected rules will become effective on October 29, 2016.

8. **Joint Practice Committee**: Mr. Vigil said the committee has not yet met. He said he will reach out to the committee administrator to get things going.

D. **BOARD COMMENTS / ANNOUNCEMENTS**

Mr. Calvani said he noticed there are a few changes that need to be made to board members’ roster listings. He also mentioned that NCARB staff will come to our office at their expense for training. Ms. Gonzales said she received the invitation and gave NCARB some preferred dates of availability. No date has been set yet.

Mr. Calvani added that he would check NCARB about data sharing and board composition issues. He also asked if the board would be opposed to someone with an NCARB certificate “fishing” (soliciting) in the state of New Mexico. The issue was briefly discussed but no action was taken. Mr. Vigil entertained a motion to move into executive session to discuss personnel matters.

**Motion: to go into executive session to discuss personnel matters**

*By: Tara Rothwell-Clark*  
*Second: Jim Oschwald*  
*Board vote:* Passed unanimously on a roll call vote

The recorder was turned off and the board entered into closed session at 12:23 p.m. The board returned to open session at 12:42 p.m. The matters discussed in the executive session were limited only to those specified in the motion for closure. No votes or official action were taken. Mr. Vigil then opened the floor to a motion on what was discussed in closed session.
Motion: to recommend to the governor’s office that Milarie Gonzales be appointed as permanent Executive Director of the NMBEA.

By: Tara Rothwell-Clark
Second: Michael Bodelson
Board vote: Passed unanimously

Mr. Vigil praised Ms. Gonzales for her tremendous work and said the board has great confidence in her and appreciates everything she and her staff do on behalf of the board. Ms. Gonzales expressed her gratitude to the board as well.

E. ADJOURNMENT
Motion: to adjourn the meeting
By: Robert Calvani
Second: Jim Oschwald
Board vote: Passed unanimously

The regular open meeting of the New Mexico Board of Examiners for Architects was adjourned at 12:45 p.m.

Respectfully submitted:

Raymond Vigil, Chair

Geoffrey Adams, Secretary-Treasurer

[Signatures]

12/2/16
Date

12/2/16
Date
RESOLUTION OF THE NEW MEXICO BOARD OF EXAMINERS FOR ARCHITECTS

Recommended Changes to the Architectural Act

WHEREAS, the Board of Examiners for Architects (the “Board”) is a public body created by the New Mexico Legislature pursuant to the Architectural Act, NMSA 1978, Sections 60-15-1 to -13; and

WHEREAS, the purpose of the Architectural Act is to safeguard life, health and property and to promote public welfare of the people of New Mexico by requiring that persons practicing the profession of architecture be properly registered and qualified; and

WHEREAS, the duties of the Board include, but are not limited to, adopting rules establishing registration and license renewal requirements, conduct disciplinary proceedings and take action in accordance with the Uniform Licensing Act (“ULA”), NMSA 1978, Sections 60-1-1 to -34, against individuals found to have violated the Architectural Act or other regulations adopted by the Board; and

WHEREAS, the Board has spent considerable time reviewing the Architectural Act and believes that certain updates and changes are needed in order to clarify the law and also empower the Board to effectively regulate both licensed and unlicensed activity in the state; and

WHEREAS, there is a need to address a national shift in reciprocity requirements with other states for individuals licensed as “broadly experienced architects” or “broadly experienced foreign architects” as prescribed by the National Council of Architectural Registration Boards (“NCARB”); and

WHEREAS, allegations received by the Board related to potential disciplinary matters should not be strictly confidential, but allowed to be disclosed to the alleged individual during the investigative process prior to issuance of a Notice of Contemplated Action; and

WHEREAS, additional clarity is needed in the Architectural Act regarding regulation of companies providing architectural services; and

WHEREAS, there has been a recent need to clarify that the Board has explicit authority to pursue administrative disciplinary action against individuals charged with engaging in unlicensed activity; and

WHEREAS, the gross disparity between potential profit and the maximum fine of one-thousand dollars ($1,000) for unlicensed activity under the ULA provides minimal deterrence for companies or individuals engaging in unlicensed practice of architecture; and
WHEREAS, it is imperative that the one-thousand dollar ($1,000) civil penalty for unlicensed activity under the ULA be waived by the Architectural Act and replaced with greater maximum penalty in order to reasonably deter the alarming incidence of unlicensed practice within the state.

THEREFORE BE IT RESOLVED that the Board approve the general intent of the recommended changes presented at its October 21, 2016, meeting and direct the Board’s rules and regulations committee to incorporate final revisions; and

THEREFORE BE IT FURTHER RESOLVED that the New Mexico Board of Examiners for Architects respectfully requests that the New Mexico Legislature consider its recommendation and amend the Architectural Act during the 2017 legislative session.

Approved By Unanimous Vote of the Board of Examiners for Architects
During a Regularly Scheduled Open Meeting Held October 21, 2016

Ray Vigil, Chairman
On Behalf of the Board