

MINUTES
REGULAR MEETING
CALIFORNIA ARCHITECTS BOARD

December 5-6, 2012

Ontario, CA

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

Board Vice President Sheran Voigt called the meeting to order on December 5, 2012 at 9:35 a.m. and Pasqual Gutierrez called the roll.

Board Members Present

Sheran Voigt, Vice President
Jon Alan Baker
Pasqual Gutierrez
Matthew McGuinness
Michael Merino
Fermin Villegas

Board Members Absent

Marilyn Lyon, President
Hraztan Zeitlian, Secretary
Jeffrey Heller

Guests Present

Kurt Cooknick, Director of Regulation and Practice, The American Institute of Architects, California Council (AIACC)
Bob Holmgren, Supervising Personnel Selection Consultant, Department of Consumer Affairs (DCA) Office of Professional Examination Services (OPES)
Stephanie Landregan, Chair, Landscape Architects Technical Committee (LATC)

Staff Present

Doug McCauley, Executive Officer
Vickie Mayer, Assistant Executive Officer
Marccus Reinhardt, Program Manager, Examination/Licensing Unit
Trish Rodriguez, Program Manager, LATC
Hattie Johnson, Enforcement Officer
Robert Carter, Architect Consultant
Don Chang, Assistant Chief 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. Voigt welcomed everyone to the meeting and announced that the Board would be conducting regular business today and strategic planning tomorrow.

C. PUBLIC COMMENT SESSION

There were no public comments.

D. APPROVE THE SEPTEMBER 13, 2012 AND NOVEMBER 20, 2012 BOARD MEETING MINUTES

Ms. Voigt asked for a motion to approve the September 13, 2012, Board Meeting Minutes.

- **Pasqual Gutierrez moved to approve the September 13, 2012, Board Meeting Minutes.**

Fermin Villegas seconded the motion.

The motion passed 5-0-1 (Michael Merino abstained).

Ms. Voigt asked for a motion to approve the November 20, 2012, Board Meeting Minutes.

- **Fermin Villegas moved to approve the November 20, 2012, Board Meeting Minutes.**

Matthew McGuinness seconded the motion.

The motion passed 4-0-2 (Pasqual Gutierrez and Michael Merino abstained).

E. EXECUTIVE OFFICER'S REPORT

Doug McCauley presented the Board with a list of potential dates for 2013 Board meetings: March 7; June 13; September 12; and December 11-12.

Mr. McCauley announced the promotion of Marccus Reinhardt to Program Manager for the Examination/Licensing Unit and briefly summarized Mr. Reinhardt's qualifications and his prior experience at the Board and program.

Mr. McCauley reminded the Board of legislation that altered the methodology used by licensees to report their compliance with the continuing education (CE) requirement. He said staff is preparing for the implementation of the new CE auditing system that was previously approved by the Board at its June 2012 meeting.

Mr. McCauley informed the Board of regulatory packages staff is preparing related to changes in the National Council of Architectural Registration Boards' (NCARB) Intern Development Program (IDP). He said the pace of revisions to the *IDP Guidelines* the last few years has posed a challenge to staff that must subsequently update the regulations to reflect the most recent edition.

Mr. McCauley informed the Board both its and the LATC's Enforcement Units performance continue to remain within the parameters established by the DCA Consumer Protection Enforcement Initiative. He commended both units for the improvements they have made in reducing their respective caseloads.

Mr. Merino informed the Board of an initiative being promoted by the First Lady of the United States, Michelle Obama, and Dr. Jill Biden, that would make it easier for members of the military and/or their spouses to transfer their professional/occupational licenses (at least temporarily) from state to state. He asked for staff to research how other states have approached the issue and to learn what measures were implemented that achieve the objective(s) of the initiative. Mr. McCauley said DCA has worked with other boards on the issue and staff could explore the matter of streamlining the licensing process for members of military households.

