

MINUTES
REGULAR MEETING
CALIFORNIA ARCHITECTS BOARD

June 16, 2011

Los Angeles, CA

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

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

Board Members Present

Marilyn Lyon, Vice President
Sheran Voigt, Secretary
Jon Alan Baker
Michael Merino
Fermin Villegas
Hraztan Zeitlian

Board Members Absent

Pasqual Gutierrez, President
Iris Cochlan
Jeffrey Heller

Guests Present

Kurt Cooknick, American Institute of Architects, California Council (AIACC)
Stephanie Landregan, Chair, Landscape Architects Technical Committee (LATC)
Cindy Kanemoto, Chief, Department of Consumer Affairs' (DCA) Strategic Organization,
Leadership and Individual Development (SOLID) Training Solutions, (on behalf of DCA Director)
Amy Murphy, BArch., Vice Dean, University of Southern California (USC)

Staff Present

Doug McCauley, Executive Officer
Vickie Mayer, Assistant Executive Officer
Justin Sotelo, Program Manager, Examination/Licensing Unit
Hattie Johnson, Enforcement Officer
Anthony Lum, Administration Analyst
Robert Carter, Architect Consultant
Gary Duke, 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

Vice President Marilyn Lyon stated that President Pasqual Gutierrez could not attend the meeting and that she would be presiding in his absence. She thanked USC for hosting the Board and stated that Amy Murphy, Vice Dean, would present an update about the school's architecture program later during the meeting. She announced and welcomed the Board's newest member, Fermin Villegas. She introduced Gary Duke, DCA Legal Counsel, who attended the meeting in Don Chang's absence.

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

The Board went into closed session in order to consider action on two disciplinary cases and the March 17, 2011 Board meeting closed session minutes. The Board: 1) considered the Stipulated Settlement and Disciplinary Order in the Matter of the Statement of Issues against Mark Alan Barlow; and 2) considered the Stipulated Settlement and Disciplinary Order in the Matter of the Accusation against Edward W. Powell.

The Board also approved the March 17, 2011 Board meeting closed session minutes.

D. PUBLIC COMMENT SESSION

Ms. Murphy, Vice Dean and Associate Professor, gave a presentation about the USC School of Architecture after the DCA Director's Report (Agenda Item G).

E. APPROVE THE MARCH 17, 2011 BOARD MEETING MINUTES

Ms. Lyon called for a motion to approve the March 17, 2011 Board Meeting Minutes.

- **Michael Merino moved to approve the March 17, 2011 Board Meeting Minutes.**

Sheran Voigt seconded the motion.

The motion passed 6-0.

F. EXECUTIVE OFFICER'S REPORT

Doug McCauley reviewed the Board's meeting schedule and stated that the September meeting will be in Sacramento and the December two-day meeting, including the Strategic Planning session, will be in San Diego.

Mr. McCauley reported that the Legislature approved a State budget on June 15, 2011, but indicated that there were conflicting reports as to whether the Governor would sign it. He reported that for other budgetary issues such as travel and vacant positions, Board staff must obtain approval from DCA for in-state travel and exemption approval from the State and Consumer Services Agency (Agency) and the Governor's Office to fill vacant positions due to the ongoing hiring freeze ordered by the Governor.

Mr. McCauley reported that in May, the Board conducted an Architect Registration Examination (ARE) site visit by members of both Examination and Professional Qualifications (PQC) Committees and members of the Board. He stated that the members were generally satisfied with how the exam operation functioned, and gained insight into what candidates experience when going through the exam process, as well as the level of security that is rendered at testing sites. Mr. Merino commented that the site visit was a phenomenal experience and significantly different than when he pursued his license. He indicated that the exam process seemed fair, but the graphics portion, specifically the computer assisted design (CAD) program, was lacking. He added that the National Council of Architectural Registration Boards (NCARB) is addressing the CAD issues and that the current software program should improve in the future.

Stephanie Landregan announced that she is a candidate for the Council of Landscape Architectural Registration Boards Vice-Presidency and that the election will occur on September 7, 2011.

Jon Baker inquired about NCARB's Broadly Experienced Architect (BEA) program and the Board's position with respect to the BEA program. Mr. McCauley indicated that the Board does accept the BEA for licensure and stated that the NCARB website had noted erroneously that California did not accept the BEA certification for licensure. He continued that NCARB's website has since been corrected.

Mr. McCauley stated that in regard to the Broadly Experienced Foreign Architect (BEFA) program, there is a regulatory issue that would need to be addressed if the Board desired to pursue acceptance of the program for licensure. Justin Sotelo indicated that the regulation affecting the BEFA program was reviewed by DCA Legal Affairs and the current language prohibited the Board from accepting the program for licensure. Mr. Baker requested clarification as to why the Board does not accept the BEFA program for licensure. Vickie Mayer clarified that the language in the regulation that affects the BEFA program does not allow the Board to accept the BEFA program as a means toward licensure since the regulation specifically states what the Board can accept as a requirement for licensure (and the BEFA program is currently not an option for reciprocity). She stated that if the Board decided to pursue the acceptance of the BEFA program for reciprocity, there would need to be an amendment to the regulation.

