

MINUTES
REGULAR MEETING
CALIFORNIA ARCHITECTS BOARD

December 15-16, 2010

San Diego, CA

A. CALL TO ORDER – ROLL CALL – ESTABLISHMENT OF A QUORUM

President Iris Cochlan called the meeting to order on December 15, 2010 at 9:40 a.m. Secretary Marilyn Lyon called the roll.

Board Members Present

Iris Cochlan, President
Pasqual Gutierrez, Vice President
Marilyn Lyon, Secretary
Jon Alan Baker
Jeffrey Heller
Michael Merino
Sheran Voigt
Hraztan Zeitlian

Guests Present

Julie D'Angelo Fellmeth, Center for Public Interest Law (CPIL)
Haley Gipe, American Institute of Architects, California Council (AIACC)
Kimberly Kirchmeyer, Deputy Director, Board and Bureau Relations, Department of Consumer Affairs (DCA)
Stephanie Landregan, Chair, Landscape Architects Technical Committee (LATC)
David A. Taylor, Jr., LATC
Jon Wreschinsky, California Chapter of the American Society of Landscape Architects (CCASLA)

Staff Present

Doug McCauley, Executive Officer
Vickie Mayer, Assistant Executive Officer
Justin Sotelo, Program Manager, Examination/Licensing Unit
Trish Rodriguez, Program Manager, LATC
Hattie Johnson, Enforcement Officer
Anthony Lum, Administration Analyst
Robert Carter, Architect Consultant
Don Chang, Legal Counsel, DCA

Six members of the Board present constitute a quorum. There being eight present, a quorum was established.

B. PRESIDENT'S REMARKS

Ms. Cochlan welcomed everyone to the meeting and thanked Jon Baker for securing the meeting location. She indicated that today the Board would be conducting regular business and tomorrow the Board would be conducting strategic planning facilitated by Daniel Iacofano. She announced that Board member Larry Guidi retired from the Board effective December 1, 2010. She also advised that the Sunset Review Report was submitted to the Legislature on September 30, 2010 and that the November Sunset Review hearing was postponed until February 2011.

C. DEPARTMENT OF CONSUMER AFFAIRS DIRECTOR'S REPORT

Ms. Cochlan introduced Ms. Kirchmeyer to provide the DCA Director's report. Ms. Kirchmeyer reported that the hiring freeze that was implemented on August 31, 2010 by the Governor is still in effect and that there are limited exceptions to the hiring directive. She indicated that the freeze for overtime hours would also remain in place.

Ms. Kirchmeyer reported that for DCA's Consumer Protection Enforcement Initiative (CPEI), DCA completed the collection of enforcement data on the performance measurements from each of the boards and they were posted on DCA's Web site. She indicated that the information will be updated on a quarterly basis so that the public can view the information pertaining to enforcement cases and the processing time for disciplinary actions.

Ms. Kirchmeyer provided an update on the BreEZE system (the replacement for DCA's three current antiquated computer systems) and that it is on schedule to be completed with the release of the request for proposal by the end of December 2010. She said that the vendor would be chosen and in place by July 2011 and the first system implementation is scheduled for the end of 2012, with most of the DCA programs being implemented in 2013 or 2014.

Ms. Kirchmeyer reported that Brian Stiger, Director of DCA, met with an individual from the Governor's transition team and indicated that all of DCA's initiatives to improve enforcement, licensing, and, within DCA, the Human Resources Unit, would continue to progress.

The last issue she addressed was for the Board members who are currently in their one-year grace period. Ms. Kirchmeyer stated that appointments and reappointments are moving forward and they could be accomplished for those board members needing reappointment prior to Governor Schwarzenegger leaving office.

D. CLOSED SESSION – DISCIPLINARY DECISIONS AND EXAM DEVELOPMENT ISSUES
[CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126(C)(1) AND (3)]

The Board went into closed session in order to consider action on two disciplinary cases and the September 15, 2010 Board meeting closed session minutes. The Board took the following action: 1) accepted the Stipulated Settlement and Disciplinary Order in the Matter of the Accusation against Andrew Barmakian; and 2) approved the September 15, 2010 Board meeting closed session minutes with an edit.

E. PUBLIC COMMENT SESSION

Ms. Cochlan requested that the public attendees at the meeting voluntarily introduce themselves and the organizations they are affiliated with. Jon Wreschinsky of CCASLA introduced himself and thanked the Board for their support with LATC and the current Sunset Review. The next individual was Stephanie Landregan, Chair of LATC, Director of the Landscape Architecture Program at the University of California (UC), Los Angeles Extension, and Vice President of Governmental Affairs for ASLA, who offered to discuss any questions or issues the Board may have for these entities. The next person was David Taylor, member of LATC, and the last person was Julie D'Angelo Fellmeth of CPIL, who had two suggestions for the Board in the area of transparency to interested parties about what the Board does, the decisions that it makes, and the issues they address.

First, Ms. D'Angelo Fellmeth said that the Board is one of the last boards that does not post meeting minutes on their Web site and suggested that it post them in the future to help the public and the profession know what decisions were made at their meetings. Second, she stated that the hardcopy Board meeting materials (i.e., meeting packets) are only distributed to certain individuals in and out of the profession prior to a meeting and that most other DCA boards post them electronically on their Web sites so that interested parties can track what a board has on their meeting agenda. She suggested posting the meeting materials on the Board's Web site in the future and to consider both suggestions in Strategic Planning and Sunset Review.

