

MINUTES
REGULAR MEETING
CALIFORNIA ARCHITECTS BOARD

June 14, 2012

Sacramento, CA

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

President Marilyn Lyon called the meeting to order at 9:40 a.m. Vice President Sheran Voigt called the roll.

Board Members Present

Marilyn Lyon, President
Sheran Voigt, Vice President
Jon Alan Baker
Iris Cochlan (Arrived at 10:30 a.m.)
Jeffrey Heller
Pasqual Gutierrez
Fermin Villegas

Board Members Absent

Michael Merino
Hraztan Zeitlian

Guests Present

Kurt Cooknick, Director of Regulation and Practice, The American Institute of Architects, California Council (AIACC)
Yeaphana LaMarr, Legislative Analyst, Division of Legislative and Policy Review, Department of Consumer Affairs (DCA)
David Allen Taylor, Chair, Landscape Architects Technical Committee (LATC)

Staff Present

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

Six members of the Board present constitute a quorum. There being six present at the time of roll, a quorum was established.

B. PRESIDENT'S REMARKS

Ms. Lyon stated that there would be several key agenda items [committee procedures, on-site release of California Supplemental Examination (CSE) results, report on CSE cost savings, CSE development contract, and fingerprinting requirement] discussed during the meeting.

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

There were no items to be considered in closed session.

D. PUBLIC COMMENT SESSION

There were no public comments.

E. APPROVE THE MARCH 7, 2012 BOARD MEETING MINUTES

Ms. Lyon asked for a motion to approve the March 7, 2012, Board Meeting Minutes.

- **Sheran Voigt moved to approve the March 7, 2012, Board Meeting Minutes.**

Pasqual Gutierrez seconded the motion.

The motion passed 6-0.

F. EXECUTIVE OFFICER'S REPORT

Ms. Lyon asked Doug McCauley to present this agenda item.

Mr. McCauley reported that the next Board meeting (September 13, 2012) would be in southern California. He stated that the details for the September meeting are still being finalized. He also reported that the December Board meeting is planned for San Francisco.

Mr. McCauley reported that work on the state budget was underway in the Legislature and the deadline for it is tomorrow. He also reported that without a budget the typical fiscal control mechanisms would likely be implemented and would include restrictions on contracts, travel, and hiring as they have previously. He said there is another budget related item being discussed and that it is concerning a shift in the state work week from five 8-hour days to four 9.5-hour days along with a five percent reduction in pay. He stated this would definitely impact staff workload in relation to accomplishing Board objectives. He also stated that discussions with the various unions are ongoing with hopes to have an agreement by July 1. He further stated that with a state constitutional amendment lowering the vote requirement to 50% for budget approval, the probability for an on-time budget could increase. He added this would help avoid the budget stalemates that have endured, sometimes for months, in previous years.

Mr. McCauley briefly reported on the 2012 National Council of Architectural Registration Boards (NCARB) Practice Analysis and how fortuitous the timing is given that the Board is about to conduct

its practice analysis for the CSE. He also reported that part of the Board's process includes a comparison of the national practice analysis results to the Board's when determining what content is already covered in the Architect Registration Examination (ARE) so that there is no "double testing" of content. He further reported that the deadline for responding to NCARB's practice analysis was extended to May 6, 2012. He reported the goal is for the vendor conducting the practice analysis to have an initial report ready for the NCARB Board's review by September 2012.

Mr. McCauley reported on the NCARB 2012 Annual Meeting and Conference being held next week. He also reported that due to the fiscal restrictions that California and other states are experiencing, NCARB has developed an electronic method for participating in the conference. He encouraged the Board members to take advantage of the electronic method and added that an email would be sent to them with the relevant information tomorrow.

Mr. McCauley applauded the Board's Enforcement Unit for their efforts at reducing case backlog and aging, both of which are within the DCA mandated goals. He also reported on the planning department advisory letter, which had previously been discussed by the Board at its March 7, 2012 meeting. He said that after the letter was sent to the planning departments, the Board received six responses, most all of which were positive. Robert Carter stated he attended the Tri-Chapter (which consists of the East Bay, Monterey and Peninsula chapters of the International Code Council) Annual Meeting and the feedback that he received relative to the letter was also positive.

Mr. McCauley reported that the Governor had made several new appointments to the LATC that included Andrew Bowden of Newport Beach, Katherine Spitz of Los Angeles, and Nicki Johnson of Roseville.

Mr. McCauley reported on pending legislation beginning with Senate Bill (SB) 975, which is sponsored by the American Council of Engineering Companies, California and clarifies only professional boards authorized by the Legislature to issue licenses may mandate continuing education or other licensing requirements. He stated that SB 975 would mandate that such a requirement(s) be placed in the respective profession's practice act. He also stated the bill is moving forward with amendments. He further stated that since the Board had previously voted to support the bill no additional action was necessary at this meeting.

Mr. McCauley next reported on Assembly Bill (AB) 1822, which restructures Board member term expiration dates and staggers them in such a manner as to avoid having a significant number of the member terms expire in any given year. He said the bill had cleared the Assembly and was in the Senate where it is anticipated to be heard at the first policy committee hearing in July. He added that at a previous meeting, the Board had discussed the Social Security Number (SSN) requirement for licensure and how it could be an obstacle for foreign practitioners who would like to become licensed in California. He stated that an amendment to the Architects Practice Act (Act) would be required to allow for the acceptance of the Individual Taxpayer Identification Number in lieu of the SSN. He also stated that AB 1822 could be used as a vehicle for achieving the amendment. Mr. McCauley stated that within the meeting packet was a copy of the language that staff developed for the Board's consideration. He recommended that the Board approve the amendment to AB 1822.