Mr. McCauley informed the Board the California Council for Interior Design Certification (CCIDC) will be undergoing its Sunset Review next year. He said the organizations that in the previous legislative session promoted legislation to require licensing for interior designers would be active participants in the CCIDC Sunset Review process and again arguing for licensure of interior designers. He reminded the Board that it has previously supported the CCIDC and its certification model. Mr. Merino asked if the Sunset Review process could be used as a substitute for the legislative process and ultimately results in licensure for interior designers. Mr. McCauley replied the outcome is determined by the Legislature and the recommendation of the Sunset Review Committee could add a degree of validity to the argument for licensure. Mr. Merino recommended the creation of a task force to monitor the matter as part of the Board's Strategic Plan.

F. ELECTION OF 2013 BOARD OFFICERS

Ms. Voigt stated that neither member of the Nominations Committee would be present at today's meeting. She advised that the Nominations Committee recommended the following individuals for the 2013 officers: Sheran Voigt, President; Hraztan Zeitlian, Vice President; and Pasqual Gutierrez, Secretary.

Mr. Merino asked what methodology was used by the Nominations Committee in determining the slate of Board officers. He also asked whether the vote could be postponed or must be conducted today. Mr. McCauley responded the Board Member Administrative Procedures Manual requires the Board to elect its officers at the last meeting of the calendar year.

Jon Baker asked Mr. McCauley how much of a role he has, as Executive Officer (EO), in the process of selecting the slate of Board officers. Mr. McCauley said he typically only facilitates the communications between the individual members of the Nominations Committee, but that if the Board desires he could take a more active role. Mr. Baker recommended Mr. McCauley use his experience as the EO to provide the Nominations Committee with more input.

Mr. Merino requested that a report be made by the Nominations Committee, at the next Board meeting which provides a count of the responses received and explains the methodology used to develop the slate of Board officers.

- **Michael Merino moved to approve the recommended slate of officers for 2013: Sheran Voigt, President; Hraztan Zeitlian, Vice President; and Pasqual Gutierrez, Secretary.**

Fermin Villegas seconded the motion.

The motion passed 6-0.

G. SELECT THE 2012 OCTAVIUS MORGAN DISTINGUISHED SERVICE AWARD RECIPIENTS

Mr. McCauley stated this award, named after the first Board President, is given to recognize the dedicated volunteers who have served on committees or assisted with the CSE. The Board reviewed this year's recommendations and identified three individuals to receive the award for 2012.

Mr. McCauley informed the Board the supply of the actual awards was nearly exhausted and there are purchasing restrictions. Messrs. Merino and Baker suggested the Board members donate the cost of or otherwise sponsor the award.

- **Michael Merino moved to approve that Victor Newlove, Roger North, and Roger Wilcox be awarded the Octavius Morgan Distinguished Service Award for 2012.**

Jon Baker seconded the motion.

The motion passed 6-0.

- **Jon Baker moved the Octavius Morgan Distinguished Service Award for 2012 be given to awardees as a "physical element of recognition" paid for by Board monies unless prohibited, in which case it will be paid directly by Board members.**

Jon Baker seconded the motion.

The motion passed 6-0.

H. 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.

I. DISCUSS AND POSSIBLE ACTION ON BOARD AND NATIONAL COUNCIL OF ARCHITECTURAL REGISTRATION BOARDS EXAMINATION SECURITY/CONFIDENTIALITY POLICIES, INCLUDING BUSINESS AND PROFESSIONS CODE SECTION 123

Mr. Reinhardt reminded the Board this agenda item had been discussed at prior Board meetings during the year and that presently there was no further update from staff to provide the Board. He asked Mr. Baker if there were any new developments since the September 13, 2012, Board meeting. Mr. Baker said he had no additional information to report.