F. APPROVE THE SEPTEMBER 15, 2010 BOARD MEETING MINUTES

Ms. Cochlan called for a motion to approve the September 15, 2010 Board Meeting Minutes.

- **Michael Merino moved to approve the September 15, 2010 Board Meeting Minutes.**

Sheran Voigt seconded the motion.

The motion passed 8-0.

G. EXECUTIVE OFFICER'S REPORT

Mr. McCauley reported that the Strategic Planning will be very focused due to the Sunset Review process and the limitations placed upon state government. He said that the state's financial problems continue to persist with the Legislative Analyst Office's projection of a \$25 billion deficit over this

and the next fiscal years. He indicated that although the Board is a special fund agency, furloughs, contract reductions, hiring freezes, etc., can affect the Board's programs. He cited an example of when contract suspensions were imposed two years ago, the Board's Enforcement Unit could not investigate professional practice-related complaints, as both contracted architect consultants were prohibited from working and Board staff is not qualified to investigate these types of cases. He anticipated that the travel restrictions would continue, which will preclude the Board from participating in national affairs, influencing national reciprocity standards, and shaping the national examination (Architect Registration Examination – ARE) and the national internship program (Intern Development Program – IDP). He stated that over the past year, despite the mandated resource restrictions (furloughs, etc.) there have been multiple major projects completed by the Board, such as the California Supplemental Examination (CSE) conversion, the Sunset Review Report, and the redoubling of the Board's enforcement efforts.

Mr. McCauley restated that there are three Board members in their one-year grace period and if they are unsuccessful at obtaining reappointment, the Board would drop below a quorum and only have five active Board members by July 1, 2011. He indicated that DCA and the Governor's Appointments Office are aware of the issue.

Mr. McCauley suggested the following meeting dates for 2011 because the Board needs to vote on issues prior to the Western Conference of Architectural Registration Boards (WCARB) meeting in March and the National Council of Architectural Registration Boards (NCARB) meeting in June. The suggested dates are: March 17, 2011, June 16, 2011, September 15, 2011, and December 14-15, 2011 (includes Strategic Planning).

Jeffrey Heller said he would like to have the June 2011 meeting a week earlier than what is suggested. Mr. McCauley stated that the reason the Board meets during the middle of June is to vote on the NCARB resolutions, which are not released earlier in advance of their June annual meeting (later in the meeting Mr. Heller indicated that June 16, 2011 meeting date was acceptable). Ms. Voigt indicated that she would like the December date moved up a week to December 7-8, 2011 depending upon the availability of the other Board members.

Mr. McCauley reported that the regulations for the proposed fee increase were approved and codified and will go into effect January 1, 2011 for the upcoming license renewal cycle.

Mr. McCauley indicated that he will meet with the Sunset Review Committee staff to identify the Committee's expectations. He mentioned that Senator Curran Price is now the chair of the Committee and a legislator the Board has worked with in the past. He said that the legislative staff member currently reviewing the 2010 Sunset Review Report is the same person who reviewed the last report, so there would be some continuity and historical knowledge through the process. Mr. Heller inquired when the first 2010 Sunset Review hearing was scheduled and when the last Sunset Review Report was completed. Mr. McCauley said that the November 2010 Sunset Review hearing was rescheduled until sometime in February 2011 and that 2004 was when the last Sunset Review process concluded. Mr. Heller stated that he believed if the state wanted to save money, the Sunset Review dates should be extended beyond 10 years rather than every five to six years due to the amount of time and resources a program utilizes to complete the process.

Mr. McCauley proceeded to explain that the Board would receive a list of questions from the Sunset Review Committee a few weeks prior to the hearing date pertaining to issues in the Sunset Review Report and would need to respond to them in writing and at the hearing. He continued that within two months of the first hearing, a second hearing would be conducted where DCA provides its recommendations to the Committee, and then a third hearing takes place where the actual vote occurs. He added that once the vote is taken, legislation can be introduced by the Committee to extend a program's sunset date or sunset it with any policy recommendations.

Mr. McCauley reported that there is an interest from AIACC's Emerging Professionals' Academy for the Board to participate in their upcoming conference regarding architectural education. He indicated that the Board had completed sessions on architectural education in the past, which reviewed issues regarding the schools' concerns, the number of individuals entering the profession, the reasons a student obtained a license, the educational curriculum within the schools, and whether it appropriately educated students in critical areas of practice.

Mr. McCauley reported that the CSE conversion is in its final stages with the completion of the workshops for exam development, logistics, and the Examination Committee meetings. He indicated that the last step to be completed is the communications (i.e., Web site, letters, handbook, etc.) for the exam candidates that help explain the exam process to them prior to implementing it in February 2011.

Mr. McCauley reported that the Enforcement Unit has reduced their pending caseload by streamlining the complaint process, improved the triage of cases, and redoubling the efforts of the enforcement staff to address the pending caseload and decrease the number of older cases. He also stated that with case aging, the processing times are currently within an acceptable range; however, when there are older cases included that have been opened for an extended period, it can skew the statistics to reflect an inaccurate case aging timeline. Ms. Voigt inquired as to the average turn-around time for a complaint from its filing until resolution. Hattie Johnson responded that the average complaint case, including those forwarded to the DAG, is closed within a year, but that a majority of complaint cases are closed within weeks or months of receipt. She stated that a few of the cases take a longer time due to their complexity or extended processing times at other offices such as the DAG, and Office of Administrative Hearings, or if the Board requests additional documentation from the subject or complainant for an appropriate review.

