

**MINUTES**  
**South Carolina Board of Architectural Examiners**  
**Board Meeting/Hearings**  
**9:30 a.m., November 16, 2010**  
**Synergy Business Park**  
**Kingstree Building**  
**110 Centerview Drive, Conference Room 204**  
**Columbia, South Carolina**

**1. Meeting Called to Order**

Brad Smith, chairman, called the meeting to order at 9:34 a.m. Other members present were Tyson Nettles, Stephen Russell, W. Barry Jenkins, and Dennis Ward.

José Caban was granted an excused absence.

Staff members participating in this meeting included Jan Simpson, Administrator, and Alice DeBorde, Administrative Assistant. LLR employees attending the meeting included: Christa Bell, Litigating Attorney, Todd Bond, Investigator, Steve Freshley, Investigator; Dean Grigg, Hearing Advice Attorney; and Jamie Saxon, Hearing Advice Attorney.

Ms. Simpson announced that public notice of this meeting was properly posted at the S. C. Board of Architectural Examiners office, Synergy Business Park, Kingstree Building and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act.

**2. Introduction of Board Members and All Other Persons Attending**

**3. Approval of the September 14, 2010, Meeting Minutes**

**MOTION**

Mr. Jenkins made a motion the Board approve the minutes of the September 14, 2010, meeting as presented. Mr. Russell seconded the motion which carried unanimously.

**4. Approval of Agenda**

**5. Office of General Counsel - Hearings**

- a. S. Derrick Mozingo, Jr. d/b/a Mozingo & Wallace Architects, LLC (2007-6 & 2007-17)

This matter was recorded by a court reporter in order to produce a verbatim transcript should one be necessary.

**MOTION**

LLR Attorney Christa Bell presented a signed Memorandum of Agreement (MOA) for the Board's consideration. Mr. Mozingo was present and, by choice, was not represented by counsel.

The Board accepted the Memorandum of Agreement (MOA) and imposed a fine of \$6,000.00, completion of an ethics course approved by the Board in advance, to be passed successfully and taken at the respondent's own expense, in person (not online). The course will not count toward the required continuing education. Mr. Mozingo's license is suspended until such time

as the fine is paid and confirmation of successful completion of the ethics course has been received. A public reprimand is also issued.

## **6. Application Hearings**

### **a. Eric (Rick) Wellington Lee**

The application hearing for Eric (Rick) Wellington Lee was carried over to the February 2011 meeting.

### **b. George F. Alsbrook, Jr.**

Mr. Alsbrook signed a consent agreement acknowledging noncompliance with required continuing education activities, paid a fine of \$2000, and submitted proof of completion of the required continuing education. The Board accepted the Consent Agreement.

## **7. Administrator's Remarks, For Information – Jan Simpson**

Ms. Simpson recently spoke to Clemson architecture students. NCARB's new PowerPoint presentation on IDP is excellent and is being used by IDP coordinators nationwide to ensure consistency in the message.

Ms. Simpson noted Clemson students are completing IDP enrollment through Clemson. Clemson will provide NCARB with a list of students and funding for enrollment of 4<sup>th</sup> year students and the entire IDP fee for graduate students. She noted the Board will need to vote on providing Clemson University additional funding.

Discussion ensued in regard to earliest eligibility dates for Clemson students in IDP. The Board tabled a motion in regard to this matter until later in the meeting, pending receipt of current information.

Ms. Simpson stated she was elected to the MBE (Member Board Executive) seat on the NCARB Board of Directors. She further stated the seat is for fiscal year 2012 and will begin in June 2011.

### **a. Legislative Report**

There is no pending legislation for the Board of Architects; however, the Board of Landscape Architects is asking the Board to review their proposed regulations. The proposed regulations will be published in the State Register at the end of November; the 30-day comment period will end on December 29, 2010. She asked the members to contact her or Sherri Moorer with any comments they may have.

### **b. Financial Report**

Ms. Simpson presented the Board with a financial report. She noted it is in a temporary format; however, a more readable template should be available soon.