Mr. Baker inquired as to what specifically within the BEFA program precluded the Board from accepting it for licensure. Ms. Mayer indicated that at the time the Board amended the regulation, there may have been a determination that foreign experience is not comparable to the ARE or to the Board's requirements for licensure. Mr. Baker requested that staff provide the Board with clarity and reasoning of what items or issues the Board does not accept for licensure because if there is a basis for the reasoning of non-acceptance, the information should be shared with NCARB so it has an opportunity to modify its program. He continued that if there were decisions made a decade ago by prior Board members not to accept certain parameters for licensure, they may or may not still be applicable today. Mr. Merino stated that he is going to have an opportunity to serve on the NCARB BEA/BEFA Committee next year and can provide input to the Committee and if the Board's regulation required an amendment, he volunteered to participate in the process. He continued that it is an opportunity to correct the issue, as many of the foreign experiences are equivalent or better than what is completed in the United States, depending upon the country in which the experience was gained.

Mr. Sotelo noted that the main obstacle for these individuals to obtain a license is the examination requirement, as there is currently no exam exception stated in the language of the regulation. He added that the law states that an examination (i.e., ARE) is required for licensure and in order for the Board to accept the BEFA individuals for licensure, there would need to be a provision added to the law.

Mr. Baker clarified that the BEA candidates are substituting the BEA program for the education component and are still taking the ARE; whereas BEFA candidates may have taken an exam in their country, but it may be an exam that the Board does not acknowledge or recognize. Ms. Mayer stated that BEFA candidates go before NCARB and take some form of exam (oral and/or portfolio) and if NCARB approves them, they are certified. However, she continued that the Board's regulations specifically state that candidates for licensure must pass an examination and the BEFA candidates have not passed the ARE. Ms. Lyon inquired whether a candidate who passed the ARE could then come to California to obtain a license and practice. Ms. Mayer clarified that this was correct for the BEA candidates, not the BEFA candidates. Mr. Baker indicated that the BEFA candidates do not take an exam for NCARB, but their certification process involves a thorough review of a candidate's portfolio that exemplifies his/her capabilities in all of the requisite categories to substantiate their credentials, as well as a face-face interview to support their submissions. He stated that if California's requirement for a candidate to pass an examination is the reason why the Board cannot accept a BEFA candidate, then this should be an issue for the Board to address since it has not been discussed in a long time. Ms. Lyon indicated that the Board has given staff direction to review this issue and bring a recommendation back to them at the next meeting.

Mr. McCauley indicated that the last issue for his Executive Officer (EO) Report is on Sunset Review and included in the meeting packet is the legislation [Senate Bill (SB) 543 – Price] that extends the Board's sunset date. He reported that the only holdover issue from the Sunset Review is the license renewal cycle where the Senate Business, Professions and Economic Development Committee (B&P) believed that the reason for the Board's fee increase last year was due to the fluctuating revenue created by the current odd-year renewal cycle, but the actual reason was because the Board had not increased its renewal fees in 20 years and the cost of doing business has increased substantially over that time. He continued that the B&P determined the solution to resolve the revenue issue was to change the Board's renewal cycle from an every odd-year biennial renewal to an ongoing yearly biennial renewal cycle; however, a change to the renewal cycle was proven to not provide any new efficiency.

G. DEPARTMENT OF CONSUMER AFFAIRS DIRECTOR'S REPORT

Cindy Kanemoto presented the DCA Director's Report. She reported that the Governor appointed a new Secretary and Undersecretary at Agency, which is the cabinet agency that provides oversight of DCA. She stated that Anna Caballero was appointed Secretary and Willie Armstrong was appointed as Undersecretary.

Ms. Kanemoto reported on numerous topics which were:

1. Governor's hiring freeze – is continuing and the Department of Finance released a budget letter with details on the procedures to request a hiring exemption. Of the 83 exemption requests submitted from DCA, 76 have been approved by Agency and the Governor's Office.

2. Travel restrictions – the executive order for travel restrictions remains in place and no travel will be permitted unless it meets the definition of “mission critical” under the definition in the order. DCA will work with the boards and bureaus to comply with the order, but also ensured the Board that mission critical travel would continue.
3. BreZE project – DCA’s data program replacement for two of their current data legacy systems, will utilize new technology that will provide an online licensing application system and enforcement tracking. DCA has received the final bid from the vendor; however, it was higher than anticipated, so DCA is currently negotiating with the vendor to reduce the cost of the program. DCA is optimistic that the negotiations will be successful and will submit a proposal to the Legislature to approve the vendor for the contract. The negotiations did accelerate the implementation date and anticipated that all of DCA’s boards and bureaus will be using the system by December 2013. The selected vendor for the project is Accenture.
4. EO evaluation form – DCA completed the development of a new EO evaluation form that incorporated executive level competencies into the evaluation process. The process is executed by the board president when he/she contacts the DCA Board/Bureau Deputy Director, who works with the DCA Personnel Office, to provide the president information (i.e., duty statements, prior evaluation documents, vacancy rates, grievances, etc.) to conduct an evaluation of the EO. The process is very confidential and specific access will only be granted to the board president.
5. EO salaries – many boards have been requesting to increase their EO’s salaries because many have been at the top of their salary ranges for many years. She stated that one of the criteria the Department of Personnel Administration (DPA) bases an EO’s salary on is the number of staff he/she is responsible for. She reported that DCA contracted to conduct an EO salary evaluation study, which should provide results sometime in August, and then with the results of the study, work with DPA to determine a methodology to establish EO salaries. She explained that DPA reviews multiple criteria of an EO position to determine the position’s salary, not just number of staffing alone.
6. Consumer Protection Enforcement Initiative (CPEI) – DCA has posted the third set of enforcement performance measures on DCA’s website. The performance measures show the time it takes for a complaint to be addressed from receipt to when some type of disciplinary action is taken and could be a useful tool for boards to review their enforcement programs. DCA is encouraging boards to pursue regulations for some of the recommendations that were contained in prior legislation (SB 1111 – McLeod) for CPEI.