Mr. Merino inquired where the enforcement statistics that were requested at the last Board meeting were to address the pending caseload and case aging issues. He stated that he wanted more case aging specifics on the time elapsed to process an enforcement case. Both Mr. McCauley and Ms. Johnson indicated that the meeting packet contained enforcement statistics and if those were not the appropriate statistics, staff would need specific parameters and would obtain those statistics from the new DCA enforcement database.

Hraztan Zeitlian inquired as to whether the enforcement review process had increased or decreased in time over the past three years. Mr. McCauley indicated that staff could perform analysis on the enforcement case aging data over the past three years to obtain the information. Mr. Merino requested to have the case aging issue put on the agenda for the next meeting. Ms. Cochlan indicated that the topic would be put onto the agenda for the next meeting. Mr. Merino further clarified that

the enforcement information requested would breakdown the enforcement cases into the various types of complaints categorically and the length of time each type took to process. Vickie Mayer indicated that these types of statistics may be misleading on the amount of time to investigate a complaint because it may be opened by the Board for one type of issue, but subsequently investigated or closed as another type or could be found to have multiple violations depending upon what is discovered in the investigation. Mr. Merino indicated that categorizing them by the case outcome would be appropriate so that individuals looking at the statistics would know the types of complaints the Board is reviewing and the time it took to process them. He explained that this enforcement data may be used to document the consumer protection issues that the Board could be measured against to show what the Board enforces, how it enforces, the time it takes to enforce a violation, and to justify and quantify possible improvements.

Pasqual Gutierrez inquired as to how the Board should respond to the perception that the Board does not have a large enforcement caseload. Mr. Merino indicated that tracking the enforcement data that he requested would help support the validation of the Board's enforcement program. Mr. McCauley stated that staff will obtain the enforcement statistics that have been requested and present it to the Board for review. He responded to Mr. Gutierrez's inquiry by stating that the nature of the profession, with its checks and balances that occur while working with engineers, contractors, building departments, etc., often resolve themselves without having to come to the Board or the civil arena. He continued that most of the resolutions on enforcement cases are citations rather than license revocations and stipulations that need to be reviewed by the Board.

H. ELECTION OF 2011 BOARD OFFICERS

John Baker reported that the Nominations Committee (consisting of himself and Mr. Heller) solicited nominations from the Board members for the 2011 Board officers. The slate of officers as proposed by the Nominations Committee, are: Pasqual Gutierrez for President; Marilyn Lyon for Vice President; and Sheran Voigt for Secretary.

- **Jon Baker moved to approve the slate of officers for 2011.**

Hraztan Zeitlian seconded the motion.

The motion passed 8-0.

Mr. Merino was concerned that two of the nominated Board members were serving in their one-year grace period and, if not reappointed, what the process is in order to fill the vacated officer positions after July 1, 2011. Mr. McCauley indicated that there is a provision in the Board Member Administrative Procedure Manual stipulating that the vice-president moves into the president's position, should it be vacated, and the Board would then hold another election to fill other vacant officer positions. Mr. Gutierrez stated that there is a larger issue than just filling vacated officer positions in the event that the 2011 officers in their one-year grace period are not reappointed, and that is the quorum issue. Mr. McCauley said that with the retirement of Mr. Guidi from the Board, establishing a quorum for meetings becomes an issue and he informed DCA and the Appointments Office of this problem. Ms. Cochlan suggested that if the reappointments do not occur prior to the March 2011 meeting, another Nominations Committee could be appointed to have a new list of

officer nominees available for the June 2011 meeting to fulfill the vacated officer positions as of July 1, 2011.

I. SELECT THE 2010 OCTAVIUS MORGAN DISTINGUISHED SERVICE AWARD RECIPIENTS

Mr. McCauley stated that this award is given by the Board to recognize the dedicated volunteers who have helped with the examination or have served on committees and is named after the first Board president. The Board reviewed each of this year's recommendations and agreed that the following individuals should be awarded for 2010: Wayne Holton, Arlee Monson, and John Petrucelli.

- **Sheran Voigt moved to approve all of the nominees for the 2010 Octavius Morgan Distinguished Service Award.**

Hraztan Zeitlian seconded the motion.

The motion passed 7-0 (Jeffrey Heller not present at time of vote).

Ms. Lyon stated that in past years when there were multiple candidates for the award, the Board members were given their biographies prior to the meeting when the vote occurs. Ms. Mayer explained that the reason why the biographies of the award nominees were not in the meeting packet is because the Board announces the individual(s) selected for the award at a planned event. She continued that the president contacts the recipient(s) and presents the award to them at a ceremony, meeting, or other appropriate occasion, so if an individual previously knew that they had been nominated, but not selected for the award, it could place the Board in an awkward position.

J. REPORT ON NATIONAL COUNCIL OF ARCHITECTURAL REGISTRATION BOARDS

Mr. Baker reported that NCARB conducted its Strategic Planning with the Member Board Executives/Member Board Chairs (MBE/MBC), which they are utilizing to realign many of the practices at the national level, which should be completed by June 2011. He continued that many issues that are occurring at the national level will produce policy and procedures that will influence what processes are utilized in California and how California relates to other states. He stated that the Board's inability to participate due to the restrictions on out-of-state travel (OST) put the state at a significant disadvantage on policy issues. He explained that part of the problem is that California is a large state and many of the policies that exist here are in conflict with policies in other states and without participation in the discussions at the national level to align the policies, California will have a distinct disadvantage on policy decisions. He continued that California has many issues that need to be communicated on a national level so that other jurisdictions are aware of the reasoning behind the state's policies and procedures.

