

MINUTES
REGULAR MEETING
CALIFORNIA ARCHITECTS BOARD

March 18, 2010

Los Angeles, CA

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

President Iris Cochlan called the meeting to order on March 18, 2010 at 9:35 a.m. Secretary Marilyn Lyon called the roll.

Board Members Present

Iris Cochlan
Larry Guidi
Pasqual Gutierrez (arrived at 10:15 a.m.)
Marilyn Lyon
Sheran Voigt (arrived at 9:55 a.m.)
Hraztan Zeitlian

Board Members Absent

Jon Alan Baker
Jeffrey Heller
Michael Merino

Guests Present

Kurt Cooknick, Director of Regulation and Practice, American Institute of Architects, California Council (AIACC)
Daniel Iacofano, Moore Iacofano Goltsman, Inc. (MIG)
Stacey Kim, Center for Public Interest Law
Kimberly Kirchmeyer, Deputy Director, Board and Bureau Relations, DCA
Stephanie Landregan, Committee Member, Landscape Architects Technical Committee (LATC)
Tracy Montez, President, Applied Measurement Services (AMS)

Staff Present

Doug McCauley, Executive Officer
Vickie Mayer, Assistant Executive Officer
Justin Sotelo, Licensing and Examination Program Manager
Mary Ann Aguayo, Program Manager, LATC
Bob Carter, Architect Consultant
Hattie Johnson, Enforcement Officer
Anthony Lum, Administration Analyst
Annamarie Lyda, Secretary
Don Chang, Legal Counsel, DCA

Six members of the Board present constitute a quorum. There being four present at roll call, a quorum was not established. Don Chang indicated until a quorum was established, the present members could meet as a committee and then take formal action when a full quorum was established. The committee could make recommendations to the full Board when a quorum was established. Note: quorum was established when the sixth member arrived at 10:15 a.m.

B. PRESIDENT'S REMARKS

Ms. Cochlan welcomed everyone to her first meeting as Board President. She extended her appreciation to Jon Baker for his work, dedication, and leadership to the Board over the past two years as President. She stated that the Board will work hard to achieve its Strategic Plan goals this year, but that there was a need to delay action on some objectives in order to complete Sunset Review. She indicated that enforcement would also be a major focal issue for the Board to address in the coming year.

C. DEPARTMENT OF CONSUMER AFFAIRS DIRECTOR'S REPORT

Ms. Cochlan introduced Kimberly Kirchmeyer, DCA Deputy Director of Board and Bureau Relations. Ms. Kirchmeyer stated that DCA is taking a proactive review of all the boards and will become more involved with them. She indicated that one of the major goals DCA has is to increase the visibility of all of the boards, communicate with them, and help to resolve any issues they may have. She thanked the Board staff and Executive Officer on behalf of DCA Director, Brian Stiger, for all of the help and hard work over the past couple of months due to DCA's multiple requests for program data, statistics, and other items.

Ms. Kirchmeyer stated that the reason she came to the meeting was to discuss the Consumer Protection Enforcement Initiative (CPEI). She explained that over the past year, the length of time some programs took to take action against a licensee who was in violation of the law had come under close scrutiny and CPEI was created to solve the issue. She indicated that some healing arts boards were taking in excess of three years before any action was taken against a license and the articles in the *Los Angeles Times* highlighted the systemic problems within the enforcement programs, particularly with the healing arts boards. She continued that at the current time, CPEI is focused on the healing arts boards, but that many of the non-healing arts boards have begun to review their own enforcement processes to see if anything could be done to streamline the process to decrease the case review time. She indicated that the goal of CPEI is to reduce the case processing time from three years down to an average of 12 to 18 months from the time a complaint is received until it is closed.

Ms. Kirchmeyer explained that there are three main areas that CPEI focuses on and they are: 1) administrative improvements; 2) resource and information technology improvements; and 3) legislative changes. She explained that in the administrative improvements, the focus is on the best practices model where program executives and staff meet to brainstorm and exchange ideas about how they perform their enforcement and disciplinary functions, compare their processes and procedures, and obtain ideas to incorporate into their program. She continued that the goal is to gather all of the best practices ideas and put them together for an enforcement academy. She stated that the academy would be available to enforcement staff so that they could benefit from the best practices.

Ms. Kirchmeyer indicated that DCA also hired a Deputy Director for Enforcement and Compliance, Paul Riches. She stated that his main function is to monitor all of the boards' enforcement processes and review them to ensure that they are following the improvement plans and moving forward.

She explained that many times, the enforcement case processing times are not the fault of the boards, but due to the processing times of outside entities such as the Department of Justice (DOJ), Attorney General's Office (AG), and the Office of Administrative Hearings (OAH). She continued that DCA is working to establish performance agreements with DOJ, AG, OAH, and other outside and state entities to expedite the prosecution of cases.

Ms. Kirchmeyer indicated that DCA is replacing its old, antiquated computer system and is working to implement a new, updated system that would incorporate all of the existing computer programs that the boards currently use for licensing and enforcement. She explained that the new system would be a single, multi-functioning system where communication would be enhanced and online licensing would be available. She explained that the new system would combine all of the systems that are currently in use for licensing, applications, and enforcement and combine them into one primary system. However, she informed the Board that the new system would not be available to them until 2013 or 2014.