Ms. Kanemoto concluded by thanking the Board for posting the meeting materials online and reminded the Board that webcasting of meetings is available, as DCA has a camera team that is allowed to travel throughout the state since board meetings are deemed “mission critical.”

*D. PUBLIC COMMENT SESSION

Ms. Lyon requested a break in the meeting for Ms. Murphy, Vice Dean and Associate Professor, to provide an update on USC’s School of Architecture. Ms. Murphy welcomed the Board and extended an invitation to host future meetings that fit the Board’s needs. She informed the Board that USC’s Architecture Program is multi-leveled and disciplined with various specialties from undergraduate to doctorate and also has a landscape architecture program. She stated that currently, there are approximately 850 students, both graduate and undergraduate, in the program. She described the program as one that attempts to integrate its students into each specialty area rather than segregating them by specific programs (i.e., landscape department vs building science department vs. another

discipline). She added that the faculty move between the different degree programs in order to maintain a single all-inclusive discipline (architecture) approach.

Mr. Baker inquired as to how the architecture program works their students with regard to the Intern Development Program (IDP) and any structured internship program with architectural firms. Ms. Murphy stated that one of their faculty members is USC's IDP coordinator and is heavily involved with the program and obtains the latest information every year to convey to their students. She continued that the school prepares the students through three specific course experiences (i.e., legal issues and ethics, contracts and architect responsibilities, and a Building Information Modeling-related course) to prepare for IDP and internship programs.

As for preparation to work for architectural firms, Ms. Murphy stated that USC established an architectural guild, which is a volunteer program designed to assist students in preparation for work experiences. She explained that the process begins by the architectural students completing surveys in order to identify their specific area(s) of interest. Then, she indicated that the surveys are forwarded to the constituency in the guild where they attempt to match the student(s) with an architect mentor working in the student's discipline(s) of interest. She stated that the program has been highly successful due to USC architecture alumni's extensive involvement in the program to maintain the continuity of knowledge within the profession.

Ms. Murphy stated that a second event that the school sponsors is a "firm fair" each spring during career week where graduating students submit their digital resumes to the school for distribution to multiple architectural firms across the country. In addition, she indicated that during career week, the school invites architectural firms for students to submit and review their resumes directly and possibly interview with a firm onsite.

Ms. Voigt asked whether the school encouraged or required its faculty to be licensed. Ms. Murphy indicated that the school does continually monitor which faculty members are licensed, frequently hosts license preparation courses, and sends messages to their faculty about obtaining a license.

Mr. Merino inquired as to whether the school tracked the number of students that actually obtain a license and why the number of architects is diminishing. Ms. Murphy indicated that the school and the guild keep an unofficial track record of the students that obtain licenses and she believed that part of the reason there is a decrease in the number of architects in recent years is that many of the students choose to pursue other alternative career pathways (i.e., real estate) and advanced degrees that may be architectural-related, but not directly in the profession.

H. EXECUTIVE COMMITTEE REPORT

Mr. McCauley reported that for Sunset Review, Board representatives went before B&P on March 21, 2011. He indicated that after the hearing, the Board had 30 days to formally respond to the B&P questions presented at the hearing. He indicated that a copy of the written responses submitted to B&P in April were included in the Board meeting packet. He stated that the legislation (SB 543 – Price) to extend the Board's sunset date was already drafted prior to the hearing; however, there was language included in the bill that required the Board to restructure its renewal cycle. He indicated that there was no measurable benefit to this proposal (i.e., reconfigure the renewal cycle, amend regulations, modify the continuing education requirement system, etc.). He added that he met with

B&P staff and anticipated that the conversation and supporting documentation provided to B&P would persuade them to modify the renewal language in the bill.

Mr. McCauley reported that the second issue discussed at the Executive Committee meeting was the Strategic Plan objective regarding committee appointments. He indicated that it had been many years since the Board had reviewed its process, structure, procedures, etc., and there are provisions in the *Board Member Administrative Procedural Manual* (Manual) which indicate the process for committee appointments. He stated that he drafted a white paper to frame the conversation for the Committee to give them a basis for recommendations to present to the Board and to give staff direction to draft new provisions for the Manual and/or discuss at the Board's next strategic planning session.