- Sheran Voigt moved to approve the recommended amendment to AB 1822 that permits the Board to accept the Federal Tax Identification Number or other appropriate identification number in lieu of a Social Security Number for licensure.**

Pasqual Gutierrez seconded the motion.

The motion passed 6-0.

Mr. McCauley reported that AB 2482 regarding interior designer licensing died in committee and was not heard. He also reported that the bill had no support in the committees except from the bill's author. He further reported that proponents of the bill will be participating in the Sunset Review process for the California Council for Interior Design Certification (CCIDC). Jeffrey Heller suggested developing a collective letter from the Board, AIACC, and other opposition groups which could be used when interest in licensing interior designers is raised in the future. Mr. McCauley suggested waiting until the Sunset Review process (for CCIDC) and then drafting a joint letter with AIACC expressing opposition and then explaining the rationale.

Mr. McCauley reported on AB 2570 which would prohibit an architect or their agent from including or allowing the inclusion of any provision that would prevent the other party in a settlement action from contacting, filing a complaint, or cooperating with the Board or that would require the other party to withdraw their complaint; such a provision would be a violation of public policy. He also reported that there is another provision of the bill that would prohibit requiring the architect to pay additional monetary damages to the other party through an administrative process after an agreement is reached in a settlement action. He recommended the Board support the bill because it (along with AIACC) supported a similar measure several years ago, and the bill also touches upon a Strategic Plan objective assigned to the Regulatory and Enforcement Committee (REC).

- **Sheran Voigt moved to support to AB 2570.**

Pasqual Gutierrez seconded the motion.

The motion passed 6-0.

G. REVIEW AND APPROVE COMMITTEE PROCEDURES

Ms. Lyon asked Mr. McCauley to present this agenda item.

Mr. McCauley stated that at the previous Board meeting the Board undertook discussion regarding the committee procedures. He also stated that during the discussion several themes arose such as the: 1) value and continuity of a chair serving more than one year; 2) size of the committees; 3) committees meeting regularly; 4) roles of the chair and vice chair; and 5) review process for committee members. He further stated that draft procedures included in the meeting packet take all of these into consideration while allowing the Board a measure of flexibility. Jon Baker stated that the "Review" section of the proposed procedures only address the participation and contribution of the committee member in the required report. He opined that the report should be broader in scope and include the progress with Strategic Plan objectives. Mr. Gutierrez stated that the procedures were silent on the assignment of the committees and the appointment of the committee chair and members. He also stated that when he took office as Board president, it was a long-standing practice but there was nothing defining that it was the president's role and responsibility to appoint committee chairs and members. He suggested the Board should perhaps take a lesson from NCARB resolution 2012-04 that is in the meeting packet, and formalize the process of the Board president making the

appointments. Mr. McCauley responded that a procedure is within the Board Member Administrative Procedures Manual. Ms. Lyon asked that the procedure within the manual be cross-linked to the new committee procedures the Board is considering. Mr. McCauley said it would be done. Mr. Baker suggested the completion of the committee chairs' reports be timed in relation to when the Board president is selected and when they would begin making appointments. He stated it would be quite helpful to have the reports before the last Board meeting of the year. Mr. McCauley suggested the reports be completed by Thanksgiving of every year. Mr. Gutierrez suggested that the committee chair and member appointments made by the Board president in concert with the Board's Executive Committee. Mr. McCauley stated there would be open meeting law issues to consider with that suggestion, and the procedures already allow for the Board president to consult with the Board vice president and executive officer.

- **Sheran Voigt moved to accept the committee procedures as amended.**

Jon Baker seconded the motion.

The motion passed 6-0.

H. **CALIFORNIA SUPPLEMENTAL EXAMINATION (CSE)**

Ms. Lyon asked Justin Sotelo to present this agenda item.

Mr. Sotelo stated that first item for the Board's consideration is the new intra-agency contract agreement with the Office of Professional Examination Services (OPES) related to development of the CSE for fiscal year (FY) 2012/2013. He also stated that incorporated in the contract is a provision, in accordance to the Board's directive, for a process to provide CSE results to candidates at the test center. He further stated that the current contract has to be amended to also incorporate the same provision.

- **Sheran Voigt moved to approve the new intra-agency contract agreement with the OPES for FY 2012/13 and authorize staff to proceed with an amendment of the current inter-agency contract agreement.**

Fermin Villegas seconded the motion.

Mr. Gutierrez asked for the costs of the 2010/11 intra-agency agreement with OPES. Mr. Sotelo responded that the 2010/11 OPES contract was multi-year and included the costs for the initial development of the computer-delivered CSE. He stated that the single FY cost was approximately \$100,000.

The motion passed 6-0.

Mr. Sotelo stated that the agenda item, regarding examination security for both the ARE and CSE, was continued from the Board's previous meeting in March. He said that at the March meeting the Board directed staff to provide a report in June, which included the results of the NCARB discussion (from their April meeting) on the issue. He summarized the issues that had been raised by AIACC and are listed on the relevant agenda item in the meeting packet. Mr. Baker stated that he had discussed the issue with the NCARB Board and they were not amenable to changing the current

language in their security agreement after consulting with their legal counsel on the matter. He also stated that the NCARB Board did acknowledge a need to find a mechanism by which to better communicate to interns their options related to discussing examination content with their mentors. He further stated that he would continue to press the issue with the NCARB Board. Mr. Baker said that he was hopeful a change could be made to the security agreement wording that would specify and clarify what interns are permitted to discuss with mentors. Kurt Cooknick suggested establishing something analogous to an attorney-client privilege that would allow interns to communicate issues, concerns, or difficulties regarding the exam with their mentor. Mr. Baker stated that the vagueness of the language creates a situation that is counter to the purpose of mentors providing guidance to interns.