Ms. Kirchmeyer indicated that there is a proposal in the 2010/11 Governor's budget proposal for additional resources for the healing arts boards. She stated that DCA's plan is to have a Budget Change Proposal (BCP) presented next year for the non-healing arts boards for additional resources for enforcement and other needs that are identified in order to reduce the processing time of enforcement cases. She continued that many of the boards are reviewing their enforcement processes and the methods that are used for their investigations and one area of focus is to utilize more desk investigations by non-sworn individuals rather than having sworn investigators perform all of the investigations.

Ms. Kirchmeyer stated that DCA is pursuing additional legislative changes to improve the board's and bureau's enforcement processes to allow authority for a board or bureau to suspend a license quicker, delegate approval of a stipulated surrender and default decision to the Executive Officer, and authorize a board to automatically suspend a licensee who is incarcerated. She encouraged the boards to take a position of support on the legislation and to submit a letter to the bill's author, Senator Negrete McCloud. She stated that DCA would also like the boards to review their enforcement program at their meetings and maintain statistics to ensure that the program is moving forward. She suggested communicating with the Executive Officer if any questions, issues, or ideas arose in regard to the enforcement program.

Doug McCauley indicated that he would like to recognize the new leadership at DCA, as many of them had come from DCA boards and bureaus, which allowed a true understanding with what boards contend with every day and what is important to boards and the consumers that we serve. He continued that it is invaluable to have that perspective when the Board presents issues to DCA.

Ms. Kirchmeyer stated that another item DCA is reviewing is Webcasting board meetings. She explained that in the current economic climate, many individuals have difficulty attending board meetings and with the use of Webcasting, DCA believed the meetings would reach many more individuals. She indicated that DCA is encouraging the boards to utilize Webcasting and that DCA has the equipment and is willing to travel to use it if the Webcasting services are requested in advance. She stated that Webcasting is not interactive like video conferencing, as there are meeting

guidelines that need to be followed according to the Bagley-Keene Open Meeting Act, but that it is a one-way Webcast that is transmitted.

Ms. Kirchmeyer stated that DCA was called into an accountability hearing by the Legislature to review some of the boards, bureaus, and DCA contracts utilized for meetings. She stated that from the hearing, the Legislature emphasized the use of state facilities to conduct meetings as much as possible and questioned why entities did not use schools more often to hold their meetings. She stated that after the hearing, the Acting Agency Secretary emphasized a decrease in travel by limiting where meetings take place and the number of staff that attended the meetings. She continued that DCA complied by encouraging all the boards and bureaus to follow these directions.

D. 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.

E. PUBLIC COMMENT SESSION

There was no public comment at the meeting.

*G. APPROVE THE DECEMBER 9-10, 2009 BOARD MEETING MINUTES

Mr. McCauley indicated that there were two edits that needed to be made to the minutes in the LATC agenda item M, Update on October 22, 2009 LATC Meeting and to add Mary Ann. Aguayo, LATC Program Manager, to the list of staff present.

A quorum was not established at the time of the discussion, so Board action on this issue was deferred until later in the meeting.

*H. EXECUTIVE OFFICER’S REPORT

Mr. McCauley reported that the Board has been challenged by the current economic and fiscal climate and has currently lost 37 days to furloughs, which is equivalent to seven weeks of work while maintaining the normal work functions of the Board. He stated that although we support the Administration and had completed our assignments on various budget directives, the one that Ms. Kirchmeyer spoke of in regard to contracts required that staff review five years of meeting contracts and expense claims to report the information that was needed for the directive. He continued that there was a similar directive regarding workforce issues and licensing, so both of these directives required significant staff time and resources to complete.

Mr. McCauley reported that both the Board and LATC are subject to Sunset Review this year which is an all-encompassing task that takes significant resources to complete and leaves little time to work on other initiatives. He reported that Ms. Aguayo, accepted a promotional position with the Department of Water Resources, which meant that for Sunset Review, the Board will be more involved with LATC’s Sunset Review process. Ms. Voigt asked when the Sunset Review Report is due. Mr. McCauley advised that they are due by October 1, 2010. He reported that he was working on a timeline for the Board to have the opportunity to review and provide input on the Sunset Report at least twice before being submitted to the Legislature.

Mr. McCauley reported that despite the current climate, there was positive news regarding the conversion of the oral exam to the multiple-choice written exam. He stated that for years, the oral format improved tremendously as to its defensibility and meeting the national standards; however, it is time for the change to make the exam accessible to more candidates and more efficient for the Board.

He reported that enforcement is critical to our core mission of consumer protection. He continued that the Enforcement Initiative will provide an additional catalyst and tools to use (e.g., best practices, new technology, and agreements with other agencies) to bolster our efforts. He stated that he is pleased with the enforcement efforts that began last summer and are ongoing to improve the enforcement process on case review and reducing the number of pending cases. He stated that the number of cases is the lowest it had been in quite awhile and is currently in the 200's, where at one point, the number of pending cases was in the 300's. Mr. Zeitlian asked how this can be explained. Mr. McCauley said that the enforcement unit had doubled its efforts, improved prioritizing, and is more efficient at processing the complaints. Mr. McCauley also pointed out that this was all accomplished with the furloughs in place.

Mr. McCauley reported that when the Board reviews its Strategic Plan, it needs to be mindful of the significance of the large projects in the coming year of Sunset Review, emphasis on the enforcement model, and the conversion of the California Supplemental Examination (CSE) format, and whether there are any additional needs that are critical to add to the current workload. He continued that some of the dates in the plan may need to be modified to accommodate the completion of these large tasks.