Mr. McCauley proceeded to review the contents of the white paper as presented to the Committee. He stated that the current language in the Manual stipulates that the Board president establishes the committees and their composition and that appointment of the members shall be determined by the Board president, in consultation with the Vice President, and EO.

Mr. McCauley indicated that there are a number of issues with regard to committees that have been raised. He stated that the main issues were the appointment process, qualifications of the committee members, committee chairmanships, term limits, and the committee jurisdiction. He continued the discussion by reviewing each of the issues separately.

Mr. McCauley explained that the committee appointments are currently made by the Board President, which is consistent with the practices utilized by other organizations (i.e., NCARB, DCA advisory committees, State Assembly, State Senate, etc.). He stated that new Board members are informed of the committee appointment process when he conducts the new member orientation.

Mr. McCauley continued by reviewing the NCARB committee appointment process and stated that an appointment to one of their committees is important because they influence a number of key programs from the national association. He indicated that the current process is for the Board to respond to NCARB's request on behalf of members that would like to serve on a committee. He stated that the Board normally responds to their request in a single master response informing NCARB of the individuals who would like to serve on a committee so there is no redundant requests. He reported that the consensus of the Committee was that the process should be preserved, as there is value in the process and should be included in the Manual.

Mr. Baker clarified that the NCARB President-elect is the individual who appoints committee members to their respective committees, so that those appointments are in effect during his/her term.

Mr. McCauley moved onto the next issue regarding the qualifications of committee members. He stated that the current Manual does not have any specific qualifications for members of a committee. He indicated that the reason there are no specific qualifications is because there have been many different types of individuals appointed to committees (i.e. public and professional members, attorneys, realtors, engineers, etc.). He outlined the possible philosophies that Board presidents may have utilized in the past to appoint members to committees as noted in the white paper. He stated that the list of the criteria used by President Gutierrez to formulate the 2011 committee and liaison appointments is noted in the white paper as well. He continued that the Committee determined that

having prescriptive requirements could be problematic because of the different situations, different presidents, new Strategic Plan, etc. each year.

Mr. McCauley indicated that the Board's committees have had some chairs serve for a single year and some for multiple years. He stated that there have been discussions suggesting term limits to serve as committee chair. He indicated that an issue related to having committee chairs rotate out annually or biennially is that if the chair is productive for the Board, the Board could lose that individual. Mr. Merino stated he had requested staff to provide a list of the committee chairs over the past eight years and found that two of the committees had the same chair for five or six years of the eight years. He continued that he understood chair experience is invaluable, but having a chair for five or six years may cause problems of stagnation and believed it would be beneficial to have new individuals with new ideas rotate into chairmanships. He added that the Legislature has term limits and the Board members have term limits, which he believed is beneficial because it allows the party that made the appointments periodically review their performance and determine whether they would reappoint them. He suggested implementing a specific maximum number of years a chair could serve on a particular committee (two or three years) and then be rotated to another committee to enhance broadening the experience of the Board. Ms. Lyon agreed with Mr. Merino's suggestion and indicated that some of the committee members had been on their respective committee for over 20 years, so maybe some new individuals on these committees would be a healthy change.

Kurt Cooknick inquired whether there was a specific problem with the committee appointments and chairmanships. Ms. Lyon indicated that the issue had been a discussion topic at prior meetings and was a part of the Board's Strategic Plan. Mr. Cooknick then inquired as to when the changes, if implemented, would take effect. Mr. Merino indicated that it would be a process over a period of time (over the next year) where the Board would review the tenure of committee members to determine their length of service. He continued that the rotational frequency of the committee members would be different than the chairmanships because they bring the experience to the committees. He added that the Board members are given term limits and bring the leadership and communication of the Board; whereas staff and the committee members are the individuals that bring the experience for the Board.

Mr. Baker stated that with the discussions that have taken place, it may be beneficial to develop a new policy for committee structures, committee chairmanship, and the transition into a new system. He suggested that the Board president appoint a subcommittee of two or three members to evaluate any alternatives, and then present their findings to the Board with a recommendation. Ms. Voigt stated that once the actions are determined by the Board, the next Board President could take the Board's recommendation on this issue into consideration when appointing members to committees.

Mr. McCauley stated that the last issue in his white paper was on committee jurisdictions. He indicated that the white paper notes the description of each of the committee's jurisdiction from the Sunset Review Report and suggested that the Board consider streamlining the structure of the committees for the future. Ms. Lyon suggested the possibility of phasing out the Examination Committee and moving its responsibilities to the PQC. She continued that since the change to the CSE format, the Examination Committee has been searching for relevancy and consideration should be given to incorporating its responsibilities to the PQC within the next year or two. Mr. Merino suggested that it could be moved into the PQC as a subcommittee. He continued that by streamlining the committees, it may show the Legislature that the Board is pursuing efficiencies. He added that he

would volunteer to be a part of the subcommittee to discuss the issue of committee structure and appointments.