Mr. McCauley suggested staff draft a letter to NCARB as a follow-up to the prior conversations with them regarding examination security. He said the letter would serve as a reminder to NCARB of the the issue and would solicit feedback on the action NCARB has taken so far or plans to take. He indicated a vote was not necessary and that a directive from Board would suffice. Ms. Voigt indicated that staff should consider itself directed to follow-up with the letter to NCARB.

J. DISCUSS AND POSSIBLE ACTION ON CSE RESULTS

Mr. McCauley summarized the discussions from the November 20, 2012, Board meeting related to an issue that prompted the Board to suspend the CSE for a period of approximately 30 days. He reported the performance of the CSE was such that OPES recommended the Board suspend it. He said the advice provided by OPES was considered by he and Board President Marilyn Lyon and the decision was made to suspend the CSE from November 9, 2012 to December 10, 2012. He informed the Board that staff took immediate action to contact affected candidates by telephone, and added that candidates were again contacted recently in writing as follow-up. Mr. Merino asked if any of the affected candidates contacted had inquired about the nature of the issue or had given an indication of a lack of confidence in the CSE. Mr. McCauley responded that OPES stated the issue is an anomaly and there is sound psychometric data which supports the previous examination forms administered.

Bob Holmgren reported that during the initial statistical analysis, results indicated the examination form was displaying poor psychometric performance. He said an investigation into the cause was conducted by the OPES examination developer who took a select group of the poorly performing “project” questions and presented them to subject-matter experts (SME) for their review. Mr. Holmgren stated the result of the review was that none of the SMEs answered the questions correctly. He also reported the examination developer, then had the SMEs review each item individually to verify the correct answer whereby they realized the items had been answered without the use of the related project plan. He said the SMEs realized that had they referred to the graphic as instructed they would have answered the item correctly. He stated the SMEs also reviewed the three item distractors (answers that are plausible but incorrect) and the item stem (the question part of the examination item) for clarity, and verified the difficulty level was at the minimum acceptable level of competence.

Mr. Holmgren reported that subsequent analysis was conducted and appeared to indicate improvement in the psychometric quality even though only two candidates had passed the examination. He said the decision was made to continue administering the CSE and begin formal discussions with the Board to consider contingency plans. He reported that a third analysis was conducted and the results clearly indicated the examination was still performing below acceptable psychometric standards. He stated this prompted the need to suspend any further administration of the examination.

Mr. Holmgren reported that there is no clear cause for the issue, but it is suspected that item difficulty was a possible factor. He explained that ideally a workshop will contain an equal number of “seasoned” architects and those who are newly licensed. He added that unfortunately, this is not always possible and could have influenced the issue. He indicated this mix is necessary in order to develop an examination item that is at the appropriate difficulty level for minimum competence. Mr. Holmgren stated the answer options for the examination questions could have been only subtly different from one another, and that this may also have contributed to questions that were more difficult than minimum competence level. He also said still another possible factor, which could

have made the questions more difficult, might have been misinterpretation of the applicable laws or regulations. He said a solution for improving psychometric performance would be to conduct additional workshops for pre-testing of examination items just prior to setting the passing score and launching a new examination form. He added there is already a provision in the current Intra-Agency Contract to allow for this. Mr. Holmgren explained the workshops would allow the SMEs two days over which to fine-tune the questions. He said it is believed this approach should resolve the issue of the poor psychometric performance of the examination items. He also said another tactic OPES is planning to implement is utilizing a greater quantity of questions with known statistical performance.

- **Jon Baker moved to ratify the suspension of the currently administered examination form of the CSE.**

Michael Merino seconded the motion.

The motion passed 6-0.

Mr. Baker asked for a clarification of the methodology used to select SMEs who assist in developing the CSE. Mr. McCauley explained that SMEs are selected from a pool of volunteers which is generated most commonly by referrals from: 1) architects who previously served as CSE commissioners; 2) past and present Board members; and 3) AIACC. He added that the actual assignment of SMEs to a given workshop is done by Board staff.