Mr. Baker reported that NCARB is continuing to address the continuing education (CE) alignment issue and that it will be an extensive, ongoing project due to individual states' specific CE requirements across the country. He said that the project of aligning all of the CE requirements will be a complex, monumental task to make it more conducive for architects licensed in many states to record and track all of the CE requirements for multiple jurisdictions.

Mr. Zeitlian asked whether the CE requirements that are accepted for licensure in California would be accepted nationwide. Mr. Baker indicated that in many states, the CE requirements are similar and some jurisdictions will accept the CE requirements from one state to qualify in another. He continued that some states, like California and Florida, have specific single subject CE requirements and that NCARB is reviewing the number, type, and specialties of CE that are required for licensure in each state. He added that NCARB and The American Institute of Architects (AIA) have been discussing the issue and are trying to determine the best method for the issuance of CE credit. He also stated that the two organizations are working on methods to record, track, and monitor CE units earned by the licensees nationwide.

Mr. Baker reported that NCARB is currently accepting nominations for the public member seat on the national board to fill the vacated seat. He also stated that there will be a vacancy in June 2011 in the Chief Executive Officer position at NCARB and currently, there is an active search committee reviewing candidates for that position. Ms. Lyon asked whether the public member position on the national board would be filled by someone in the western United States. Mr. Baker indicated that NCARB issued several invitations for board nominations, but is not sure of the extent to which the invitations were distributed.

Mr. Baker reported that the WCARB regional meeting would be March 24-25, 2011 in Cleveland, Ohio and the NCARB annual meeting would be in Washington, D.C. Mr. Merino asked whether the restrictions on OST are a policy or legislative restriction and whether there was any remedy to obtain approval of the Board's OST requests because non-participation in the national meetings can be detrimental to the Board. Mr. McCauley indicated that the OST restriction is a budget policy of the Administration and could be noted to the Legislature during the Sunset Review process; however, the Governor has the final authority on how the Board and other state entities' resources are allocated. He continued that the OST restrictions are not only the Board's issue, but many of the other boards under DCA have the same concerns. Ms. Kirchmeyer explained the OST process whereby in March of each year, the Board submits a list of OST trips with full justifications and their priority to DCA, where it is reviewed and either approved, denied, or modified by DCA and the State and Consumer Services Agency prior to going to the Governor's Office. She added that the Governor's Office has the final approval of all OST.

Mr. Merino asked whether the OST policy restricts travel if the event's organizing body covers the cost. Mr. Baker indicated that the results of his inquiries on the OST issue is that even if an organizing body pays the travel cost, there is a liability issue when the individual travels on behalf of the state. Mr. Chang explained that there is a statute which specifically states if there is a representative traveling out of state on behalf of the state, that individual is required to have specific authorization for the travel, as the individual is an employee of the state and workers compensation issues are present if something were to happen to that person. Both Mr. McCauley and Ms. Kirchmeyer suggested the Board wait until the new administration is in place to see what the OST policy will be prior to the Board taking any action on the issue. Mr. Baker suggested placing this issue on the March meeting agenda.

Mr. Baker also reported that the Board previously requested information from the MBE/MBC about the composition of the national board and how it is created. He explained that there are regional elections and those individuals elected represent their particular region on the national board. He

indicated that there was an issue which arose from the national board regarding being divided into six regions. He explained that having a single representative from each region eliminated the opportunity for higher, more qualified individuals to represent the same region and to establish a stronger board. He reported that the MBE/MBC strongly supported the regional format of representation and encouraged NCARB to continue it rather than changing to a qualification based format for representation. He also said that NCARB is reevaluating all of its practices and how they can be done in context with the input of the member boards.

Mr. McCauley reported that NCARB has improved the collaborative efforts with the member boards, but suggested that NCARB allow 60 – 90 days for a response from member boards on important policy issues rather than the first 30 – 45 days. He explained that the Board requires more time to act on policy issues because it is required to have input from the public, all of its board members, and other interested stakeholders. Mr. Baker said that the topic was discussed at the last MBE/MBC meeting with many of the other boards concerned with the same issue. He indicated that he would check on NCARB's policy for responses from member boards and would contact Mr. McCauley with his findings on the issue.

Mr. McCauley asked if there was a way to permit the Board's subject matter experts (SME) to participate with examination item writing for the ARE. Mr. Baker indicated that the ARE item writing expert selection is handled by the NCARB committee appointment process and to inform him of any SMEs that are interested so that he can begin to lobby the committee on their behalf.

K. UPDATE ON OCTOBER 13, 2010 COMMUNICATIONS COMMITTEE MEETING

Ms. Voigt reported that the Communications Committee did not have a quorum at its October 13, 2010 meeting, so no voting occurred and some items need to be voted upon at the next meeting. She reported that the following items were reviewed and discussed: 1) articles for the next newsletter; 2) Strategic Plan objective to expand the consumer content on the Board's Web site; 3) Strategic Plan objective to formulate a communications strategy on the value of licensure; 4) Strategic Plan objective to expand the Board's School and Student Outreach Programs; and 5) Strategic Plan objective to use Web-based media and the Board's newsletter to communicate key messages. She said that the Committee chose a few of the recommendations that could be realistically completed within the time allotted in the Strategic Plan. She reported that the articles and features for the next Board newsletter were selected and formatted and should be completed and placed on the Board's Web site soon. She continued that the Committee reviewed an article titled, "The Advantage of Being a Licensed Architect," written by R.K. Stewart, to determine whether the points in the article were still relevant. She said that a revision of the article was necessary to update it to current market trends.