I. CALIFORNIA SUPPLEMENTAL EXAMINATION (CSE)

Mr. Sotelo reported that the new computer-based CSE was launched in February 2011 and at the time there were approximately 1,000 candidates eligible to take the exam. He stated that to date, there have been over 500 candidates who have taken the exam, which is lower than the expected numbers after four months of exam administration. He indicated that the Board released the first set of exam results to candidates in early June after the vendor performed a statistical analysis when a sufficient number of candidates completed the new exam. He stated that candidates can schedule their exam date three months ahead, which is the maximum amount of time the computer system can accommodate scheduling dates.

Ms. Lyon inquired whether exam candidates take an exit survey after completing the exam. Mr. McCauley indicated that candidates do take an exit survey that is provided upon the completion of the exam. Sheran Voigt asked whether the Board can obtain the results of the surveys for feedback. Mr. Sotelo indicated that the Board can run reports to obtain the results of the exit surveys. He suggested that for the future, staff could prepare a quarterly CSE report on the information the Board wants to review in regard to the administration of the exam. Mr. McCauley indicated that such a report to the Board may need to be presented in closed session due to the nature and possible confidentiality of the materials that would be discussed.

Mr. Baker commented that the Board for Professional Engineers, Land Surveyors, and Geologists (PELSG), specifically structural engineers eliminated their California examination and only administers the national examination. He stated that one of the primary reasons for the Board to maintain the CSE is because of the special requirements in California to specifically design for earthquakes. Mr. Duke addressed the comment since he is the legal counsel for PELSG. He stated that the National Council of Engineering Examiners has evolved the development of the national structural exam to include many issues faced in California (i.e., earthquakes). He stated that when PELSG reviewed the content of the national exam as compared to the California exam, there was a tremendous amount of overlapping content that candidates were being tested upon (roughly 80-90%), so PELSG determined that it did not make economic sense to continue the California exam since the national exam tested for seismic and other issues contained in the California exam.

Mr. McCauley indicated that when creating an exam, there is a review of the issues that the national exam tests for so that the CSE does not test the same material redundantly. He stated that NCARB is beginning a new occupational analysis (OA) and once the process is complete, the Board will begin to conduct its own OA. He continued that the results from the OA may indicate that the Board should reduce and refine what is tested for in the CSE.

Mr. Baker suggested that the topic of exam redundancy could be an issue for the Examination Committee to review and concurrently, the Board should review the source of enforcement disciplinary issues. He continued that the Board could focus on improving the testing in areas where there is a high frequency of disciplinary issues.

Mr. Zeitlian inquired whether there was a way to improve on the 30 days a candidate must wait for his/her CSE results and the 180 days in order to retake the exam. Mr. Baker inquired as to why a

candidate could not receive the exam results immediately since it is administered via computer. Mr. McCauley stated that the 30-day waiting period is standard procedure with the exam vendor to issue the exam results after this time period. Mr. Sotelo added that there is an exam security issue that is also present, as a candidate who obtains their exam score immediately would have memory of the test items on the exam and could discuss those with other candidates. Ms. Mayer stated that in addition to whether the candidate passes the exam, other information like how the candidate performed in test categories and their total possible points and how many they achieved, is also given to the candidate with their results. She continued that the 30 days is a DCA standard and the DCA Office of Professional Examination Services (OPES) recommended a 30-day waiting period due to the retention factor and the amount of recall for the exam. She explained that the 30-day period does not diminish any time from the 180 days candidates must wait to retake the exam. She added that it only affects candidates who have passed the exam, as they must wait 30 days to receive their results. Mr. Zeitlian indicated that the reason he raised the issue is because candidates organize their lives around the testing dates and may have job offers awaiting them depending upon the results of the exam. Mr. McCauley indicated that staff will review the issue and report their results back to the Board. He stated that in regard to the 180 day wait to retake the exam, it is an established standard and correlated to NCARB's standard to ensure that the exam materials are not over-exposed. He indicated that if a candidate is allowed to retake the exam much sooner than the 180 days, the testing would be on the candidate's memory recall as opposed to his/her competence.

Mr. Villegas inquired as to the length of time it takes for a candidate to apply for licensure, the amount of time until they actually receive the license, and whether the 30-day delay in applying for the license really affect the candidates. Ms. Mayer indicated that it could affect those candidates that pass the exam because they receive the application for licensure in the same notification package with the exam results, so they are losing the 30 days. However, she continued that once the candidate receives the application for licensure and depending upon their birth month, they are given the option to obtain the license for less than one year or almost two years (pay ½ of the license fee or the full license fee). She added that many candidates, depending upon their birth month, hold on to the license application until they can pay the full license fee in order to have it for a longer period. She stated that another issue in regard with informing the candidate of the exam results immediately is that some candidates who do not pass the exam may become irate and that raises a safety issue at the testing center because the exam proctors at the facility would need to deal with that individual. Mr. Merino suggested a possible system where a candidate is given a login number to a website where the candidate could obtain their results at home and away from the testing facility. Mr. Duke indicated that the court system utilizes the same rationale on the 30-day process mentioned by Ms. Mayer where a judge will know the decision immediately, but issue it in 30 days because people's emotions run high, are stressful, and they react differently in these types of situations (referring to both court decisions and exam results).

