New Mexico Board of Examiners for Architects

Minutes of Board Meeting

October 20, 2017
Albuquerque, New Mexico

Board Members Present

Raymond Vigil, Chair
Tara Rothwell, Vice Chair
(Attended via Tele Conference)

Michael Bodelson, Secretary-Treasurer
(Attended via Tele Conference)

Robert Calvani, Architect Member
(Attended via Tele Conference)

Jim Oschwald, Architect Member

Mark Glenn, J.D., Public Member

Geoffrey Adams, Architect Member

Staff Present

Melanie Gonzales, Executive Director
Jackie Holmes, Compliance Officer/Investigator
Gloria Wheeler, Business Operations Specialist

Others Present

Joseph Dworak, Assistant Attorney General
A. OPENING

1. Mr. Vigil called the meeting to order at 10:06 a.m. Roll call was taken and a quorum was determined to be present. Three board members attended the meeting telephonically.

2. All present stood for the Pledge of Allegiance.

3. Mr. Vigil asked for approval of the meeting agenda. Mr. Bodelson moved for approval and Mr. Glenn seconded the motion.

Motion: To approve the meeting agenda.

By: Michael Bodelson
Second: Mark Glenn
Board vote: Passed unanimously

4. No guests were present.

5. Mr. Vigil asked for approval of the August 11, 2017 board meeting minutes. No changes to the minutes were requested.

Motion: To approve the August 11, 2017 board meeting minutes as presented.

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

B. NEW BUSINESS

1. Update on NCARB Centennial State History
Ms. Rothwell reported that she filled out the centennial state history form based on the information that she received. Basically there are a few gaps that still need to be filled in and there are probably a few more anecdotes that can be included. The Kidder report contains some great history. It talks about the Architectural Law being enacted in the 1931 legislative session, and it is a record of the Board of Examiners for Architects first meeting which was on August 18 and 19, 1931. It will be a great attachment to New Mexico’s State mini-history report because it contains a lot of history.

The information on the mini-history form thus far is the date the New Mexico regulation passed; March 18, 1931; the first board meeting date which was August 18 and 19, 1931; who the first board members were; the first licensed issued; and the first license issued to a woman. Ms. Rothwell still needs to find out the date New Mexico joined NCARB and WCARB.
Mr. Oschwald stated that Marjorie Mead Hooker was the first female board member in New Mexico and that she signed her son’s license certificate.

Ms. Rothwell asked board members to submit any additional information to her by November 13th. The history is due at NCARB by December 17th so board members can approve the submission to NCARB at the December 1st board meeting. Mr. Oschwald will look into New Mexico’s history with WCARB and Mr. Calvani will do the same with NCARB.

Ms. Gonzales asked board members if they had any pictures. NCARB expressed an interest in having any pictures boards may have to go along with their mini histories. Board members did not have any pictures but would check with older registrants and do some research to see if they could find old pictures or old articles about architecture.

2. NCARB Tri-National Mutual Recognition Agreement for International Practice
Mr. Vigil deferred the discussion of this item to Mr. Calvani so that he could talk about the agreement from NCARB’s perspective and discuss what it will accomplish for New Mexico. Mr. Calvani stated that he thought the New Mexico board had already signed or agreed with NCARB on the tri-national reciprocity agreement between Mexico, Canada and the US. Mr. Vigil clarified that the board agreed with the idea when NCARB took a poll some time ago but never formally voted on the issue. Mr. Calvani moved to support the agreement. Mr. Oschwald seconded the motion.

Mr. Oschwald added that while he was working through the BEA program he worked with the Canadians and the Mexicans on tri-national agreement. He visited the folks in Canada and watched their process and similarly with Mexico. Mr. Oschwald discovered that the Mexican process is far more rigorous than the Canadian and the US process.