Mr. McCauley reported that the Board did have authorization for Messrs. Baker and Gutierrez to attend the Western Conference of Architectural Registration Boards (WCARB) regional meeting, as Mr. Baker is the chair of the region. However, he explained that all of the out of state travel (OST) had been rescinded by the Governor and that Messrs. Baker and Gutierrez are not able to attend.

Mr. McCauley explained that the standard for OST was very clear: only trips that affect the Board's core mandates of examination and enforcement functions are permissible. He continued that absent in meeting that standard, OST is not an option. Ms. Voigt asked whether not attending WCARB, will allow us to adjust to possible changes that are coming from related organizations and to do our job. Mr. Zeitlian asked if there is a Webcast opportunity to participate from a distance. Mr. McCauley indicated that he believed the National Council of Architectural Registration Boards (NCARB) is exploring the option of Webcasting, but WCARB does not. He stated that the good news is that NCARB's Annual Meeting is in California this year, so our members can participate there. He stated that for next year, we will have to wait to see what the economic climate is in regard to OST.

Kirk Cooknick asked if the Board could foresee any topics at the WCARB regional meeting that the Board would be concerned about with no representation. Mr. McCauley indicated that in terms of the leadership issue, Mr. Baker was to preside over the meeting as chair of the WCARB Executive Committee and secondarily, the Board has had a longtime strategic objective to have a leadership role with the NCARB and there was only one way to accomplish that and that is to have a member on the NCARB Board of Directors. He continued that Mr. Baker was a candidate for a position on the NCARB Board and the vote was to occur next week at the regional meeting where Mr. Baker is not attending. Mr. Cooknick asked whether this action marginalized the Board for the future. Ms. Voigt stated that the Board had worked for many years to be in this position of leadership with NCARB. Mr. Cooknick asked if there was any possible way that DCA or the Agency Secretary

would approve the OST. Ms. Kirchmeyer indicated that if the reason does not meet the standard established for OST, it is not going to the Agency Secretary, but straight to the Governor's Office for approval. Mr. Cooknick asked if the request stops at the Governor's desk or at the Agency Secretary's desk. Ms. Kirchmeyer stated that the request stops at the Governor's desk.

Ms. Aguayo indicated that she knows that California Council, American Society of Landscape Architects (CCASLA) had asked a couple of times for OST funding to attend a Council of Landscape Architectural Registration Boards (CLARB) meeting. Mr. Chang indicated that they would still need the Governor's approval because anytime an official goes out of state and their travel is not being reimbursed by the state, they still need authorization from the Governor's office to act on behalf of the state. Ms. Kirchmeyer stated that the Governor would still need to approve zero cost trips, as it is a perception of approved travel. Mr. Cooknick asked whether a trip was approved and the state did not pay for the trip, but the individual paid, would be permissible. Mr. Chang indicated that if the trip were approved by the Governor and the individual paid for the trip, it would be fine, but indicated that what Ms. Kirchmeyer referred to is that there is no OST, even if the individual is paying for the trip and there is zero cost to the state. Ms. Kirchmeyer added that there is nothing prohibiting an individual from attending a meeting if they provide their own financing for the trip; it is the representation of the state where they need the Governor's approval. Mr. Cooknick indicated that it was his understanding that up until the OST was suspended, which is a financial decision and not a representation decision, Messrs. Baker and Gutierrez were authorized to go on the trip. He asked what had changed from a representation standpoint. Ms. Kirchmeyer indicated that when the Governor rescinded all OST no matter where the funding came from, the trip authorization was rescinded. Mr. Cooknick asked for clarification whether Mr. Baker could attend WCARB if he paid his own way as an audience member and not as a representative of the state. Mr. Chang indicated that Mr. Baker could attend under those circumstances. Mr. Cooknick asked what the rationale was for rescinding the OST for someone who is so invested in the profession and willing to pay for the trip even when they had been approved for the trip. Ms. Kirchmeyer indicated that the issue is the individual has not been approved for the trip since it was rescinded. She continued that each time an individual from a board or state employee traveled out of the state, they have to have an approved Governor's trip. Ms. Kirchmeyer stated again that once the trip was rescinded by the Governor, there was no trip authorization.

Mr. Zeitlian asked if Mr. Baker was planning on going to WCARB just to participate on his own. Mr. McCauley indicated that Mr. Baker was not going to attend the WCARB meeting. Mr. Zeitlian asked if Mr. Baker could go to the meeting without representing California or the Board. Mr. Chang indicated that Mr. Baker could attend as a private citizen and would not be a representative of California. He continued that the question then would be whether or not WCARB/NCARB would recognize him in his capacity as a private citizen of California as opposed to a representative of the Board. He stated that WCARB/NCARB probably would not recognize him as a private citizen.

Mr. McCauley reported that in enforcement, the vital use of the architect consultants is very important and that both of their contracts will be expiring soon. He indicated that he recently met with

Ms. Kirchmeyer and DCA Chief Deputy Director, Bill Young, to inform them of the unintentional consequences of across-the-board mandates when it comes to contracts. He explained that previously, all contracts were suspended, including the contracts for the architect consultants, this meant that any enforcement cases involving a professional practice issue could not be addressed. He continued that it essentially shut down the enforcement program except for the minor advertising

cases that staff could address. He stated that he definitely wanted DCA to know how across-the-board mandates could affect a mission-critical Board function.