Mr. Zeitlian inquired whether there could be more time for a candidate to retake a final section of the ARE exam prior to the end of the five-year requirement. Both Messrs. Baker and McCauley indicated that the candidate should start taking the examination earlier and, if only one section remained prior to the end of the five-year eligibility, take that section at least six months prior to the end of the five-year date. Mr. McCauley continued that this way, if the candidate does not pass, there is one more opportunity to retake it after the 180-day waiting period and prior to the end of the five-year eligibility date before having to start the process again. Mr. Baker commented that most of the candidate complaints he has seen on this issue is due to the candidate not taking an exam for two and

a half years, waiting until the last minute to take all of the exam sections, and then complains when there is not enough time to complete all of the sections of the exam prior to the five-year deadline.

Mr. Sotelo reported that the CSE development is an ongoing, annual process and the current cycle will be completed by the end of the month (June). He stated that the current contract has two more development cycles in it and those will be completed by June 2012. He indicated that after the first exam development cycle was completed, the Board reviewed the amount of work involved with the exam development and had discussions with OPES to determine whether additional workshops would be necessary for future development cycles. He stated that the Board and OPES agreed that additional workshops per development cycle would be needed and attached for the Board's review and approval is the amended contract agreement with OPES. He continued that the amended contract adds four workshops to each development cycle over the next two years, but the expiration date and terms of the contract remain the same.

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

Michael Merino seconded the motion.

The motion passed 6-0.

Mr. Baker inquired as to whether the Board is compelled to use OPES for exam development or could the Board obtain an outside vendor for exam services. Mr. McCauley indicated that an outside vendor could be used, and the Board used one previously for the oral exam. However, he continued that if the exam development contract were opened for bidding by private vendors, the cost would probably be at least double the price that OPES charges. Ms. Lyon asked whether the Board could evaluate OPES' service and what is provided. Mr. McCauley stated that the Board could evaluate OPES at any time. Ms. Lyon commented that she believed the Board should provide oversight of the examination development process. Mr. Duke stated that there may also be civil service issues with regard to exam contracts. He indicated that the state constitution and court rulings preclude state agencies from contracting out when state civil service resources can carry out the function. He added that contracts can be approved for outside vendors; however, it must be justified that the government agency (OPES) cannot provide the service or cannot fulfill the obligations of the services within a reasonable amount of time. Ms. Mayer indicated that the current cost for the CSE exam development is quite a bit less than what was paid for development of the oral exam and appears that OPES is providing their services at a reasonable rate.

J. UPDATE ON MAY 23, 2011 JOINT EXAMINATION COMMITTEE/PROFESSIONAL QUALIFICATIONS COMMITTEE MEETING

Mr. McCauley indicated that this topic was presented and discussed within his EO report, so no further discussion is needed on the joint Examination Committee/Professional Qualifications Committee meeting.

K. PROFESSIONAL QUALIFICATIONS COMMITTEE (PQC) REPORT

Mr. McCauley presented the agenda item in Jeffrey Heller and Pasqual Gutierrez's absence. He indicated that the proposal presented to the Board will repeal the Comprehensive Intern Development Program (CIDP) requirement for licensure given the improvements to NCARB's Intern Development Program (IDP).

- **Michael Merino moved to repeal CIDP in light of the changes made to NCARB's IDP and PQC's recommendation regarding CIDP.**

Jon Baker seconded the motion.

The motion passed 6-0.

Mr. McCauley inquired as to whether the vote was sufficiently clear for the Board to complete the necessary steps to amend the regulations to repeal the program requirements. Mr. Sotelo indicated that the vote was sufficient and that there will be a regulation amendment proposal repealing CIDP presented to the Board for its approval at a future meeting.

Mr. McCauley indicated that the second PQC issue is in regard to the AIACC's Academy for Emerging Professionals (AEP) 2011 Architectural Education Summit. He explained that the goal of the summit is to create a sustainable, ongoing effort to ensure that the curriculum in the schools reflects professional practice so that the emerging professional's needs are met. He stated that one unresolved issue with the summit is that the academy requested that the Board co-sponsor the event, but the Board wanted clearer goals from the academy.

Ms. Voigt inquired as to who is paying for the Board to participate in the summit and if a payment is made, does it present a conflict issue. Mr. McCauley indicated that it would be difficult for the Board to pay for any portion of the summit and noted the issue of the Board's name being utilized in the same context as sponsors. Mr. Cooknick indicated that the event would be conducted similarly to other Council events where the Council obtained buy-ins from multiple co-sponsors to pay for the event. He stated that an event like the summit usually has multiple co-sponsors that consist of parties with vested interests in the issues that will be discussed. Mr. Baker stated that through his involvement with the Academy, he has not seen any request for a sponsorship, only to participate in the summit. Ms. Mayer clarified that the initial request at the December 2010 meeting was to co-partner with the Academy on the summit. She stated that when the Academy's representative proposed for the Board to co-sponsor the event, the Board requested more defined and formalized goals for the summit to present to the Board at the next meeting. Mr. Cooknick indicated that the request was for a partnership on the summit and the Council realizes that there are limitations as to what a state agency can provide to an event such as the summit. He commented that the Council knows that there may not be any monetary support from the Board, but there could be other Board resources (i.e., staff time and materials allocated for the event) available. Mr. Baker stated that if the Board were to make a decision to participate in the summit, they would need very specific information from the Council as to what they are requesting from the Board before a decision could be rendered.