L. EXAMINATION COMMITTEE REPORT

Ms. Lyon reported that the Examination Committee met on September 20, 2010, where it approved the summary report (prior meeting minutes), reviewed the candidate exit survey results, received a staff update on the CSE development, and reviewed an example of the CSE Handbook. She reported that 2010 had been a very busy year with the conversion of the CSE from the oral format to a computer-based, multiple-choice exam and that the last administration of the oral format was given

on November 15-16, 2010 in Burlingame, California. She said at this exam administration, the Board President and Executive Officer (EO) presented certificates of appreciation from the Board and certificates of recognition from the Governor to all of the exam commissioners, who worked diligently over the years on the CSE.

Ms. Lyon reported that the CSE Handbook outlined the exam procedures for the candidate to follow in order to take the exam. She said that the CSE candidate will no longer have to wait for months to take the exam and would be available at 13 different testing sites throughout the state and ten additional sites outside of California. She continued that a candidate would be able to schedule an appointment to take the exam during regular test center hours Monday through Friday and some locations on Saturday. She reported that there were some issues brought up about the exam conversion, but the Committee addressed the concerns with a letter to Carol Tink-Fox.

Mr. McCauley explained that Ms. Tink-Fox, who is a longtime member of the Examination Committee, had some observations for the CSE based upon her prior work on the Committee and submitted some recommendations to the Board for the exam process. He continued that a meeting was conducted with the exam vendor and psychometricians to compare the exam process with the recommendations from Ms. Tink-Fox. He reported that a letter was sent to Ms. Tink-Fox which explained the Board's position in regard to the CSE, offered an in-depth explanation and rationale to each of her concerns over the exam development process, and thanked her for her dedication to the Examination Committee and work on the CSE.

M. REVIEW AND APPROVE PROPOSED REGULATIONS TO AMEND CALIFORNIA CODE OF REGULATIONS (CCR), TITLE 16, SECTIONS 109, FILING OF APPLICATIONS, AND 121, FORM OF EXAMINATIONS; RECIPROCITY [AS IT RELATES TO INTERN DEVELOPMENT PROGRAM (IDP) SUNSET DATE]

Justin Sotelo provided an explanation as to why this proposal is needed. He stated that the regulatory sunset provision is out of alignment with the statutory sunset provision and this proposal would eliminate language from the regulation, as it has been the Board's practice to utilize the Sunset provision that is in statute. Mr. Chang indicated that it would be appropriate for a motion to authorize Board staff to move forward with the proposal as stated, and to delegate authority to the executive officer to adopt the regulation, provided no adverse comments are received during the public comment period. Ms. Voigt asked whether the Board is late in acting upon this issue. Mr. Chang indicated that the proposed changes to the regulations would align it with the language that is stated in the statute. Mr. McCauley added that during the Sunset Review process, the Board would also request to have the statutory sunset provision removed.

- **Sheran Voigt moved to approve the proposed regulations to amend CCR, Title 16, sections 109, Filing of Applications, and 121, Form of Examinations; Reciprocity [as it relates to Intern Development Program (IDP) Sunset Date] and delegate authority to the EO to adopt the regulation, provided no adverse comments are received during the public comment period and make minor, technical changes to the language, if needed.**

Marilyn Lyon seconded the motion.

The motion passed 8-0.

N. REVIEW AND APPROVE PROPOSED REGULATIONS TO AMEND CCR, TITLE 16, SECTIONS 109, FILING OF APPLICATIONS, 117, EXPERIENCE EVALUATION, AND 121, FORM OF EXAMINATIONS; RECIPROCITY (AS IT RELATES TO IDP GUIDELINES AND IDP ENTRY POINT)

Mr. Sotelo stated that this proposal pertains to how the NCARB IDP Guidelines are referenced in the regulations. He explained that within the last two years, NCARB has released five updates to the Guidelines, including the phased implementation of IDP 2.0. He continued that Board staff is recommending the proposed amendments to update, clarify, and provide consistency with how the intern development programs and applicable guidelines are referenced in the Board's regulations. He indicated that NCARB and the Board, through its regulations, require the completion of IDP and that the Board should update its regulations with the latest version of the NCARB IDP Guidelines (which is currently the October 2010 edition). He said that over the past two years, it has been difficult to correlate any changes in the Guidelines into the Board's regulations because the changes were occurring too frequently and it takes months to amend a regulation. He stated that the Board does not anticipate any immediate modifications to the Guidelines and requested to amend the regulations to reflect the latest edition.