Ms. Voigt asked that updates on the performance of the CSE be provided in the each Monthly Report.

Mr. Baker expressed curiosity about the process related to the CSE occupational analysis (OA) and the new CSE test plan. Mr. McCauley said the information learned from the NCARB Practice Analysis would serve as a foundation for the Board when conducting the next OA for the CSE. Mr. Holmgren explained that part of the OPES process involves conducting an audit of the Architect Registration Examination (ARE) that consists of reviewing its test plan to confirm the examination is following proper psychometric standards and ensure that there is no double-testing of content between the national and state examinations.

Mr. McCauley reported that late the previous night a letter was received from a former committee member raising several concerns they had previously voiced and providing some suggestions that relate to the recent CSE issue. The letter was distributed to those in attendance and reviewed. Mr. McCauley said staff will develop a response with the assistance of OPES to address the concerns raised in the letter.

K. REGULATORY AND ENFORCEMENT COMMITTEE (REC) REPORT

Ms. Voigt provided the Board with an brief update on the activities which occurred at the October 11, 2012, REC meeting. She said two of the items discussed at the REC meeting are on the agenda for discussion by the Board today.

Mr. McCauley reported that during the REC's discussions related to defining "instruments of service" the Committee concluded that it is important to have a clear definition, but there is a danger if the definition is too narrow as that could inadvertently exclude services. He said the REC realized that there is a larger issue at stake given the practice of architecture has changed substantially since

the definition was first codified more than 50 years ago. He added the REC determined there is a broader issue that needs to be addressed, that of defining the “practice of architecture.” Ms. Voigt said the REC went so far as to review case law on the subject, but found the most recent was dated to the mid-1950s.

- **Pasqual Gutierrez moved to approve the REC’s recommendation to analyze the contemporary practice of architecture to determine if the definition of the “practice of architecture” requires revision prior to the review of the definition of “instruments of service.”**

Fermin Villegas seconded the motion.

The motion passed 6-0.

Mr. McCauley reminded the Board that qualifications-based selection (QBS) and its application at the local level prompted the AIACC to sponsor legislation that would have made it a violation of the Architects Practice Act (APA) for responding to a “request for qualifications” on a project that is ultimately found to violate QBS law. He advised the legislation did not pass. He also advised that the REC had concern that the process in question originates from local agencies over which the Board does not have authority. Mr. McCauley said the REC recommended the legislation should focus on the specific local agency which violated the QBS instead of the individual architect.

Robert Carter stated that within the language of the QBS law is an option for local agencies to develop and follow their own bid process which could include requesting the fee for services. He opined that to implement regulations which punish architects who respond to a non-QBS proposal would be tantamount to punishing a victim of a crime instead of the perpetrator. He added that there is also the issue of enforcing regulations that are beyond the Board’s purview.

Kurt Cooknick disagreed with the interpretation that there is an option for local agencies to develop and follow their own bid process. He added the AIACC is simply seeking legislation that would prohibit a Request for Proposal (RFP) from a local agency that includes a fee as a consideration in making a decision to award. He said the Board would not be required to enforce QBS law, but instead enforce provisions of the APA that prohibit an architect from responding to such a proposal.

Mr. Merino voiced his opposition and opined the proposed legislation violates the United States Constitution and restricts commerce. Mr. Baker stated the such proposal is counter-intuitive and that the focus should be on the violator of the QBS law and not the architect who responds to an RFP.

- **Pasqual Gutierrez moved to approve the REC’s recommendation that the AIACC’s legislation should be re-focused on the violators of the QBS process rather than licensees.**

Fermin Villegas seconded the motion.

The motion passed 6-0.

L. LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE (LATC) REPORT

Trish Rodriguez provided an update on the activities which occurred at the November 14, 2012, LATC meeting. She reported the LATC approved the: 1) Intra-Agency Contract with OPES to conduct a new OA; 2) University of California Task Force Review and Approval Procedures, Self-Evaluation Report, Visiting Team Guidelines, and other related site review documents; and 3) modification to a pending regulations package related to the approval requirements for extension certificate programs.