- **Michael Merino moved to authorize the Board President and/or EO to act on the Board's behalf to, subsequent to the request from AIACC's AEP, provide specific assistance without any monetary action within the parameters of the Board's legal authority.**

Jon Baker seconded the motion.

The motion passed 6-0.

L. REGULATORY AND ENFORCEMENT COMMITTEE (REC) REPORT

Ms. Voigt provided a summary of the REC meeting held on May 11, 2011. She reported that virtually all of the Committee members were present for the meeting where she presented the Octavius Morgan Distinguished Service Award to Lawrence Segreue, who is a long time REC member and had served on many of the Board's committees. She added that the REC had discussions on the Strategic Plan objective issues and determined recommendations for them. She continued that the Committee had a discussion regarding the proposals that were present in SB 1111, but each will be discussed as individual items later in the REC report.

Hattie Johnson reported that at the December 2010 meeting, the Board requested enforcement statistics in regards to case aging, which were provided at the March meeting. She stated that the Board further requested DCA benchmarks to be placed within the next enforcement statistical report. She reviewed and discussed the enforcement statistics provided in the meeting packet. Mr. Merino inquired as to why some of the closed case statistics were above the DCA performance measure goal (specifically citations). Ms. Johnson explained that within the total number of cases, there may have been a single case that took an exceptionally long period of time to close, so the average number of days could be skewed for the category. She indicated that staff continues to improve, modify, and streamline the procedures that are utilized for enforcement cases, which should decrease the amount of time for their review. Ms. Mayer indicated that she reviewed the more recent cases as of July 2010, and since the changes were implemented, the number of days for those cases to close has decreased.

Mr. McCauley presented the next item concerning developing a strategy for informing the League of California Cities (LCC) and the California Chapter of the American Planning Association (CCAPA) about the Architects Practice Act. He stated that the Board had an interest in assessing the extent that planning departments identify problems with architectural services being provided early in the entitlement process. He explained that the Board had seen instances where consumers utilized an unlicensed person to complete planning department approvals on a non-exempt project, but when the plans reached the building department, which required an architect, the consumer had to start the project over using an architect. With instances like this, he indicated the Board wanted to educate planning departments about its mission, how it functions, and about the different programs it operates. He continued that the REC recommended an assessment to determine whether the CCAPA perceives this to be an issue.

Mr. Baker inquired as to why planning departments are accepting documents without an architectural stamp, when there is a requirement for a stamp to be on non-exempt projects that go to the building department. Mr. Merino indicated that in the city where he works as a planning commissioner, the director of community services informed him that the license and stamp is not a requirement at the planning department stage of a project. He further elaborated that it was explained to him that a

licensed architect is not required to develop the project through the planning process because it is not specifically stated within a city ordinance. Mr. Baker stated that the Board may need the legal definition of architectural services because when an unlicensed individual is caught performing these functions, it is categorized as practicing architecture without a license. He questioned why these cities would not utilize the same definition of architectural services.

Mr. Merino indicated that the REC recommended addressing the issue utilizing a progressive, collaborative, strategic approach with the planning departments rather than a direct, compliance-type letter. He stated that there could be a legal disconnect because the city ordinance may provide an exception to the statute because it does not specifically indicate that a licensed architect must be utilized for planning services. Mr. Duke indicated that the difficult part of the issue is that the Board now must deal with local jurisdictions that may be aiding and abetting unlicensed activity, which creates many political problems (jurisdictional and authority). Robert Carter commented that where the legal disconnect occurs is in Business and Professions Code section (BPC) 5536.2 which puts the onus on a city or county to inquire whether the individual submitting the documents for a project is appropriately licensed. He indicated that the language in this section is not clear and can be interpreted in different ways. He stated that planning departments have expanded and taken responsibility for issues such as planning review; design review; and participating in architectural design committees, which transcend into architectural practice, but they have not changed their practices and procedures.

Mr. Baker inquired whether the definition of architectural services is clearly defined in statute. He continued that if the legal definition of architectural services are clearly defined in statute, why are these definitions not in alignment with cities' definition of architectural services. He commented that a disconnect exists in the legal definition of architectural services and if the cities are not enforcing the issue, a letter should be sent to them informing them of their responsibilities. He added that the onus is on the cities to enforce the law and not on the Board to coax them to enforce it. Mr. Merino indicated that the problem is that the planning department does not perceive itself in the same manner as the building department. He stated that he raised the question with the planning director of community services and was specifically told that the planning process is exempt from an architect's approval due to the city ordinances.