Mr. Baker inquired as to how long it takes for a regulation to be amended and because the Professional Qualifications Committee (PQC) is having a meeting in January 2011 about the Comprehensive Intern Development Program (CIDP), whether the amendments to the regulations have any relevance after the PQC meeting. Mr. McCauley indicated that the amendments to the regulations may have relevance, depending upon what the PQC and the Board decides upon. Mr. Chang indicated that it takes nine to twelve months for a regulation to be amended and once the process is started, modifications can be made before the amended regulations are submitted to the Office of Administrative Law based upon what is decided by the PQC and the Board. But, he emphasized the importance of getting the process started and that if there are guideline changes during the process, the Board has time to modify the regulation prior to its finalization. He explained that there is up to one year from the regulation's publication date to make modifications and if there are any to be made, a 15-day notice could be utilized to inform the interested stakeholders of any changes that occur during the regulation amendment process. Ms. Mayer clarified that if there are any edits that need to be made during the process, it would be related to CIDP rather than the IDP Guidelines.

- **Michael Merino moved to approve proposed regulations to amend CCR, Title 16, sections 109, Filings of Applications, 117, Experience Evaluations, and 121, Form of Examinations; Reciprocity (as it relates to IDP Guidelines and IDP Entry Point) and to delegate authority to the EO to adopt the regulation, provided no adverse comments are received during the public comment period and make minor, technical changes to the language, if needed.**

Sheran Voigt seconded the motion.

The motion passed 8-0.

O. DISCUSS AND POSSIBLE ACTION REGARDING THE AMERICAN INSTITUTE OF ARCHITECTS, CALIFORNIA COUNCIL ACADEMY OF EMERGING PROFESSIONALS' PROPOSAL – CALIFORNIA ARCHITECTS LICENSURE CONFERENCE

Mr. McCauley indicated that the Board has been interested in architectural education for the past ten years and one area that had been missing from the conferences was input from the students and candidates for licensure. He said that prior to the last Examination Committee meeting, there were conversations with the AIACC's Emerging Professionals representative about a conference to discuss licensing issues.

Haley Gipe, IDP State Coordinator, advised she is arranging a state conference with all of the leadership representatives [i.e., schools, universities, community colleges, AIACC chapters, and IDP coordinators at the National Architectural Accrediting Board (NAAB) accredited programs] to ensure that all of the interested stakeholders share common goals, have the most updated IDP information, and have current outreach resources. She indicated that the idea is to focus not only on licensure, but the architectural education process as well. She explained that because there are multiple pathways to obtain a license in California, the emphasis for the conference is to educate students on the architecture profession. She stated that the idea of the conference is to gather all of the stakeholders to brainstorm new ideas and create new processes to improve the profession because she believed the current architectural licensing education system is not working as well as it could be. She proposed that the Board support (non-monetarily) and participate in the conference in a three-pronged, co-sponsored approach for the attendees. She indicated that the three parties to co-sponsor the conference could be the AIACC to represent architects, the Association of Collegiate Schools of Architecture to represent schools and deans, and the Board to represent the regulatory body. She said the committee would begin the planning of the conference in January 2011 and found dates for the event in April 2011 that would not conflict with school schedules. She asked if a Board member could be a part of the planning committee because there is an interest in having the Board involved with the planning process.

Ms. Cochlan asked for a motion as to whether the Board should support the proposal and the Board's involvement in the conference and then the Board could determine which member to appoint to participate. Mr. Merino indicated that he would support the proposal based upon what he heard from Ms. Gipe; however, the request is for the Board to support an issue where the goals and objectives have not been clearly detailed or established. He continued that on principle, the Board could support the conference, but the Board's full endorsement should not be given until concrete goals and objectives are presented to the Board for review and approval. Ms. Gipe agreed and indicated that the planning committee will be charged with the conference goals and objectives and when finalized, they can be presented to the Board. She indicated that this is the reason why she requested a Board member to be a part of the planning committee. Mr. Merino suggested a two-step approval where the first step would be the Board committing to support the conference effort in principle, and then an actual Board endorsement occurs after the goals and objectives are finalized.

Mr. Heller suggested that the issues that are presented in the Board's Educator/Practitioners Conferences could be integrated into the AIACC's event in order to contact and inform more individuals about the profession. He stated that the purpose of the Board's conference is to discuss various topics with schools including the integration of education and professional practice.

Mr. McCauley said that when he first communicated with Ms. Gipe about the conference, the focus was solely on licensure. However, he continued that if other issues are incorporated into the conference such as practice-based education or other topics from the Board's Educator/Practitioners Conferences, it can add value to the conference, but could possibly be too many issues to cover in a single event. Mr. Merino stated that when the conference idea was conceived, Ms. Gipe was probably focused as to what her objectives were, but if all of the other topics and issues from AIACC, the Board, and possibly others are incorporated into the event, the goals and objectives of the conference may not be as clear. Ms. Gipe acknowledged that the conference idea was originally focused on licensure, but was expanded to include architectural education once AIACC began to participate in the discussions. She spoke of the importance of many representatives from numerous interested stakeholders (i.e., the Board, AIACC, NAAB, licensees, community colleges, and students) to be a part of the conference planning committee so that the goals and objectives of the conference are concrete and relevant.

Mr. Baker stated that the integration and discussion between the profession and educational area could only enhance the profession. He indicated that NCARB had attempted to communicate with NAAB and locally, there had been conferences in California where attempts were made to communicate between the two groups with little success. He explained that the culture in education is vastly different than those in the profession and the individuals who suffer because of the differences are the students. He believed that it is very important to open the dialog between the profession and education community to get the two groups in better alignment.

Ms. Gipe indicated that the goal of her plan is to have a single, statewide conference in April 2011 in Sacramento. She selected this site for its close proximity to the Board and AIACC in order for them to participate in the conference.