Mr. McCauley reported that the enforcement statistics continue to improve, but still continue to receive a number of complaints that are probably economically driven due to people having more time to look at advertisements. He continued that the Board is also receiving complaints that are derived from *Craigslist*.

Mr. McCauley reported that in regard to legislation, he would begin with the Sunset Review bills. He advised that Senate Bill (SB) 1171 (Negrete McCloud) creates the core parameters for the Sunset process. He continued that there are also two other Sunset bills in the Assembly [Assembly Bill (AB) 1659 (Huber) and AB 2130 (Huber)]. He reviewed the Sunset Review survey questionnaire with the Board and noted that the prior Sunset Review Report was well-received and staff will utilize it as the foundation for the new report. He explained that the questionnaire indicated the depth of information and data needed to complete the 2010 Sunset Review Report.

Mr. McCauley stated that Mr. Chang informed him if the Board was to take a position on any bills, the particular bill would need to be specified in the meeting notice, which precludes the Board from taking a position on any of the enforcement bills without a quorum. He continued that when a quorum was established, the Board will be asked to support AB 1746 (Emmerson), which is a re-introduction of the continuing education (CE) provisions on disabled access sponsored by AIACC in 2009 that modifies the CE verification system. He reported that the current system requires that all 22,000 licensees submit a renewal form, sign a certification of CE compliance and submit the verification of CE completion to the Board, which causes a backlog in the license renewal process. He continued that most of the other DCA boards utilize a CE audit process where a certain small percentage of licensees are audited to ensure CE compliance. He stated that AB 1746 would move the Board toward the direction of the CE audit process that other DCA boards utilize after one more renewal cycle. He stated that the bill also mandated a report submitted to the Legislature on the audit process, the percentage of non-compliant licensees, outcomes, and any recommendations.

Note: the Board deferred action on the legislation until later in the meeting due to a lack of a quorum.

Establishment of a quorum - Mr. Chang announced that the Board had established a quorum at 10:15 a.m. when the sixth member arrived.

***G. APPROVE THE DECEMBER 9-10, 2009 BOARD MEETING MINUTES**

Once a quorum was established, Mr. McCauley requested to return to this agenda item to take action on the approval of the December 2009 Board meeting minutes.

- **Sheran Voigt moved to approve the December 9-10, 2009 meeting minutes with edits on pages 1, 16, and 17.**

Hraztan Zeitlian seconded the motion.

The motion passed 5-0-1 (Larry Guidi abstained).

***H. EXECUTIVE OFFICER'S REPORT**

Once a quorum was established, Mr. McCauley requested to return to this agenda item to request Board action to support AB 1746.

- **Marilyn Lyon moved to support AB 1746 (Emmerson) which changes the CE verification process to an audit system.**

Sheran Voigt seconded the motion.

The motion passed 6-0.

Mr. McCauley then presented the recent changes to the proposed fee regulation for Board approval. He reported that at the December 9, 2009 meeting, the Board preliminarily approved the proposed regulations to amend some of the Board's fees. He stated that some facts to justify the fee increases were that the renewal fee had been at the same level for 20 years, the increase is less than the rate of inflation per the Consumer Price Index (CPI), programmatic costs have increased over the years, and given the facts at that time, a \$150 increase to \$350 was appropriate. He continued that with new, updated information, especially the change in the examination format, furlough savings, and other potential costs that did not come to fruition, staff was able to reduce the fee increase to \$100 from \$150. He explained that staff had considered many different fee increase scenarios and discouraged a sequential, tiered fee increase structure because it involved significant risk. He continued that a sequential, tiered fee increase results in a fund balance that stays too low and could go into insolvency faster in future fiscal years. He reported that the DCA Budget Office informed him of a new enforcement BCP that the Board would need to contribute to that Ms. Kirchmeyer referred to in her presentation. He reported that if the proposal is approved, it would maintain a fund balance within the recommended three to six month reserve range, kept the fund in a good fiscal position without the need for another renewal fee increase for a number of renewal cycles, and is less of an increase than what was discussed previously. He recommended the proposed regulation amendment and stated that any alternative scenario would be risky by putting the fund in the negative sooner and could have other implications as well.

Mr. McCauley asked Mr. Chang on the procedure to include the Board's delegation to the Executive Officer for any non-substantive changes to the regulations. Mr. Chang stated it should be done by separate motions, but could be done in a single motion. He stated that the motion should authorize staff to make the modified change to California Code of Regulations (CCR), section 144 to specify the fee for the original license would be \$300, as opposed to the originally proposed \$350; that the biennial renewal fee would increase to \$300, as opposed to the original proposal of \$350; and also authorize the Executive Officer to approve the modified language, provided that no adverse comments or other recommendations are received from the public.

- **Pasqual Gutierrez moved to approve the proposed regulations to amend CCR, Title 16, section 144, Fees and to authorize the Executive Officer to approve the modified language, provided that there are no public comments or recommendations.**

Larry Guidi seconded the motion.

The motion passed 6-0.