Motion: To approve the Tri-National Mutual Recognition Agreement

By: Bob Calvani
Second: Jim Oschwald
Board vote: Passed unanimously

3. Discussion of student observer volunteer position
Ms. Gonzales explained that neither the board’s rules nor statutes discuss the student observer. There is no requirement to vote that person in. It is a voluntary position which means that the person cannot receive per diem for attending board meetings. The student observer would be a liaison between the board and UNM. Ms. Gonzales further stated that she had spoken to Paul Kippert, Department of Finance Administration’s attorney about the student observer. Mr. Kippert said that the student observer would not be eligible for mileage or per diem. To offer
mileage or per diem the board would have to put that person under contract. They could only serve as a volunteer.

Mr. Dworak explained that the issue with per diem is that it has to be authorized by law in order for someone to be eligible to receive it. Sometimes it is specifically stated in statute; sometimes boards have a provision that states that the board has the authority to create committees and those members are eligible then for per diem. Mr. Dworak went on to say that he would have to check the board’s statutes and rules, but that he did not think that the board could pay the student observer per diem.

Mr. Vigil asked if the board could help fund some type of scholarship program to help a potential student observer. Mr. Dworak responded by stating that scholarships are a little complicated. You run the risk of running into anti donation clause issues which can be a violation of the State Constitution. If the board wanted to explore this issue, it would have to be within the scope of the board’s authority; within the statutory scope of the board.

Mr. Oschwald commented that this harkens back to the days of unpaid internships. Mr. Adams identified the potential student observer as Evan Burns. Mr. Vigil stated that he would like to find a way to reimburse the student observer and asked Mr. Adams if he thought the University would get involved and possibly help. Mr. Adams stated that the value of a student serving as a student observer would be immeasurable to the student. Mr. Adams said he would ask and added that he would be willing to transport the student observer if need be. Mr. Adams further stated that it would be great to figure out a mechanism to have a student observer who could be reimbursed.

Mr. Vigil asked Mr. Dworak if having a student observer is something the board could or should address in its rules. Mr. Dworak stated that the board membership is established by statute. Technically this person could never be considered a member of the board without a statute change. Ideally it would be best to have a statement in the rules so that a precedent is established and there is no ambiguity about it. Mr. Vigil expressed the need to address this issue in the rules for future boards as well as the current board. He also stated that hopefully at the next board meeting the board can have some feedback from the student observer and Mr. Dworak can make a recommendation on how the student observer language can be put into the rules.

4. Rules Hearing Update
Ms. Holmes discussed the State Records Department’s requirements regarding noticing public rule hearings in the New Mexico Register, and provided board members with a copy of the New
Mexico Register submittal deadlines and publication dates. Ms. Holmes explained that due to the submittal deadlines and publication dates, the NMBeA could not have had a rule hearing in December because the deadline for submitting the notice was yesterday; October 19, 2017. Changes to the rules needed to have been worked on before publishing the notice of rule hearing. Due to the new State Rules Act, rule changes must be completed when the rule hearing is noticed. The notice must contain a synopsis of the changes and the public must be notified where they can get a copy of the changes.

Mr. Vigil clarified specifically what changes the board would make to the rules:
- The reference correction in 16.30.4.12(C) change ....... “as defined in Subsection M of 16.30.1.7 NMAC” to .......“as defined in Subsection N of 16.30.1.7 NMAC”.
- Including some type of fine matrix
- Include student observer language

Mr. Vigil asked board members to have a good idea and possibly some language to put in the rules at the next board meeting. A one line statement on the student observer should be sufficient.

Mr. Dworak advised the board that the Attorney General’s office is promulgating default procedural rules for the rule making process which they are now required to do and he is personally drafting the rules for his office. He further stated that he would be happy to guide the board through the process. The statute requires that if an agency has not adopted their own procedural rules for rulemaking consistent with the new requirement of the State Rules Act, they need to apply the Attorney General’s rules as default rules. There are a couple of clarifications and minor additional requirements that are in line with what the current State Rules Act requires. Mr. Dworak went on to say that part of the attorney general’s scope in representing their clients is to be involved in the drafting of rules. That can be done by sitting down with the committee; usually after the committee has had one or two sets of revisions. At some point prior to the rules coming to the board for its first vote to publish the rules, Mr. Dworak should be involved. He would need to have enough time to review the rules and give substantive feedback.