- **Michael Merino moved to support the concept of the conference and have Jon Baker volunteer to participate in the conference planning committee, but have AIACC return with a proposal indicating the conferences goals and objectives for the Board's final approval and endorsement.**

Marilyn Lyon seconded the motion.

The motion passed 8-0.

P. ENFORCEMENT PROGRAM

Architect Consultant Robert Carter gave a presentation on possible types of violations identified in the Architects Practice Act. He discussed the statutory grounds for administrative and disciplinary actions taken against licensees and unlicensed individuals. He reviewed and explained multiple sections of the Act and offered examples of how each section is applied and enforced.

Mr. Baker inquired as to whether unlicensed individuals working in the exempt area of practice are required to have a contract with the consumer in order to provide services. Mr. Chang indicated that if the individual is working in the exempt area of practice, they are not required to have a contract before rendering services. He explained that within the Act, only a licensed architect is required to

have a contract in place prior to rendering services. Mr. Carter stated that the building designer organizations encourage the use of a contract and if the individual is a legitimate business person, they will have a contract in place prior to rendering their services.

Ms. D'Angelo Fellmeth inquired about the statutory gag clause. She stated that many consumers are unaware of the existence of regulatory boards and believe the only remedy against a licensee is a civil lawsuit. She continued that the consumer sues the licensee and the licensee agrees to settle the case monetarily, however, included in the civil settlement agreement, the complainant agrees to not file a complaint with the regulatory board or withdraw a pending complaint or, if the board comes to them for further information about the complaint (i.e., plans, specifications, cancelled checks, etc.), not to cooperate with them. She stated that if this occurs, it hinders the board's knowledge of the licensee's misconduct and the board cannot take appropriate disciplinary action. She inquired as to whether the Board had any issues with this type of practice. Mr. Carter responded by indicating that the Board does not have an issue with this problem because there is a provision in the Act [§5588(a)] that licensees are required to report to the Board any settlement, judgment, or arbitration award within 30 days of the decision. Ms. D'Angelo Fellmeth asked whether there was any penalty for failure to report the settlement or award within the 30 days. Mr. Carter indicated that there is a penalty, as the licensee could be cited for not filing the report and the Board could also investigate the circumstances of the settlement, judgment, or arbitration award to determine whether there was a violation of the Act. He continued that if a violation is identified, the Board can proceed to an enforcement or disciplinary action.

Ms. D'Angelo Fellmeth said that in other professions (i.e., doctors, lawyers, psychologists, etc.) there is a privilege of confidentiality and inquired whether architects had the same privilege as other professions to preclude the Board from addressing a case. Mr. Chang explained that in the instance where there has been some type of settlement, the Board has a reporting provision and authority to investigate a complaint even with the gag clause in place from the settlement.

Ms. D'Angelo Fellmeth stated that many boards are adopting regulations making it unprofessional conduct to use a regulatory gag clause in a civil lawsuit settlement. She strongly suggested that if this issue appeared before the Board, it should pursue a ban on the use of the gag clause in civil lawsuit settlements.

Ms. Johnson provided an update on the status of enforcement complaint cases. She reported that prior to fiscal year (FY) 2008-09, the typical number of pending enforcement cases was over 300 and that it had been above that number for quite some time. She said in FY 2009-10, 273 complaint cases were opened and 363 cases were closed, leaving the pending caseload at 153 cases. She stated that the enforcement program reduced the number of pending cases to its lowest level in five years by implementing a number of reforms that streamlined the complaint process. She explained that cases referred to the Deputy Attorney General (DAG) or Division of Investigation (DOI) can remain pending at those offices for extended periods, which may cause the case aging statistics to be skewed and not reflect accurate caseload data. Mr. McCauley indicated that DOI has improved with investigating cases and currently has no cases over a year old. Ms. Johnson agreed that DOI had improved their case procedures and that the Board recently referred several cases to them that normally would not have been sent due to DOI's prior backlog.

Ms. Johnson explained the pending caseload graph that was in the meeting packet. Mr. Merino requested additional data at the next meeting which shows the number of resolved cases versus the number of pending cases. Mr. McCauley inquired as to the frequency the Board preferred to have the pending caseload statistics reported. Mr. Merino indicated that the caseload statistics could be reported on a quarterly basis at each Board meeting, as cases are processed and closed between meetings. He indicated that all the Board needed to review is the number of cases that were resolved quarterly.

Ms. D'Angelo Fellmeth suggested that the Board not only count the number of cases received and resolved, but also review the case aging timelines of the pending cases. She said that the Board should look at the amount of time a case is processed or investigated in-house before being sent to DOI for investigation; the amount of time DOI takes to investigate a case to closure or referred to the DAG; the length of time for the DAG to file an accusation or settle the case; and any other necessary steps to process a case. She said this could all be done by case aging averages, knowing that a single long-term case can somewhat skew the data. Mr. McCauley indicated that both types (i.e., pending caseload and case aging) of data will be prepared for the next meeting. Ms. Johnson stated that DCA had begun to collect this type of enforcement data and the Board could use some of it for its meeting caseload report. Ms. D'Angelo Fellmeth said that since DCA is now collecting the case data, it could be reported to the Board so that staff can detect backlogs and delays and work to address them.

Q. LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE (LATC) REPORT

Trish Rodriguez reported that LATC has been going through examination development for the CSE and the Office of Professional Examination Services had conducted three of five workshops. She said that the SMEs are a well-rounded group of landscape architects who have been working on the test plan, review of the exam items, and item writing. She reported that the final exam development workshop will be conducted in March 2011.