*I. REVIEW AND APPROVE THE 2010 STRATEGIC PLAN

Ms. Cochlan introduced Daniel Iacofano of MIG (Moore Iacofano Goltsman, Inc.), facilitator of the Board's Strategic Planning Session held in December 2009. Mr. Iacofano presented the draft 2010 Strategic Plan and reviewed the key issues the Board will face in the coming year. He reviewed the plan with the Board and noted the changes that were made. Mr. Iacofano stated that the target dates need to be carefully considered to ensure that they are achievable in light of the Sunset Review process and the resources that will be absorbed by that activity. He suggested the target dates could be extended or the objective could be deleted. The Board reviewed all of the committee objectives and targeted completion dates, and made minor edits throughout and adjusted the target dates.

- **Sheran Voigt moved to approve the 2010 Strategic Plan.**

Larry Guidi seconded the motion.

The motion passed 6-0.

*J. EXAMINATION COMMITTEE REPORT

Ms. Lyon presented the Examination Committee (Committee) report and stated that the Committee met on January 25, 2010 in Anaheim, and approved the September 14, 2009 summary report, reviewed and discussed the pass rates and candidate survey results from the September and November 2009 CSE administrations, and were provided with an update on the CSE Format Study from AMS President, Tracy Montez. She stated that during the Committee's discussions, there were questions raised regarding the Committee's roles and responsibilities and, as a result of the examination development process for the new format, the matter will be discussed in today's meeting. Ms. Lyon reported that the Committee reviewed the project plan for the upcoming exam development process. She stated that there had been many discussions about the new exam process at the Committee meetings, as it is a new process and change does not always come easy. She continued that the Committee members are very hard working and conscientious, so it had been a pleasure to work with them on the development and the Board will be pleased with the new language presented for their roles and responsibilities.

Ms. Lyon asked to Mr. McCauley to give the Board an update on the CSE development. Mr. McCauley stated that the first session to work with DCA's Office of Professional Examination Services (OPES) will begin this coming weekend and explained that their facilities offer technological resources and an effective way to perform exam development. He explained the process, but asked Ms. Montez to explain the details, as she is a former Chief of OPES. Ms. Montez stated that the first session would be on Sunday and that the Subject Matter Experts (SME) recruited with the assistance of the Board, would start with an orientation to go through some training on the purpose of the workshop. She continued that the initial workshop would entail reviewing the prior oral exam questions and how those could be utilized to create multiple-choice test questions. She indicated that the training would discuss the purpose of a licensing examination, the technical standards that govern it, and the oral exam materials to help determine how we can utilize them to create multiple-choice test questions. She explained that it is normally a three-day workshop and runs from 8:00 a.m. to 5:00 p.m. and the OPES facilitator will work with the SMEs to move them through the process of exam development. She continued that the next series of workshops would involve actual multiple-choice question writing, review, and actual construction of an exam. She emphasized that at each of the workshops, the SMEs will undergo additional training, which is very important to incorporate all of their practical and professional experience and use it for a testing expert to create an appropriate exam.

Ms. Lyon moved on to discuss the review and approval of the Committee's roles and responsibilities with regard to the CSE. Mr. McCauley indicated that the oral format of the CSE had been in its current form since the early 1990s and has had the same administration vendor for quite some time. He reported that now, the Board will be working with OPES for exam development, which is more conservative as to the national standards and has more precise directives as to what occurs with the exam. He stated that the Committee had been involved with the oral exam for so long that the members have had questions on their roles and responsibilities and that there were a couple of key issues that arose throughout the discussions. He indicated that the first issue was in regard to participation because in the past, there were Committee members along with SMEs participating in multiple steps in the process and there should be a barrier between each of the different steps within the process, particularly in certain places. He indicated that it would be inappropriate to have an SME who wrote exam items to serve in the next phase to review them, as objectivity, undo influence, etc., could create issues and impact the exam's validity. He continued that there was also an initial concern that Committee members were not going to be able to participate at all, but it was clarified that Committee members are SMEs and have experience in item writing, so there is an understanding that Committee members can be a part of each of the sessions.

Mr. McCauley reported that a second issue that arose was that at the end of the exam development process, the Committee would validate the items and actually vote upon them. He indicated that this process was something OPES did not want to continue, as the exam development process is a scientific process and not a democratic process.

Mr. McCauley reviewed the draft Roles and Responsibilities summary in the meeting packet with the Board that described the two issues that were just reported and also reiterated the Committee's charge that was reflected in the Board's last Sunset Review Report. He stated that the charge needed to be updated because the method of examination had changed and the utilization of OPES instead of a private vendor had changed. He distributed a proposed revision of the Committee's charge. He stated that it was important that it be sensitive to the fact that, while the Committee is very important and provided guidance, the Committee does not drive the exam because the test vendor, psychometrician, and the national standards on exams dictate the exam process and the process must be completely followed.

The proposed revision of the Committee's roles and responsibilities that Mr. McCauley distributed included the following language:

"The Examination Committee is charged with: 1) providing general California Supplemental Examination oversight; 2) working with the Board's testing experts, examination vendors, and subject matter experts to provide valid, defensible, and efficient examinations; and 3) addressing broad examination policy issues."

Ms. Lyon stated that the summary definitely clarified what is expected of the Committee, especially since it had been developing the exam one way for a long time and the process had now changed where new roles and responsibilities were needed. Mr. McCauley indicated that it would be a change from the processes that were utilized in the past, as previously, members were directly involved with every step of the exam development process. He continued that the role change was a concern for the members, as the Committee felt responsible for the exam, but had no control of its development. He stated that the change in the Committee's charge struck a balance to where there is an understanding that the test experts are responsible for the exam development process and the Committee's

involvement still had an important role. Ms. Lyon stated that it was very important that the direction from the Board to the Committee be very clear and the revised charge clarified the Committee's roles and responsibilities in the exam development process.