### **c. Licensure Statistics Report**

## **8. Office of Investigations and Enforcement Report and Office of General Counsel Report – Steve Freshley and Christa Bell**

### **a. Number of Investigations**

### **b. Number of Open Cases**

### **c. Number of Pending Cases**

d. IRC Report

Mr. Freshley stated the IRC report met on November 2, 2010, at which time the committee discussed nine cases. He noted one case is recommended for dismissal and eight cases are being recommended for formal complaint.

**MOTION**

Mr. Smith made a motion the Board approve the November 2, 2010, IRC report. Mr. Russell seconded the motion which carried unanimously.

Mr. Freshley stated since the Board has accepted the IRC report there are now two open cases in OIE regarding architects. He noted the oldest case is 77 days old and the youngest case is 50 days old.

e. Number of Office of General Counsel (OGC) Pending Hearings

Ms. Bell stated there are currently 13 open cases on OGC. She noted the majority of the cases were the ones from the November 2, 2010, IRC meeting. She went on to say two cases were resolved during this meeting by way of a Memorandum of Agreement (MOA). One case is for unlicensed practice, pending a hearing with the Administrative Law Court (ALC) on Tuesday, November 23, 2010. She noted OGC has closed eight cases since January 2009.

**9. Unfinished Business**

a. New IRC Members

Ms. Simpson reminded the Board they previously discussed routine consideration of IRC members. She noted Steve Usry is willing to continue serving but understands the Board might like to rotate individuals. She noted Don Golightly also serves; John Gilmore is an alternate who has been attending the meetings.

Discussion ensued in regard to the tenure of the IRC members and eligibility (former Board member or not). The Board asked that Ms. Simpson provide a list of former Board members and that the members provide names of potential individuals outside of the Board realm. This matter was tabled to the May 2011 meeting. The Board members expressed confidence in the current IRC members and noted there is no pressing need for change.

Ms. Simpson briefed the members in regard to the IRC process.

**10. New Business**

a. Building Official Manual Revisions (Russell/Smith)

Mr. Russell reported on the joint meeting between subcommittees of the Board of Engineers and Surveyors and the Board of Architecture to revise portions of the Building Officials Manual.

Mr. Russell reported the meeting and subsequent work went smoothly. Members of the Board of Engineers and Surveyors did not recall voting on the Manual when it was first presented in 2007, but meeting minutes revealed that the Board did approve the current version of the Manual. The issue at hand is wording in Section 300. The long-range goal is to revise the entire Manual, but short-term, the plan is to revise Section 300 and re-post it on web sites. Mr. Russell said one whole portion of Section 300 regarding building officials was deleted in its entirety as it is currently contained in Section 200. He noted the engineers also had questions and issues with incidental practice.

The Board suggested the following paragraph of Section 300 regarding upfits or alterations to a building less than 5,000 square feet be reworded as follows:

Upfits or alterations to a building that is less than 5000 square feet and less than 3 stories in height do not require the services of a design professional unless the alterations will increase the area of the building beyond 5000 square feet or affect the structural safety of the building. If either the building size or structural safety is affected by the alteration, the services of a design professional are required. If the use of a building is currently or changes to become one of assembly, institutional, educational or hazardous occupancy, or changes to become one of these classifications. the services of a design professional ~~is~~ are required.

### **MOTION**

Mr. Ward made a motion the Board accept the proposed revisions to the Building Officials Manual. Mr. Jenkins seconded the motion which carried unanimously. The proposed wording will be reviewed by the Board of Engineers and Surveyors on November 18, 2010.

### **Lunch**

The Board adjourned for lunch and resumed public session.

### **Return to Public Session**

#### **b. Response to Legislative Audit Council (LAC)**

Mr. Smith reported he received a letter from the Legislative Audit Council requesting feedback regarding Board budgets, timely issuance of licenses, and investigation of complaints. All licensing boards at LLR received the letter.

A brief discussion ensued regarding the application process, the amount of time to investigate complaints, and number of pending cases in the Office of General Council. Mr. Smith will respond to the Legislative Audit Council on behalf of the Board.

### **11. Discussion Topics**

#### **a. Free Services Policy Update (Russell/Nettles)**

The Board considered a hypothetical situation regarding free services at the request of a SC architect. Mr. Nettles reviewed the Board's current policy and the situation and indicated he believed its legality is questionable.