She also reported that the LATC recently conducted an outreach session at the University of California, Berkeley Extension Certificate Program in Landscape Architecture and will expand in 2011 to include community colleges that offer a landscape architect program.

Mr. McCauley indicated that there was a public comment from the Association of Professional Landscape Designers (APLD) where there is interest in realigning the exempt area of practice. He stated that this issue was addressed at the last Sunset Review process, but a number of consumer complaints were received by the Board from one individual and a couple of issues have arisen that the Board and APLD will work through and clarify. He continued that ongoing dialog will occur between the Board and APLD and a means will be developed to review the exempt area of practice again.

Ms. Rodriguez advised that at the November 22, 2010 LATC meeting, the members reviewed and approved proposed changes to the regulations that affect the requirements for an approved extension certificate program (CCR, section 2620.5, Requirements for an Approved Extension Certificate Program). She indicated that the reason for the changes is due in part from recommendations after the last review where it was difficult to approve the programs in accordance with how the current standards are written. She continued that the Landscape Architectural Accreditation Board (LAAB)

had recently updated their standards for accreditation and with the next five-year review of the UC Extension Certificate Programs occurring, it was necessary to amend the current regulation. She reviewed some of the specific changes in the proposed regulation language with the Board and requested approval of the proposal.

Ms. Landregan noted a change in the proposal that LAAB does not cover public policy and regulation and believed that the issue is an important distinction because LATC is regulating and accrediting this program separate from LAAB.

- **Michael Merino moved to approve proposed regulations to amend CCR, Title 16, section 2620.5, Requirements for an Approved Extension Certificate Program and delegate authority to the EO to adopt the regulation, provided no adverse comments are received during the public comment period and make minor, technical changes to the language, if needed.**

Sheran Voigt seconded the motion.

The motion passed 8-0.

R. ADJOURNMENT

The meeting adjourned at 3:25 p.m.

S. CALL TO ORDER – ROLL CALL – ESTABLISHMENT OF A QUORUM

President Cochlan called the Strategic Planning Session to order on December 16, 2010 at 8:40 a.m. Secretary Lyon called the roll.

Board Members Present

Jon Alan Baker
Iris Cochlan
Pasqual Gutierrez
Jeffrey Heller
Marilyn Lyon
Michael Merino
Sheran Voigt
Hraztan Zeitlian

Guests Present

Daniel Iacofano, Moore Iacofano Goltsman, Inc. (MIG)
Stephanie Landregan, Chair, LATC
David Taylor, Jr., LATC
Jon Wreschinsky, CCASLA

Staff Present

Doug McCauley, Executive Officer

Vickie Mayer, Assistant Executive Officer
Trish Rodriguez, LATC Program Manager
Justin Sotelo, Program Manager, Examination/Licensing Unit
Hattie Johnson, Enforcement Officer
Anthony Lum, Administration Analyst
Bob Carter, Architect Consultant
Don Chang, Legal Counsel, DCA

Six members of the Board present constitute a quorum. There being eight present, a quorum was established.

T. PUBLIC COMMENT SESSION

There were no public comments.

U. STRATEGIC PLANNING SESSION

Ms. Cochlan turned the meeting over to Daniel Iacofano of MIG, who facilitated the Board's strategic planning session. The Board reviewed the accomplishments in 2010 and key trends in the profession. Mr. McCauley reported that the notable accomplishments for 2010 included the: 1) completion of the 2010 Sunset Review Report and subsequent submission to the Legislature; 2) completion of the ARE contract with NCARB; 3) transition of the CSE from an oral to a computer-based multiple-choice format to be implemented in February 2011; 4) improvement in the Board's Enforcement Unit to address the pending complaint caseload; 5) approval of fee regulations to be effective January 1, 2011; and 6) completion of multiple budget mandates throughout the year in response to requests from DCA, the Department of Finance, and the Administration. Ms. Voigt stated that another accomplishment in 2010 was the posting of the newsletter on the Board's Web site for the first time. Mr. Gutierrez indicated that he and Denis Henmi were appointed to the NCARB IDP Committee in 2010 to heighten California's viewpoint with NCARB. Mr. McCauley reported that the relations between the Board and LATC have continued to provide value via better communications, sharing of best practices, and collaboration efforts between both programs on important issues. Ms. Lyon indicated that there is also improvement in the relationship and communication between the Board and AIACC's Academy of Emerging Professionals, as demonstrated by the Board's support at their upcoming conference.

Mr. Iacofano reported on the issues raised by key stakeholders during the interviews conducted in preparation for the session. He then assisted the Board as they identified and established goals for the upcoming year(s). The Board: 1) reviewed and updated the six goal areas of the Strategic Plan (Professional Qualifications, Practice Standards, Enforcement, Public and Professional Awareness, Organizational Relationships, and Organizational Effectiveness and Customer Service); 2) identified several objectives to meet these goals; and 3) established target dates for completion.

MIG will revise the Strategic Plan with the changes made during this session, and the Board will meet in March 2011 to finalize the plan.

V. REVIEW OF TENTATIVE SCHEDULE

The Board selected the following dates in 2011 for Board meetings:

- March 17, 2011
- June 16, 2011
- September 15, 2011
- December 7-8, 2011

W. ADJOURNMENT

The meeting adjourned at 2:00 p.m.