Ms. Voigt asked whether there was a large enough pool of SMEs to participate in only a single phase of the exam development process. Mr. McCauley indicated that there is a large enough pool of SMEs and commissioners to participate in a single phase of the process and it would be acceptable to have repeat experts at different stages of the process, but not in an adjacent stage of the process involving creating items and then reviewing them. He continued that there may be other stages that may need to be avoided, but this was the main one.

- **Marilyn Lyon moved to approve the revised Examination Committee's roles and responsibilities with regard to the CSE.**

Sheran Voigt seconded the motion.

The motion passed 6-0.

Mr. McCauley asked Justin Sotelo to present the regulatory proposal to amend CCR, Title 16, section 124 for the Board's final approval. Mr. Sotelo stated that the Board reviewed the regulation proposal and preliminarily approved it at the December 2009 meeting and the change is a result of the CSE transition from an oral to multiple-choice format. He reported that currently, the regulation's language specified an oral exam format, so the proposal is to modify the regulation language to reflect the change from an oral format to a multiple-choice format and also adds some administrative language that needed to be detailed in the regulation as a result of the format change. He continued that there had been a delay in moving forward with the proposal because part of the process is to identify the fiscal impact, in this case, savings, from the regulation change. He reported that the approval is currently out of sequence, as the request for final approval of the regulation proposal by the Board is prior to the actual regulation hearing and public comment period. He requested the Board give final approval to the regulatory language and delegate authority to the Executive Officer to adopt the regulations and to make minor technical, non-substantive changes, provided no adverse public comments or recommendations are received during the public comment period.

- **Sheran Voigt moved to give final approval of the proposed regulations to amend CCR, Title 16, section 124, CSE and delegate authority to the Executive Officer to adopt the regulation, provided no adverse comments are received during the public comment period and make minor, technical changes, if needed.**

Marilyn Lyon seconded the motion.

The motion passed 6-0.

Mr. McCauley asked Mr. Sotelo to present the proposal to ratify the Intra-agency Agreement with OPES for CSE development. Mr. Sotelo explained that as a result of the transition of the CSE to a multiple-choice format, the Board researched the process of finding examination development services. He stated that in his research, he found that there is a Government Code section that indicated all state agencies are required to contract with civil service agencies unless specific exemption criteria are met. He continued that DCA's OPES, formerly the Office of Professional Services, provided the services needed and were able to accommodate the Board's examination

development into their schedule. He stated that OPES created an Intra-agency Contract Agreement and presented it to the Board for action. He requested that the Board ratify the Intra-agency Agreement with OPES.

- **Sheran Voigt moved to ratify the Intra-agency Agreement with the OPES for CSE development.**

Hraztan Zeitlian seconded the motion.

The motion passed 6-0.

***M. LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE (LATC) REPORT**

Ms. Aguayo presented the LATC report and stated that the meeting was held in Berkeley on January 21-22, 2010 at MIG's office. She reported that under the CLARB section of LATC's meeting notice, the item was incorrect. She reported that the recommendation of nominees was to CLARB's Election Committee, not the Board of Directors, as LATC does not have any members on the CLARB Board. Ms. Aguayo stated that Stephanie Landregan had been representing California up until September or October of 2009 and that Ms. Landregan termed out of the Region V Director position and is now nominated for the CLARB Elections Committee and the results will be revealed prior to the CLARB Annual Meeting in September 2010.

Ms. Aguayo reported that for the last three years, LATC has been requesting examination statistics from CLARB for all of the states and their response is that they cannot share the information due to a small candidate pool where it would be possible to identify candidates who were passing or failing the exam. She stated that CLARB has begun a consultant study called the *Determinants for Success* and the consultant will be studying all of the data of the candidates that have passed and failed the exam and will possibly generate some helpful information that LATC can use in developing guidelines, assist with the modification of the education and experience requirements, and improve on how LATC processes the applicants in California. She reported that in conjunction with CLARB's efforts, the LATC is performing their own analysis of exam results of all the candidates so that there is a database with all of the exam results compiled over the last couple of years. She continued that the project is roughly halfway done so that LATC would be able to have annual statistics available that will help identify success factors and to help modify regulations as needed. Ms. Aguayo reported that there was a discussion with the University of California, Berkeley (UCB) faculty, which was the fourth program that LATC has attended and was a focus in the Strategic Plan a couple of years ago. She stated that a problem was identified by the members with the educators and being able to inform them of what topics were on the exam, without telling them exactly what was on the exam, so they knew what areas students needed knowledge for to pass the exam. She continued that there had been very collaborative and productive discussions with the school's faculty and LATC would like to continue the program.

She reported that there was a recognition award given to Linda Gates, who is a prior member and continues to assist with program functions and outreach and will be presented with the award at the April 23, 2010 meeting.

Ms. Aguayo reported that the LATC had their Strategic Planning session and contracted with MIG to assist with the process. She stated that the process was very successful and as a result of the Sunset

Review process, they will need to make some changes and modifications to the plan, just as the Board had done.

She also reported that CLARB had their spring meeting in February 2010, and LATC was unable to attend. Ms. Aguayo was on a teleconference for the CLARB's Member Board Executives meeting and was only able to attend half of the two sessions she planned to attend due to a poor connection with the meeting that made it difficult to speak and participate.