Mr. Dworak gave an example of how the board could proceed. If discussion could be had about what changes the board wants to take place at the December meeting. Between the December meeting and the following meeting (which is scheduled for February 2nd) the board would have committee meetings and at that point Mr. Dworak would provide feedback in terms of the substance and the actual writing of the rule, and at the following meeting, which would be April 27th, the board would have a finalized copy and would vote to publish that for hearing. It is
at that point that all of the requirements for notice would have to be satisfied. The rule hearing can be done by hearing officer or by the entire board. If it’s done by the board, the board can make a decision the same day.

Mr. Vigil asked if there were any other items board members wanted to include in a rule change. If so they should be discussed now. He went on to say that it is his intention to move forward with changing the rules. At the December meeting committee members should come prepared with samples of the changes that need to be made. Ms. Gonzales and Mr. Dworak can work on the student observer language.

Mr. Calvani commented that the board’s rules and laws have been modified so many times. They are confusing and repetitive. Eventually NCARB’s model laws are going to foster NMBEA’s laws to be more general and the rules to be more specific. Mr. Calvani is hoping that someday the rules and laws will be cleaned up and coincide with each other.

C. Reports

1. Chairman – Mr. Vigil thanked all for their efforts and for working on the different committees, and for making the agency work for the licensees. He also thanked Mr. Oschwald and Mr. Calvani for facilitating Ms. Gonzales’ appointment to one of NCARB’s prestigious committees.

2. Secretary/Treasurer – Mr. Bodelson stated that the finance and operations committee will be discussed later in the agenda.

3. Director – Ms. Gonzales reported the board has officially completed the audit for FY17. It is due at the State Auditor’s office on November 1, 2017. Hopefully if everything goes well and Ms. Gonzales gets the approval from the State Auditor’s office she can present the 2017 audit report at the December board meeting, if not it will be presented at the February board meeting.

The renewal reminder postcards were mailed out on October 13th. Staff has received many compliments on them but also received reports of some confusion regarding whether licensees needed to change their addresses. Over all the response was positive with many people expressing that it was great that the board initiated sending the postcards. The renewal statements will be sent out in late October. The number of licensed architects is the highest count since FY05.
Ms. Gonzales and Mr. Vigil will be attending a budget hearing on October 25th for the FY19 budget. Hopefully the budget will be approved as presented. Ms. Gonzales hired a new administrator. Alicia Galvan will start on Monday, October 23rd. She is a college student, attending UNM at Los Alamos and will work from 8:00am to 5:00pm with a half day on Thursday.

A majority of the inventory in the storage unit has been eliminated. GSD took almost all of the furniture and only left two printers, a typewriter and the copier, and other miscellaneous items. The remaining items will be offered to Delancey Street. The only items remaining in the storage unit are banker boxes containing files. The board will be able to downsize the storage unit and save money. It will probably save about $200.00 per month.

The architectural handbook will soon be printed by State Printing, possibly by the end of this month. They will be nicely bound.

Ms. Gonzales thanked Mr. Oschwald and announced that she is officially on NCARB’s Professional Conduct Committee and attended the first meeting in Washington, DC. It is a very intense and busy committee. The committee deals with disciplinary cases in all of its member jurisdictions.

Mr. Oschwald expressed concern about any files in storage units not being secure because they contain potentially personally identifiable information. Mr. Oschwald asked if there is a State archive system where the files in the storage unit could be stored; where they will/might be more secure.

Ms. Gonzales explained that there are not many files with identifiable information in the storage unit. She said those files are mostly financial documents from prior years, like FY12 and FY13.

There were comments made on the postcard that was sent to all licensees; some things to consider adding in the future, like information on continuing education. But overall, all were pleased with the postcard.

4. **Exam and Reciprocity Committee** –
   A. Mr. Adams reported that the Examination and Reciprocity Committee reviewed the qualifications of applicants for New Mexico architectural registration.
Motion: to move for board approval of the following recommended applicants for New Mexico architectural registration by reciprocity: Jack Christopher Ball; Victor James Dominelli; Paul Stevenson Oles; Scott Polit; Michael Shrewbridge; Michael Vernich; and Gonzalo Villares;

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

Mr. Adams noticed that a reinstatement license number, 522, was listed on the meeting agenda but not on the Exam and Reciprocity Committee Chair Report. Ms. Holmes explained that this was an error. License #5222 should not have been listed on the agenda. It was a license reinstatement that the committee did not need to review.