Mr. McCauley stated that California has a specific statute regarding examination security and the subversion of licensing examinations. Don Chang stated the act of an intern discussing issues, concerns, or difficulties related to the exam would not typically be sufficient to constitute subversion of an examination in California. He also stated the California statute focuses on the intent while the NCARB position is broad and prohibits any discussion with anyone using any method. He further stated that in California the concern is whether an individual is attempting the unauthorized removal of or obtaining unauthorized access to examination content and has the intent to subvert the examination. He said the concern is not typically the discussion of the examination with a mentor for teaching purposes. Mr. Baker asked Mr. Chang for a legal opinion that he could share with the NCARB Board in his discussions. Mr. McCauley stated this issue arose out of several incidents that had occurred involving the ARE Forum website and is NCARB's reaction to those incidents. Mr. Baker said Mr. McCauley was correct in his conclusion and that a compromise of the ARE content is extremely expensive for NCARB to rectify. Ms. Lyon asked that this item be reported on at future Board meetings.

Mr. Sotelo stated that at the March meeting, staff was asked to provide a cost savings comparison for the CSE. He stated that included in the meeting packet was the requested cost comparison. He explained that to calculate the data in the comparison for the oral format costs four-year averages were used because some of the development costs are spread over an extended time period. He added that the computer-delivered format data was based on actual costs because development is done on a continuous basis. He also explained that data in the comparison was further divided into development, administration, and other associated costs.

Ms. Lyon suggested that staff should postpone pursuing a negative Budget Change Proposal (BCP) until such time as they can ascertain there are no unintended or unforeseen costs. Mr. McCauley stated that he concurred with Ms. Lyon's suggestion to postpone a negative BCP and that the DCA Budget Office had made a similar recommendation. He explained that the differences in the budgeting process between the private and government sectors is such that the Board cannot readily adjust its funding to accommodate unforeseen or additional costs without approvals from the control agencies.

Mr. Sotelo reported that as of June 1, 2012, CSE test results are now being released to candidates at test sites as previously directed by the Board. He stated that several methods have been used to communicate to candidates that results are now being released after they complete their examination. He also stated that there have no reported incidents or issues related to the release of the CSE results at test centers.

I. PROFESSIONAL QUALIFICATIONS COMMITTEE (PQC) REPORT

Ms. Lyon asked Mr. Sotelo to present this agenda item. Mr. Sotelo reported that the PQC met on May 16, 2012, and the agenda for that meeting is included in the meeting packet. He stated that many of the items on the agenda are also on the Board's agenda for discussion.

Jeffrey Heller summarized the key issues addressed at the PQC meeting and the outcome of those discussions. He stated that the PQC was receptive to rotating its members and adding fresh perspectives and insight to the Committee. He said that there was extensive discussion with respect to continuing education. He further said that while there was some sentiment expressed among the Committee members and the Board regarding continuing education, he opined the current political atmosphere is such that state government would not be receptive to the idea. He stated that because the PQC consolidated with the Examination Committee there would be an added importance when the Board determines who is appointed to the PQC and the direction it takes. He stated that during discussions related to the Academy of Emerging Professionals' Educational Summit the issue arose regarding the role of the schools of architecture and the need for them to provide stronger professional practice courses. He said the sentiment of the PQC (and the Board) is that there should continue to be a pursuit of integrating professional practice.

Mr. Sotelo stated on March 29, 2012, the regulatory package to repeal the Comprehensive Intern Development Program (CIDP) was approved by the Office of Administrative Law. He also stated that notification was made to affected candidates through a variety of available means (e.g., email, letter, Twitter, et. al.). He further stated that candidates eligible for the CSE after the repeal of CIDP were sent an application.

Mr. Baker stated that there is area of concern for him related to a program change in the NCARB Intern Development Program (IDP). He said the concern is the inequity between academic and non-academic internships. He said that the NCARB IDP Advisory Committee considered the issue and recommended that candidates who are participating in academic internships should receive the same IDP experience credit regardless of whether or not the academic internship is required by the school as part of the curriculum. He said that he understands in California this is not permitted. He asked Mr. McCauley to explain whether this is because of a regulation or policy. Mr. McCauley responded that it is a regulatory prohibition and that measures are being taken to address the issue. He asked Mr. Sotelo to explain the specific actions being taken to align with the NCARB IDP guidelines. Mr. Sotelo advised that the issue raised is actually the next agenda item for consideration.

Mr. Sotelo explained that the issue regarding academic internship credit was raised at the PQC meeting in May noting the difference between the IDP Guidelines and the Board's regulations. He said it is the recommendation of the PQC to align the Board's regulations with the IDP Guidelines. He said further research (including consulting legal counsel) is needed to develop a regulatory proposal for the Board's consideration. He also said that proposed language would be presented at a later Board meeting. Mr. Baker asked for a clarification about the regulation that prohibits credit for academic internships. Mr. Sotelo responded by stating that as it currently reads, the regulatory language prohibits candidates from receiving experience credit for an accredited degree and additional experience credit for an academic internship that was completed to meet the degree requirements.

- **Pasqual Gutierrez moved to accept the PQC's recommendation and direct staff to proceed with a regulatory proposal to align with the new academic internship allowance component of NCARB's IDP 2.0.**

Jon Baker seconded the motion.