Ms. Landregan stated that the LATC Education Subcommittee had evaluated the draft report of the Evaluation of Education and Experience Requirements to Examine for Licensure and, as a part of the Sunset Review process, is to review if the access to the exam is exclusionary. She stated that many individuals spent a lot of time reviewing many issues that staff looked at the determinant of the passage rates. She continued that currently, there are many venues to sit for the exam, as you can be a landscape contractor and sit for the exam without internship; could enter via an extension program and then intern for two years; one year working under a landscape architect and then a second year working under an architect, engineer, or planner; or can enter through the community college system where LATC has no regulation, does not know what is taught in the community colleges, and does not have a curriculum review. She stated that LATC does not have an idea of why the exam passing rates are what the numbers show or if there are methods that we are allowing access to the exam and pass it through the numerous venues, but it is a difficult route. She indicated that they are contacting other states to find out more information on the subject. She stated that some of the changes in the report include proposed regulatory changes to allow individuals that have met the educational requirements to sit for the first three sections of the exam, the written sections, and then wait until after they have completed their experience before being allowed to take the graphic sections, which is the typical method of the majority of states.

She indicated that from the information gathered from other states, this method of testing worked better to engage people in the profession as they become vested and confident in it and this carries over to when they work in an office while completing their experience requirement to qualify for the graphic sections of the exam. She stated that this was a large part of the changes in the proposal, but that there were others as well. She continued that one area that they addressed was not granting experience for like disciplines that were similar to landscape architecture, there was some educational experience granted to architects, and LATC is now granting credit for the partial completion of landscape architecture degrees up to 80 percent, which is basically equivalent to the start of the senior year, but then something happened where the person could not finish and did not complete their thesis. She stated that at this point, the individual could qualify to sit for the exam, which is one of the recommendations of the Education Subcommittee.

Ms. Landregan stated that another important item to bring to the Board's attention was the Landscape Architects Accreditation Board (LAAB) is changing their requirements, but to date, have not ratified them. She indicated that LATC uses their standards to maintain the certification process of the extension programs. She reported that LATC certifies the University of California, Los Angeles (UCLA) and the UCB Landscape Architecture programs and they base the certification on the current LAAB standards, which are specifically written out in the LATC regulatory code. She requested that the Board allow LATC to reference the current LAAB standards to be the criteria for reviewing the certified landscape architectural extension programs at UCLA and UCB instead of having them written in the regulatory code. Ms. Aguayo clarified that one issue on accreditation that may arise is that some candidates may have graduated 10 years ago and LATC utilizes the LAAB standard that

was in place at the time of graduation, rather than the current standard if it was accredited at that time.

She continued that LATC is requesting approval of the proposed regulatory changes with the delegated authority to the Executive Officer to modify language and make any non-substantive changes, as needed. She stated that within the draft report, there are two corrections that needed to be made. She indicated that the first is a sentence on page 12, in the top paragraph in green font that needed to be modified or removed and the second is in the middle of the same page to reflect the need for one year of experience under a landscape architect after graduation.

Ms. Voigt stated that the report is very comprehensive and well written and indicated that LATC is working hard to help individuals obtain their license. Ms. Aguayo indicated that the efforts that have been made were in response to the 2004 Sunset Review, as there was a request for a report to be produced and this is the end product. Mr. McCauley stated that it is a good report and the recommendations were appropriate for Sunset Review.

- **Sheran Voigt moved to approve LATC's Evaluation of Education and Experience Requirements to Examine for Licensure and preliminary approval of CCR, Title 16, Division 26, sections 2615, Form of Examinations, and 2620, Education and Training Credits and delegate authority to the Executive Officer to make any minor technical changes, if needed.**

Hraztan Zeitlian seconded the motion.

The motion passed 6-0.

***H. EXECUTIVE OFFICER'S REPORT**

The Board returned to this agenda item.

Ms. Voigt inquired about the emails (public comments) received from individuals who had concerns about the proposed fee increases. She stated that although the Board had already voted on the topic, she wanted to know whether the Board had to respond to the emails. Mr. McCauley indicated that the Board had a responsibility to respond to the comments it received during the public comment period as part of the rulemaking process. Mr. Chang stated that the Board did not have to respond to the comments specifically, but did have to respond to them in the rulemaking file after they are presented to the Board for its decision at the meetings prior to entering them in the rulemaking file. He stated that the Board considers the comments and if no issues arise, determines that it is not necessary to make any modifications to the language based upon the comments received, then, addresses them in the final rulemaking file. Ms. Voigt stated that all of the comments were on topics that the Board had already deliberated over and that there were no new issues, but wanted to know if we responded to all of them. Vickie Mayer stated that all of the public comments that were received within the comment period were responded to.

***K. REVIEW AND FINAL APPROVAL OF PROPOSED REGULATIONS TO AMEND CCR, TITLE 16, SECTION 117, EXPERIENCE EVALUATION**

Mr. McCauley asked Mr. Sotelo to present this proposal for final approval. Mr. Sotelo indicated that the Board had already reviewed the proposal at the December 2009 meeting where it was

preliminarily approved. He reported that the proposal aligns the Board's definition of a supervisor with the expanded definition under NCARB's Phase II of Intern Development Program 2.0. He indicated that the request is out of sequence by requesting the Board's approval prior to the public comment period, which is the reason the request includes the delegation of authority to the Executive Officer for any technical, non-substantive changes, provided no adverse comments are received from the public.