Motion: to remove item C 4 b reinstatement-license number 5222 from the agenda:

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

D. Registrant / Application Quarterly Report - Ms. Holmes reported that the current number of active registrants is 2,337, which includes 84 architect emeritus. The number of in-state registrants is 754, which includes 49 architect emeritus and is 32% of the licensee base. The number of out-of-state registrants is 1,583, which includes 35 architect emeritus and is 68% of the licensee base. There are currently 3 reciprocity applications pending and the number of people who were licensed since the last board meeting is 18. Of the 18 new licensees, 15 were reciprocity applicants and 3 were exam candidates. Three exam candidates completed all divisions of the ARE.

5. Finance and Operations Committee – Mr. Bodelson stated that the board is at an all-time high in terms of licensees, therefore income is coming in. Ms. Gonzales reported that the State implemented a new share financial government system so the reports look a little different. They’re no longer using the comprehensive annual financial report (CAFR), it is now called the income statement. The report is now three pages. Instead of separating it by category the first two pages are the whole expenses and revenues.

Ms. Wheeler reported that for the 200 and 400 categories the total spent was $9,078.94. The total revenue for professional licensing was $3,400, trade and professions $5,412.50 and other penalties $387.50. The approved budget for the 200 category was $286,800, the board has
spent $72,308.18; the 300 category budget is $11,000, there is a pending invoice for $4,194.40; category 400 budget is $89,000, so far $17,770.76 has been spent.

6. **Planning and Development Committee** - Mr. Bodelson reported that there has not been much committee activity. New Mexico has been strapped financially which has had an impact on just about everything. Now might be a good time to start planning and hopefully the committee can meet in the next month or two and start putting some ideas on the table to avoid growing the fund balance unnecessarily. Mr. Vigil stated that he would like to see the potential reduction in fees as an item the committee might take on. Mr. Bodelson pointed out that the majority of the board’s licensees are out of state. Out of state members are basically funding a significant portion of the board’s operation.

7. **Rules and Regulations Committee** – No Report

8. **Joint Practice Committee** - Mr. Calvani reported that the Joint Practice Committee (JPC) met on October 12th IN Albuquerque. The Engineering Board is now running the meetings and it will be the Architects turn next. There was discussion about communications; about trying to have a unified front and dealing with deregulation. Also discussed was sharing white papers and the toolbox that NCARB’s putting together to combat boards getting sunset. It was a good discussion.

There was also discussion about architectural drawings. CID has some concerns about this and thinks that the architects’ board should discuss these issues: should architectural drawings be copyrighted; should they be released to the public; are or should some things be confidential; like with drawings of jails.

There was a lot of discussion about legislation to attempt to change the makeup of boards. Mr. Calvani is going to get together with the landscape architects to further discuss and create some bullets on why these two boards should not be combined.

Mr. Calvani met with Peggy Favour of the Interior Designers Board. The JPC will have a discussion at one of their upcoming meetings to meet informally with the Interior Designers Board to talk about what they want and other issues. Mr. Calvani thinks it is a good idea to stay in communication with the Interior people and be able to protect the architects turf as well as theirs.

**D. BOARD COMMENTS / ANNOUNCEMENTS** – Mr. Vigil announced that the next board meeting is December 1, 2017. Mr. Calvani advised that he will not be able to make that meeting. That is the date of NCARB’s committee summit in Louisville, KY. Mr. Oschwald advised that he would also be attending the NCARB meeting.
E. ADJOURNMENT:

Motion: To adjourn the meeting.

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

The regular open meeting of the New Mexico Board of Examiners for Architects was adjourned by Mr. Vigil at 11:40 a.m.

Respectfully submitted:

[Signature]
Mr. Raymond Vigil, Chair

[Signature]
Michael Bodelson, Secretary-Treasurer

12-01-17
Date

(12-01-17)
Date