The motion passed 7-0.

Mr. Sotelo stated that in early-May a proposal was submitted by NCARB to the Board for consideration and comment. He said the proposal is related to a modification of the IDP Guidelines that would eliminate the 930-hour cap on experience earned for work performed while in an approved academic internship program. The proposal was brought before the PQC for consideration and their recommendation is to support the proposal.

- **Pasqual Gutierrez moved to accept the PQC's recommendation to support NCARB's proposed modification to IDP-related academic internships removing the 930-hour cap and provide comments to NCARB as requested.**

Jon Baker seconded the motion.

The motion passed 7-0.

Mr. Sotelo said a second proposal submitted by NCARB for the Board's consideration and comment is to add construction work as an acceptable supplemental experience type under the IDP Guidelines. He said this would provide additional opportunities for interns to receive "hands-on" construction experience credit. He also said the PQC after reviewing and discussing the proposal, recommended support for it with the added comments that "construction work" be better defined, and include a range of meaningful construction activities, with an appropriate minimum duration requirement.

Mr. Baker commented that the NCARB Internship and IDP Advisory Committees extensively deliberated defining "construction work." He said the committees opted to find a middle ground that was neither too specific nor general in defining the qualifying construction activities. He said with the "hands-on" approach the expectation is that an intern working in a specific trade is performing the work of that trade. He said the minimum duration of the work experience was also extensively debated and ultimately the Committees determined they would recommend to the NCARB Board the elimination of the minimum work duration requirement. He stated the Committees considered numerous scenarios where interns could work less than the current (eight week) minimum duration but would receive no credit for the experience. He stated that the committees opined that if an intern worked for one hour, then they should receive one hour of IDP credit. He also stated that the NCARB Board made the proposal a charge of the Internship Committee for further research effectively tabling it for later reconsideration. Mr. Baker opined this might be due to resistance from other state boards that believe the minimum work duration should have remained as it used to be (a minimum of six consecutive months) and would be disinclined to approve such a change at present.

- **Jeffrey Heller moved to accept the PQC's recommendation to support NCARB's proposed modification to the IDP Guidelines adding "construction work" as an acceptable supplemental experience type and provide comments to NCARB as requested.**

Jon Baker seconded the motion.

Mr. Gutierrez stated that the minimum duration of eight consecutive weeks presents a problem for him due to the inevitability of delays that can occur during the construction process, and suggested it be changed to eight total weeks minimum. Mr. Baker stated if there is something in the proposal which the Board feels is contrary to the way it should be, then perhaps the Board should find a mechanism (i.e., a letter to the NCARB Board) to convey its concerns to NCARB. He said it would be best that any changes made to IDP occur at the NCARB level. He opined that there is significant support for the proposed changes and the NCARB Board will likely approve them.

The motion passed 7-0.

Mr. Sotelo stated that a supplemental handout was being provided to the Board members related to the mandatory continuing education audits that commence with the renewal cycle beginning January 1, 2013. He said that at the Strategic Planning meeting in December 2011, an objective was assigned for staff to develop a continuing education audit system for review by the PQC. He explained the mandated audits are a change to the continuing education requirement because of the passage of AB 1746. He stated the significant components of the law are that it: 1) requires a minimum 3% audit of license renewals; 2) provides language authorizing the Board to issue citations or take disciplinary action against licensees who knowingly providing false or misleading information regarding the completion of continuing education; and 3) requires the Board to provide the Legislature a report in 2019 on the level of license compliance, actions taken for non-compliance, the findings of the Board's audits and any recommendations to improve the system.

Mr. Sotelo said that for the consideration of the Board is the audit system researched and developed by staff and recommended by the PQC. He explained to the Board how the audit system would work once implemented should the Board approve it as presented. Mr. Baker stated that during discussions at the NCARB Board level one of the topics that arose is the appropriate role of NCARB with respect to continuing education. He said it was considered whether NCARB could fulfill the auditing role to assist member boards instead of each state board doing it themselves. He asked about the sentiment among the Board and staff for having NCARB performing this work. Mr. McCauley stated that there could be some contractual and/or legal limitations that would prohibit the Board from using NCARB to perform this service. Mr. Chang stated that at present the state is prohibited from contracting for work that could be performed by a public employee. He also said that as the law reads the Board is required to perform the work itself.

- **Sheran Voigt moved to accept the continuing education audit system as presented.**

Pasqual Gutierrez seconded the motion.

The motion passed 7-0.

Mr. Sotelo stated that at the PQC meeting there was discussion regarding a comprehensive continuing education requirement. He said the consensus among the Committee was there should be a plan ready for implementation should a comprehensive continuing education requirement become mandated by the Legislature. He stated that included in the Board meeting packet are the recommendations from the PQC for the Board's consideration. He said that the PQC's position was that the Board should consider the six recommendations provided and use any or all of them to

formulate a plan for comprehensive continuing education. Mr. Gutierrez stated that he was opposed to the idea of NCARB eliminating individually planned educational activities in the model law. He opined that the essence of the profession is research and innovation and to eliminate the opportunity is a detriment to the profession.

- **Pasqual Gutierrez moved to accept the PQC's continuing education strategy recommendation to monitor the work of NCARB's Continuing Education Committee.**

Sheran Voigt seconded the motion.