Mr. Russell believes the issues related to offering free services and providing free services need to be revisited at the next Board meeting for clarification. He noted the statute does not make a distinction between projects that are publicly funded and projects that are privately funded.

Ms. Simpson stated there are instances when a client approaches an architect with whom he has previously worked and asks for fees on an upcoming project. The architect is under the impression he is being asked to provide services for the project. He later discovered the client independently solicited fees from other architects.

This matter was carried over to the February 2011 meeting at which time a draft policy will be presented for the Board's review.

#### **b. "Bidding" – Architect fees embedded in Contractor or Engineer fees**

Ms. Simpson asked about instances where the architect's client is a contractor or developer, not necessarily the owner or the issuer of an RFP. Is it a violation if the architect gives his fee for

the RFP to the contractor who combines it with other fees and presents a total fee for the project team?

Discussion ensued and included topics such as it not being a direct violation of Section 40-3-300, although it could be a violation under mitigating circumstances.

This matter was carried over to the February 2011 meeting at which time a draft policy will be presented for the Board's review.

## **12. Board Member Reports**

### **a. Report on Clemson School of Architecture (Caban)**

A brief discussion ensued about procedural issues related to filling the Board member seat currently held by Clemson Architecture School professor José Caban whose term ends in May 2011. This matter was carried over to the February 2011 meeting.

### **b. Report on NCARB Board of Directors Actions (Ward)**

Mr. Ward gave an overview of actions taken at the most recent NCARB Board of Directors meeting, giving highlights on continuing education issues, IDP, ARE, and the search for a new Chief Executive Officer of NCARB.

### **c. Report on Continuing Education (Jenkins)**

Mr. Jenkins stated the NCARB Professional Development Committee was asked to review 175 courses to be presented at the 2011 AIA national convention to determine if they qualify for health/safety/welfare credit. He and two other committee members reviewed the courses. He rated forty-five of the 175 courses as not meeting h/s/w criteria, rated 25 courses as questionable, 29 courses as minimally meeting the criteria, rated 55 courses as being superior, and rated 21 courses as excellent. He stated the committee denied approximately 60 courses. NCARB and AIA are working together to reach consensus.

Mr. Jenkins is also reviewing information on proposed walking tours. He noted 29 tours probably will meet h/s/w criteria.

Mr. Jenkins stated the committee is moving forward with a proposed resolution to be considered at the NCARB Annual Meeting. He noted the committee is wrestling over the definition of HWS.

Ms. Simpson stated the University of Oklahoma will retain AIA members' CE records for two years after terminating their agreement with AIA to serve as repository. Discussion ensued in regard to auditing and reviewing continuing education from out of state individuals.

### **d. Report on MBE/Chair Meeting New Orleans (Smith)**

Mr. Smith and Ms. Simpson attended the NCARB MBE/Member Board Chairs meeting in New Orleans. Meetings held on Friday and Saturday were a continuation of strategic planning begun during the Annual meeting.

IDP Funding: Ms. Simpson stated that NCARB recently changed the IDP entry point to allow freshmen, sophomores and juniors to begin accruing work experience. Clemson's IDP account balance will not be sufficient to cover this increase. Because many students change majors, Clemson opens IDP enrollment to seniors and graduate students (also per Board directive). The current balance of \$4,473.00 in the IDP account could possibly be insufficient.

## **MOTION**

Mr. Jenkins made a motion the Board transfer \$18,000.00 to Clemson University's School of Architecture for IDP funding. Mr. Russell seconded the motion which carried unanimously. The Board further expressed their approval of enrolling third-year students who choose to begin IDP at that point.

**13. Public Comments**

No public comments were made during this meeting.

**14. Executive Session**

The Board did not enter executive session.

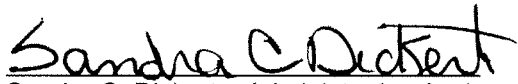
**15. Return to Public Session**

**16. Adjournment**

**MOTION**

There being no further business to be discussed at this time, Mr. Ward made a motion the meeting be adjourned. Mr. Smith seconded the motion which carried unanimously.

The November 16, 2010, meeting of the SC Board of Architectural Examiners adjourned at 2:31 p.m.



Sandra C. Dickert – Administrative Assistant