- **Sheran Voigt moved to give final approval of the proposed regulations to amend CCR, Title 16, section 117, Experience Evaluation, and to delegate authority to the Executive Officer to adopt the regulation, provided no adverse comments are received during the public comment period and make any minor, technical changes, if needed.**

Pasqual Gutterrez seconded the motion.

The motion passed 6-0.

*L. ENFORCEMENT PROGRAM UPDATE

Mr. McCauley reported that there is draft legislation to assist the non-healing arts boards with their enforcement efforts and reviewed the language as an informative item. He reported that some of the subjects of interest would be: 1) access to government records; 2) delayed payments for the records so that if there is an issue with payment, the agency or program is still obligated to send the Board the requested information; 3) cost recovery, which gives the Board the ability to recover actual or reasonable costs that a judge deems appropriate; 4) automatic suspension of a license if a licensee is incarcerated; 5) DOJ update of electronic system, which will help them be more efficient; and 6) contracting with a collection agency, which will require legislation to allow the Board the authority to utilize a collection agency. Hattie Johnson reported that the collection agency had been secured, but the Board needed legislative authority to allow social security numbers (SSN) to be released to the collection agency. Mr. Chang stated that the Board does have the authority to contract with collection agencies for the judgments, but the problem is that they cannot collect revenue without a SSN, as it is a key identifier and the Board is not allowed to release SSNs except under very limited circumstances.

Mr. McCauley continued that other important features in the language are the reports to the Department and the Legislature. He indicated that the enforcement timeframe for the AG's office is important, especially with the amount of effort and resources that are utilized to file an accusation, and the legislation provided some performance parameters for the AG's office. He stated that the last feature was in regard to fees and the ability to adjust them consistent with the CPI. He stated that the language had not been introduced in the Legislature, so staff will monitor its progression and provide reports to the Board as it becomes available.

Ms. Johnson reviewed the Enforcement Improvement Plan with the Board and advised them that today's review was an overview and that the plan would be reviewed by the Regulatory and Enforcement Committee (REC) for its approval and then would return to the Board for final approval. She also reviewed the complaint process for the members including the types of complaints received, including non-jurisdictional, the procedures of the complaint review and tracking process, how the architect consultants are utilized, what may happen to a complaint after the Board has completed its review (e.g., forwarded to AG office, citation, closed, or other), and settlements and judgments of \$5,000 or more. She also reviewed CCR section 137 pertaining to public information disclosure,

which are the guidelines for staff to follow on information disclosed to the public. Ms. Voigt asked about patterns of complaints on an individual. Ms. Johnson responded that if there is a pattern of complaints determined against an individual and it is information that the Board can release to the public, the Board will inform the requestor of the information to protect them.

*N. WESTERN CONFERENCE OF ARCHITECTURAL REGISTRATION BOARDS (WCARB)

Mr. McCauley reported that the Board did have approval for Messrs. Baker and Gutierrez to attend WCARB. However, all of the OST has been rescinded and they are not able to attend.

Mr. McCauley reported that the NCARB resolutions were technical, governance-related, non-substantive resolutions with no need for the Board to act upon them. He also mentioned that the meeting is where the Board representatives voted upon candidates for NCARB positions and that the candidates' biographies were in the packet.

*F. ETHICS PRESENTATION

Mr. Chang stated he was to provide an ethics presentation, however, his presentation mainly pertained to the professional members and because three of them were not present for the meeting, he deferred it until the next meeting. He clarified that his presentation is a proactive effort and not as a result of anyone doing something wrong or unethical. He stated that his presentation is about ethical decision making and its purpose is to provide the members with tools and strategies to promote the public trust in the Board and its actions. He continued that he would review the Bagley-Keene Open Meetings Act as a part of the presentation and stress the importance of complying with that law to prevent the perception that the Board's decisions are made behind closed doors, as well as to educate members when to abstain or recuse themselves in decisions due to conflict of interest issues. He offered to give his presentation at the June 16, 2010 meeting.

Mr. Chang asked Ms. Kirchmeyer if she was familiar with the Board member training topics that will be used in the July 27, 2010 session. Ms. Kirchmeyer indicated that the topics will focus on licensing and enforcement and their statistics and what to look for within them.

O. REVIEW OF TENTATIVE SCHEDULE

Ms. Cochlan asked if there were any changes needed on the schedule. Ms. Johnson requested to add the REC meeting on April 26, 2010 in Sacramento. Ms. Mayer asked Ms. Kirchmeyer whether the July 27, 2010 member training was mandatory. Ms. Kirchmeyer indicated that DCA is encouraging all of the Board members to attend the training. She indicated that in the training, they will be providing an overview of many changes that are taking place like best practices, licensing, CE, and a focus on CPEI with a new enforcement report. Mr. Hraztan asked if Mr. Chang's ethics presentation could be done at the same time. Mr. Chang indicated that since the Board has a meeting in June 2010 and that most of the other boards have already had the training; it would be simpler for him to do it at the June meeting. Ms. Cochlan indicated that the next meeting was on June 16, 2010 in Sacramento and the NCARB Annual Meeting is on June 23 – 26, 2010 in San Francisco.

P. ADJOURNMENT

The meeting adjourned at 12:30 p.m.

**Agenda items for this meeting were taken out of order to accommodate the lack of a quorum and public comment. The order of business conducted herein follows the transaction of business.*