Mr. Cooknick stated that the Public Utilities Commission (PUC) and California Energy Commission (CEC) are considering possibly requiring architects complete a continuing education requirement in energy and sustainable design. He said this concerns the AIACC because of the piecemeal approach to continuing education it presents. He also expressed concern whether the development of a continuing education strategy gives groups that would like to see additional continuing education requirements a platform from which to launch their agenda. Mr. Baker stated that with SB 975 (which was previously discussed) such requirements for continuing education and licensing would need to be placed within the practice act thereby preventing PUC, CEC, and others from advancing piecemeal continuing education requirements. He said the creation of a comprehensive program could demonstrate to other organizations that the profession is diligent about continuing education and help avoid the piecemeal approach that has been taken.

- **Pasqual Gutierrez withdrew his motion to accept the PQC's continuing education strategy recommendation to monitor the work of NCARB's Continuing Education Committee.**

Ms. Voigt agreed to accept Mr. Gutierrez's withdrawal of his motion.

Ms. Voigt also said that, as she understands it, part of the reason the Board is not supporting comprehensive continuing education is because it has not been demonstrated that there is a need for it. Mr. Gutierrez suggested approving the PQC recommendation that should AIACC pursue continuing education legislation, the Board would assist in building a coalition of interested groups in support of CE for architects. Mr. Heller suggested monitoring the situation for now and observing other states to see how many that do not currently have a continuing education requirement adopt one. Mr. Cooknick stated that while the AIACC is not planning on sponsoring legislation mandating continuing education, for clarification, the AIACC fully supports it, just not in a piecemeal manner.

- **Pasqual Gutierrez moved to accept the PQC's continuing education strategy recommendations to monitor the work of NCARB's Continuing Education Committee and that should the AIACC pursue legislation the Board will assist and support them in the effort.**

Sheran Voigt seconded the motion.

Mr. Baker suggested asking the Legislature to grant the Board the authority to develop a comprehensive continuing education so that a constructive discussion within the Board could take place.

The motion passed 7-0.

Mr. Sotelo stated that the issue of recognizing and accepting an NCARB Certificate obtained through the Broadly Experienced Foreign Architects (BEFA) program has been discussed at several previous Board meetings. He reminded the Board that in September 2011 a presentation was provided by NCARB to inform the Board about the BEFA program and how it functions. He said that at the December 2011 Board meeting an objective was developed to amend the regulations relevant to reciprocal licensure and permit the Board to recognize and accept applications from foreign architects who have met the requirements of the BEFA program and been granted an NCARB Certificate. He stated that staff has drafted proposed regulatory language which was reviewed by the PQC in May. He said the PQC made the recommendation to pursue the regulatory change in furtherance of the objective's goals.

- **Pasqual Gutierrez moved to accept the PQC's recommendation to amend California Code of Regulations section 121 which would permit the Board to recognize and accept an NCARB Certificate obtained through the BEFA program for foreign architects seeking reciprocal licensure in California.**

Sheran Voigt seconded the motion.

The motion passed 7-0.

Mr. Sotelo stated that agenda item I.9 was previously discussed during the Executive Officer's report and a motion was passed which would amend AB 1822 to include language permitting the acceptance of a Federal Individual Taxpayer Identification Number in lieu of a Social Security Number for licensure in California.

Mr. Sotelo stated that at the December 2011 Board meeting an objective was developed to determine the feasibility of establishing a Broadly Experienced Intern pathway as an alternate method of satisfying the IDP requirements. He said that NCARB has the Broadly Experienced Architect (BEA) program for those architects who do not have an accredited degree as alternate means to achieve an NCARB Certificate. He stated that no similar program exists for interns who have not completed IDP and they would be prevented from documenting their prior experience because of the NCARB Six-Month Rule. Mr. Gutierrez explained that there are candidates who for whatever reason fell out of the process for licensure and now are subject to the Six-Month Rule which essentially negates their years of experience. He said by allowing an intern the option to submit a portfolio of their experience which is validated and then evaluated against the IDP criteria would permit the candidates to continue the licensure process. Mr. Baker said this issue was assigned to the NCARB Internship Committee for research next year. Mr. Gutierrez summarized the PQC's recommendations as to research and/or develop the criteria for recognizing a broadly experienced intern and provide that to NCARB.

- **Pasqual Gutierrez moved to accept the PQC's recommendation to research and/or develop appropriate criteria for recognizing a broadly experienced intern and provide that information to NCARB.**

Jon Baker seconded the motion.

The motion passed 7-0.

Ms. Lyon announced that Stephanie Silkwood, AIACC Statewide IDP Coordinator, has been appointed to the PQC. Mr. McCauley stated that because the Examination Committee has been combined with the PQ, there may be instances where examination material is discussed and a Committee member who is involved in the licensing process would have to excuse his/herself from the discussion and would not be privy to the content of the discussion. Ms. Silkwood introduced herself to the Board and provided a brief synopsis of her background.

J. REGULATORY AND ENFORCEMENT COMMITTEE (REC) REPORT

Ms. Voigt said the REC met on May 16, 2012. She stated the REC discussed the following during the meeting: 1) confidentiality clauses in settlement agreements; 2) DCA best practices related to enforcement; 3) instruments of service; and 4) qualifications based selection (QBS) legislation. She also said that during the REC meeting she presented REC member Phyllis Newton with her 2011 Octavius Morgan Award.

Mr. McCauley reported that the agenda item related to confidentiality clauses in settlement agreements was previously discussed today under the Executive Officer's Report when addressing AB 2570 which covers the same objectives. He reminded the Board they had already voted to support the bill and suggested monitoring its status through the legislative process. He further suggested utilizing the bill as the vehicle by which to accomplish the relevant objective from the 2012 Strategic Plan since it is responsive to the questions that had been posed to the Board.