Ms. Rodriguez reported that Sections 1 and 2 of the new Landscape Architect Registration Examination were administered in September 2012 and Sections 3 and 4 are being administered until December 15, 2012. She also advised that commencing in April, all four sections will be administered concurrently.

Stephanie Landregan reported to the Board that all member positions of the LATC have been filled. She said that the LATC Strategic Planning session will be conducted on January 24-25, 2013. She informed the Board members that there is currently no Board liaison to the LATC. Ms. Voigt asked the Board members if they are interested in serving as the liaison to notify her.

Ms. Rodriguez informed the Board that there was an approved regulatory package related to educational and training credit that now allows educational credit for a degree in architecture.

M. ADJOURNMENT

Ms. Voigt stated that Mr. Merino would not be present at the strategic planning session the next day and asked if there was anything related to the Strategic Plan he would like to discuss. Mr. Merino reported on his assignment as liaison to Mount San Antonio College (Mt. SAC). He added that he serves as a member of the Mt. SAC Advisory Committee. He voiced his concern to the Board members about the trend he is noticing with respect to the declining number of new students entering four-year architectural schools because the programs are heavily impacted. He said students are being directed to the engineering programs at the same universities that have the accredited programs because they are less impacted and have indicated their demand for more students, which the architectural programs have not done. He recommended engaging in a larger dialogue with the National Architectural Accrediting Board about its business model and expanding architecture programs at schools. He said more needs to be done to prevent a dwindling of architects in the long-term.

The meeting adjourned at approximately 1:35 p.m.

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

Board Vice President Sheran Voigt called the meeting to order on December 6, 2012, at 9:05 a.m. Pasqual Gutierrez called the roll.

Board Members Present

Sheran Voigt, Vice President
Jon Alan Baker
Pasqual Gutierrez
Matthew McGuinness
Fermin Villegas

Board Members Absent

Marilyn Lyon, President
Hraztan Zeitlian, Secretary
Jeffrey Heller
Michael Merino

Guests Present

Kurt Cooknick, Director of Regulation and Practice, AIACC
Roy Fleshman, Facilitation Specialist, DCA, Strategic Organization, Leadership, and Individual Development (SOLID)
Stephanie Landregan, Chair, LATC
Terrie Meduri, Facilitation Specialist, DCA SOLID
Tom Roy, Facilitation Specialist, DCA SOLID

Staff Present

Doug McCauley, Executive Officer
Vickie Mayer, Assistant Executive Officer
Marccus Reinhardt, Program Manager, Examination/Licensing Unit
Trish Rodriguez, Program Manager, LATC
Hattie Johnson, Enforcement Officer
Robert Carter, Architect Consultant
Don Chang, Assistant Chief Counsel, DCA

Six members of the Board present constitute a quorum. There being five present at the time of roll, a quorum was not established and the Board met as a committee.

O. PUBLIC COMMENT SESSION

There were no public comments.

P. STRATEGIC PLANNING SESSION

Ms. Voigt turned the meeting over to staff from SOLID who facilitated the Board's strategic planning session. The Board reviewed the accomplishments for 2012, and the Board's mission, vision, values, and strategic goals. SOLID staff led the Board members through the SWOT (Strengths, Weaknesses

Opportunities and Threats) analysis process which assisted the Board members in developing the objectives for 2013.

SOLID will update the Strategic Plan with the changes made during this session, and the Board will review and finalize the plan at its next meeting tentatively scheduled for March 7, 2013.

Q. REVIEW OF SCHEDULE

The Board selected the following dates in 2013 for Board meetings:

- March 7, 2013
- June 13, 2013
- September 12, 2013
- December 11-12, 2013

R. ADJOURNMENT

The meeting adjourned at 12:45 p.m.