Mr. McCauley said that during the strategic planning session the AIACC announced their intent to pursue legislation related to QBS. He said a bill was introduced in the Legislature, but it did not pass. He stated that the AIACC is planning on reintroducing the legislation next year. Mr. Cooknick said that QBS is part of the state law which mandates public agencies to use a qualifications-based approach for selecting design professionals to maximizing cost effectiveness. He then described the process for the Board members. He stated that the process for state agencies is very prescriptive, but that local agencies are afforded more flexibility and may elect to adopt their own process in lieu of the more prescriptive methodology, which creates an unfair situation. He also stated that local agencies have interpreted the meaning of the provision as they may either adopt the state's approach as their process or not adopt the law at all. He said that the AIACC strongly disagrees with this interpretation and devotes a significant amount of resources to what is essentially an education program so that local agencies can understand the intent and function of the law. He added that this is quite burdensome for the AIACC and prompted them to sponsor the legislation. He stated the approach of the proposed legislation is similar to the one taken in Nevada whereby a licensee would notify the requestor of the Request for Proposal (RFP) or Request for Qualifications (RFQ) that they cannot bid on the project if the RFP or RFQ is in violation of state law. He said ideally all the licensees to whom an illegal RFP or RFQ is sent would respond in concert. He opined that the failure of the bill was simply a matter of timing. Mr. McCauley said the Board's vision at strategic planning was to keep in communication with the AIACC regarding QBS. He said that in discussions with the AIACC a concern arose about putting something into the practice act that could potentially create an obligation for the Board to review and commence an investigation in situations where there is a possible violation of the QBS requirements. Ms. Voigt said that if there is an action on this objective it would be to refer the item back to the REC for further consideration.

Hattie Johnson said that the Board, in the 2012 Strategic Plan, directed staff to prepare a memorandum for their review concerning fingerprint requirements for licensees and to determine its

potential impact. She said that last year legislation (SB 543) was passed into law and added the Board of Professional Engineers, Geologists, and Land Surveyors (BPEGLS) to the list of professions with a mandated fingerprinting requirement for initial licensure. She said within the Board meeting packet is draft proposed regulatory language for BPEGLS. She explained how the Board of Registered Nursing (BRN) and the California Board of Accountancy (CBA) have implemented their respective fingerprinting requirement. Ms. Johnson said that based on staff research using CBA as an example, the Board would receive up to 70 Records of Arrest and Prosecution (RAP) sheets if fingerprints are required at the time of submitting an Application for Eligibility Evaluation or 38 RAP sheets if required at the time an Application for Licensure is submitted to the Board. She said that should legislation requiring fingerprinting for the Board be passed into law, then staff would need to formulate an implementation process.

Ms. Voigt said that the reason this issue has been continued is to be prepared should legislation be passed into law requiring fingerprinting for licensure. She said that during the REC consideration of the subject a few concerns arose such as: 1) should fingerprinting be proactively pursued; 2) should all licensees be fingerprinted or just new applicants; 3) should candidates be fingerprinted; and the greatest concern 4) does the Board want the requirement thrust upon it. Messrs. Baker and Cooknick asked how the information discovered during the fingerprint check would be used. Ms. Johnson and Vickie Mayer replied that the current law limits the Board to violations (which are substantially related to the practice of architecture) less than ten years-old or no more than five years after the Board discovers or is informed of the violation. Ms. Mayer added that also taken into consideration is whether or not the licensee has rehabilitated themselves.

Ms. Lyon asked whether architects working on school projects are required to be fingerprinted. Mr. Baker responded that if the architect is in a position where they could potentially come into unsupervised contact with children then they would typically be fingerprinted. He added that there are seldom ever cases where an architect is unsupervised around children. He asked what basis is used to take action against a licensee when something is discovered in the fingerprint check? He further asked whether moral character or the nature of the crime is considered. Ms. Johnson explained that whether action would be taken depends on several factors including whether there is a violation substantially related to the practice of architecture and the nature of any crime committed. Mr. Chang explained that the decision to take action is based upon whether the crime is an indicator of a potential unfitness to practice or an indicator the individual is lacking in one of the qualifications or duties of an architect. He further stated that whether rehabilitation has been demonstrated is a factor in any decision of whether to take action. Mr. Baker opined that essentially the Board would become judge and jury over a matter that was previously adjudicated in a criminal case, and then on that basis making a decision of whether the individual should be allowed to practice architecture because of the possibility of the individual committing the same or similar crime. Mr. Chang explained that the two systems (criminal and administrative) have different purposes, namely with the criminal system punishment for committing a crime, and with the administrative system protecting the public from people who lack the appropriate qualifications to either be or continue to be an architect. Mr. Cooknick opined that it would be a better mechanism to tie this into the court adjudicating the criminal matter instead of having the matter revisited an unspecified number of years later. He asked why the Board is considering this issue. Mr. McCauley responded that in part it is because the issue is an objective of the Strategic Plan approved by the Board, but another consideration is the incident with the BRN that brought a spotlight onto the issue. He said the Board is one of the few remaining DCA entities that does not conduct fingerprinting. He also said that it is a proactive enforcement tool the Board asked staff to research. He stated that staff

already conducts an investigation when a licensee discloses a criminal conviction on the renewal application, requesting the appropriate documents, and making an assessment. Mr. Cooknick opined that he is not convinced the profession needs this level of protection for the consumer. Ms. Johnson said that the role of the Board is consumer protection, and that any tool the Board can use which would assist in the endeavor should be used if it is not too intrusive.

Ms. Voigt stated that she was not necessarily in-favor of the requirement because of the additional cost to the licensee or applicant as part of the licensing process. Mr. Heller opined that it may be prudent to have such a process to detect individuals who have committed crimes before becoming architects. Mr. Baker voiced his concern about the Board and staff acting as judge and jury after a court has already adjudicated a case against licensee and imposing additional penalties to those the court imposed. He asked whether the entire profession should be subject to this process because of a few individuals. He stated further concerns he has about the liability to which the Board may be exposed and how subjective the decision making process related to taking action against a licensee could become. Mr. Chang reminded the Board they currently have authority to take disciplinary action against an individual's license when it is discovered they have committed and been convicted of a crime. He added that this is nothing new, but simply another tool at the disposal of the staff. He further stated that while some of the crimes may have been committed in the past, the process allows the Board to be notified of when subsequent arrests and convictions are made so that it becomes a proactive means to protecting the public.

Mr. Villegas stated he had two points he would like to address. He asked Mr. Chang whether the current mandatory fingerprinting statute is permissive enough to allow the Board to impose a fingerprinting requirement. Mr. Chang said that unless the Board is included in the statute it would not be possible to obtain the RAP sheets from the California Department of Justice (DOJ) or the Federal Bureau of Investigations (FBI). He added that only agencies with statutory authority can obtain the information from RAP sheets and that while we could require fingerprinting it would not be possible to have the fingerprints checked through DOJ or the FBI for possible convictions. Mr. Villegas opined that it may be premature at this point to consider fingerprinting since the Legislature would have to amend the current statute authorizing the Board to receive RAP sheet information. Mr. Chang said that the current process the Board uses and to which previously had been mentioned consists of a single question on the Application for Eligibility Evaluation, Application for Licensure, and Renewal Application asking if the individual had been convicted of a crime. He stated that there is currently no means for the Board to verify the truthfulness or accuracy of the answer. Ms. Mayer added that the conviction question on the renewal application only asks about the preceding renewal period. Mr. Villegas stated that it is therefore possible for an individual to lie on their application and each subsequent renewal application and avoid detection by the Board of any conviction.

Mr. Gutierrez asked about the fiscal impact a fingerprint requirement would have on the Board. Ms. Johnson stated that it would depend on the Board decisions about the extent of the requirement. She said it is not certain whether the costs could be absorbed. Mr. Gutierrez said he is concerned about taking action against an individual for a criminal act that occurred years earlier whom has already paid their debt to society. He further stated that the Board by taking action would not be considering any rehabilitation that may have occurred, and therefore he does not feel a fingerprint requirement is justifiable. Ms. Johnson explained there have been several situations that arose where a candidate completes the Application for Eligibility Evaluation answering that they have no convictions only to later answer the opposite when completing the CSE Application and where the

conviction occurred prior to the completing the first application. Mr. Gutierrez asked whether there are any criminal convictions that would be considered detrimental to the practice of architecture. Ms. Johnson recalled an example where the Board revoked the license of an individual for child molestation. Mr. Chang added that it was not a staff decision to revoke the license but a decision of the Board members to revoke the license. He further added that all such decisions are made by the Board members are not arbitrary. Mr. Carter added that there is a high burden of proof (clear and convincing evidence) before a license is revoked and there is due process afforded the licensee throughout the proceedings.

Mr. Gutierrez stated in summary that what is being proposed is the Board fingerprint a demographic of the profession, the fingerprints are then reviewed by DOJ, and then a report would be received informing the Board of whether the individual has criminal convictions. He said as he understands it the RAP sheet indicating a conviction is what would prompt the commencement of the enforcement process. Ms. Mayer stated that his understanding is correct and that once the fingerprint is recorded with DOJ any future activity would prompt an updated report sent to the Board for consideration. Mr. Gutierrez stated that what remains undefined is what action would be taken and the severity of the action. Ms. Mayer said that staff is using the same criteria presently for determining whether an enforcement action is warranted as would be used if the Board required fingerprinting for licensees. Mr. Gutierrez said his understanding is right now we look at the license or renewal applications to see if the conviction question indicates a “yes” answer and that the only change which would occur if the Board were to require fingerprint is if there is a conviction on the RAP sheet a second look would take place. Ms. Mayer confirmed his understanding as accurate and added that the information we receive from the RAP sheet will be truthful and accurate as opposed to what an individual may indicate on an application.

Mr. Villegas said that after reviewing the applicable section of the Act there is a clear statutory limit of ten years for how far into the past the Board can look at an individual’s criminal history. He said this should alleviate any concerns about whether some criminal act that occurred 20-30 years ago would bring an action by the Board. He reiterated that it may be premature at this time because we do not have authorization to obtain criminal history information from DOJ via fingerprinting. Mr. McCauley suggested a more surgical approach to applying the requirement by focusing on the initial examination applicants only. Ms. Voigt asked if this meant ARE candidates or those applying for the initial license. Ms. Mayer explained that if applied to the initial license application it would delay the process of licensure for those individuals. Mr. Gutierrez said he will support whichever direction the Board takes because essentially the Board is really just taking advantage of available technology to improve the process. David Taylor said that he is opposed to the requirement especially if we are only now attempting to catch individuals entering the profession when there are many individuals already licensed that may potentially have committed a crime. Ms. Cochlan opined that there is no need to more than what is being done now. Ms. Lyon said it may be premature at this time and that she is not sure there is a real need for a requirement yet.

- **Sheran Voigt moved to remove the issue of a fingerprinting requirement from further consideration.**

Iris Cochlan seconded the motion.

The motion passed 5-2 (Pasqual Gutierrez and Jeffrey Heller opposed).

K. NCARB REPORT

Ms. Lyon asked Mr. McCauley to present this agenda item.

Mr. McCauley reported that within the Board meeting packet are the 2012 NCARB Annual Meeting agenda and the 2012 slate of NCARB resolutions which he added have not changed since the Board's March 2012 meeting when they were previously reviewed by the members. The Board agreed upon the following positions they would convey at the Annual Meeting.

Resolution 2012-01..... **Support**
Bylaws Amendment – Voting Delegates

Resolution 2012-02..... **Support**
Bylaws Amendments – Removal of Directors and Officers

Resolution 2012-03..... **Support**
Bylaws Amendments - Miscellaneous

Resolution 2012-04..... **Support**
Bylaws Amendment – Clarifying Board Approval of Committee Charges

Resolution 2012-05..... **Support**
Bylaws Amendment – Membership Dues

Resolution 2012-06..... **Support**
Bylaws Amendment – Changing “Regional Conferences” to “Regions”

Resolution 2012-07..... **Support**
Legislative Guidelines, Model Law and Model Regulations Amendment – Broadening Legislative Guide III to Include Misconduct in Connection with the ARE and IDP

Resolution 2012-08..... **Support**
Rules of Conduct and Legislative Guidelines, Model Law and Model Regulations Amendment – Broadening Model Regulation and the Rules of Conduct to Include Verification of Qualifications in Connection with the Intern Development Program

Resolution 2012-09..... **No Action**
Handbook for Interns and Architects Amendment – Addition of Canadian Education Evaluation Alternative

Resolution 2012-10..... **No Action**
Handbook for Interns and Architects Amendment – Correction of Canadian Intern Architect Program Reference

Resolution 2012-11..... **No Action**

Handbook for Interns and Architects Amendment – Correction of the Canadian Examination Requirement

Resolution 2012-12.....No Action
Handbook for Interns and Architects Amendment – Correction of Canadian Equivalency Requirement

- **Sheran Voigt moved to ratify the decisions made at the March 7, 2012, Board meeting with respect to the positions taken on the slate of NCARB resolutions.**

Pasqual Gutierrez seconded the motion.

The motion passed 7-0.

- **Jeffery Heller moved to delegate authority to the NCARB 2012 Annual Conference/Meeting Board delegate such that they may take action as necessary.**

Sheran seconded the motion.

The motion passed 7-0.

L. Landscape Architects Technical Committee (LATC) REPORT

Ms. Lyon asked LATC Manager, Trish Rodriguez to present this agenda item.

Ms. Rodriguez reported that the LATC met on May 4, 2012. She said staff provided the LATC with updates on the following: 1) Council of Landscape Architectural Registration Boards (CLARB); 2) impacts of recent regulation changes and the effect on current legacy systems and the BreEZe project implementation; 3) University of California (UC) Extension Certificate Programs Self Evaluation Reports; and 4) LATC 2012/13 Strategic Plan.

Ms. Rodriguez stated that the CLARB 2012 Spring Meeting was held February 25-26, 2012. She said a draft letter to CLARB was approved by the LATC which provided input on topics that were discussed at the meeting. She stated that the topics included but were not limited to: 1) structured internship; 2) Professional Landscape Architect designation; and 3) changes to how CLARB processes candidates. She said with the implementation of the new Landscape Architect Registration Examination (LARE), CLARB now requires candidates to establish a council record prior to becoming eligible to test. She also said that CLARB is unable to screen candidates who now, due to a recent regulation changes qualify for Sections 1 and 2 of the LARE.

Ms. Rodriguez said that the LATC staff will be disconnected from the Applicant Tracking System (ATS) and will be utilizing a separate manual workaround database to accommodate legally mandated changes until BreEZe is deployed for the LATC in fall 2013. She stated this is because the current legacy system requirements will not support the changes and as a result of resources dedicated to the BreEZe project, system changes to ATS cannot be made without jeopardizing the project.

Ms. Rodriguez said that as a result of pending regulation changes to update the reporting standards, the current approval of the UC Extension Certificate Programs was extended to December 2013. Voluntary Self Evaluation Reports were reviewed in May and an update will be provided to the LATC at their August meeting.

Ms. Rodriguez reported that the LATC held their strategic planning session on January 23-24, 2012. She advised the plan was revised, reviewed, and approved by the LATC at its May 4, 2012 meeting for presentation to the Board today.

- **Sheran Voigt moved to approve the draft 2012-2013 LATC Strategic Plan.**

Fermin Villegas seconded the motion.

The motion passed 7-0.

Ms. Rodriguez said that the regulations were recently amended to allow those candidates with either a landscape architecture degree or extension certificate to take the multiple-choice sections of the LARE. She stated that with the recent changes to the LARE making all sections multiple-choice it is necessary to amend CCR section 2615 to permit candidates with a landscape architecture degree or extension certificate to take for Sections 1 and 2 only until they fulfill all requirements. She said that also for consideration is language that updating CCR section 2620 to reflect recent changes to the Landscape Architecture Accrediting Board's Accreditation Standards and Procedures publication. She asked that since the Board previously approved the language for CCR sections 2615 and 2620 they adopt the proposed language.

- **Sheran Voigt moved to adopt the changes to CCR sections 2615 and 2620.**

Iris Cochlan seconded the motion.

The motion passed 7-0.

M. **REVIEW OF SCHEDULE**

Mr. McCauley reminded the Board members that the next Board meeting is on September 13, 2012, at Mt. San Antonio College in Walnut and the December 5-6, 2012, meeting will in the San Francisco Bay Area and include the strategic planning session.

N. **ADJOURNMENT**

The meeting adjourned at 1:25 p.m.