Mr. McCauley inquired whether a state statute supersedes a city ordinance. Mr. Duke indicated that a statute normally supersedes a city ordinance; however, in this instance, there is some ambiguity on the planning department issue, unlike the specifics detailed in the building permit process. He continued that as planning departments have evolved, it appears that they have been infringing upon the realm of architectural services. He stated that there is a problem with sending a general letter from the Board on this issue, as there are various jurisdictions that have their own specific ordinances and it would be more efficient for the Board to handle these situations on a case-by-case basis (since enforcement is already dealing with it through citations). He added that a more efficient approach of handling the issue is to educate the various planning departments and communicate with them. Mr. Merino indicated that the REC's methodology to resolving the issue was to discuss the issue with the CCAPA, inform them of the Board's position without sending an official letter, and collaborate on a resolution.

Mr. Baker stated that in order to resolve the issue, either the cities must enforce the statute that indicates design work on a nonexempt project is architectural services and an architectural license is required, or the Board needs to change the regulations that allow certain planning and design work to

be exempt. He added that currently, the statute states that non-licensed individuals cannot provide design work for nonexempt projects, but the planning departments are allowing it. Ms. Lyon suggested that the Board develop a combination of ideas to resolve the problem consisting of education for the planning departments and possibly some legal avenues to persuade planning departments to change their procedures. Mr. Duke stated that it would be difficult for the Board to exert its authority over local jurisdictions because they would utilize their legal avenues or city counsel to show ambiguity within the law. He continued that the most efficient method to deal with this issue is to pursue the individuals who are in violation of the statute and then educate the cities about their practices.

Ms. Voigt inquired as to whether the Board had additional direction to pursue a resolution to the issue other than opening dialog with the two organizations (APA and LCC) cited in the meeting packet. She stated that the REC provided the Board with a recommendation and requests further direction to continue the process of resolving the issue.

- **Jon Baker moved to research the definition of architectural services, prepare a letter to local planning department jurisdictions advising them of the requirements for licensure for individuals submitting plans that represent architectural services, and to educate them on the issues.**

Hraztan Zeitlian seconded the motion.

The motion passed 6-0.

Mr. Merino commented, for the record, that he voted to support the motion's intent, but is uncomfortable in sending a letter and is relying on staff to devise a diplomatic message because he believed the Board would receive opposition.

Ms. Johnson continued with the REC report and stated that the "Gag (confidentiality) clause" in civil settlement agreements was the next issue. She reported that the Board already has existing language that addresses this issue, which is BPC section 5588.3 (requires an architect to file a report with the Board stating that a licensee shall not be considered to have violated a confidential settlement agreement or other confidential agreement by providing a report to the Board as required by this article); however, it only pertains to architects. She indicated that the REC's recommendation is to amend BPC section 5588.3 to allow other parties (i.e., clients or consumers) to respond to a Board inquiry even though a confidentiality clause is in place.

- **Sheran Voigt moved to approve the REC recommendation to amend BPC section 5588.3 to allow clients/consumers to respond to the Board's inquiry regarding settlement agreements even with a confidentiality clause in place.**

Michael Merino seconded the motion.

The motion passed 5-1 (Marilyn Lyon opposed).

Ms. Voigt indicated that the idea to amend BPC section 5588.3 arose from instances where Board staff inquired about a complaint; however, clients/consumers indicated that they could not respond to the request due to the existence of a confidentiality clause in their agreement. She stated that the lack

of response from the client impeded the progress of the investigation. She continued that the new language for the amendment would allow the client or consumer to provide information to the Board despite the existence of the confidentiality clause. Ms. Johnson stated that the amendment would allow a client or consumer an opportunity to express their side of the issue.

Mr. Villegas inquired that if the BPC amendment is approved, what incentive would exist for a licensee to enter into settlement agreements with their clients if all of the case information is disclosed. He stated that the client or consumer benefits, or partially benefits, from a settlement with the licensee, but disclosing the requested information can extend the case for the consumer. Mr. Merino indicated that the REC discussed the issue and stated that the information would only be released to the Board for its enforcement purposes (not released to the public). He clarified that the amendment would give the client or consumer the opportunity to comment to the Board on the complaint despite the confidentiality clause, and they would not be obligated to respond.

Ms. Johnson reported that the next issue the REC reviewed was the Strategic Plan objectives regarding DCA's proposals from prior legislation (SB 1111). She indicated that the legislation was intended to improve DCA healing arts boards' and bureaus' enforcement programs, but did not pass. She stated that DCA encouraged the boards to review the provisions contained in the legislation to assess whether any of the provisions may be useful in improving their enforcement programs. She reported that DCA provided a list of nine issues that were reviewed by the REC and their proposed recommendations are in the meeting packet. She stated that the Board is asked to review the recommendations and provide guidance on how to proceed.

Mr. Merino disagreed with the REC recommendation regarding sex offenders and stated that if an individual is registered as a sex offender, they should not be allowed to practice, as there is potential for interaction with families. Ms. Voigt indicated that the Board is only providing a recommendation to these provisions for DCA and that there are only three (numbers one, three, and six) that the Board should consider, as some of the others are already in statute or are not relevant.

Mr. McCauley indicated that the proposals would be issues that the Board would need to pursue legislation or regulations depending upon the issue to be addressed, not as simple as a letter of support for the proposals.

Mr. Merino requested a bifurcation of the motion into two separate parts for vote. Ms. Voigt agreed.

- **Sheran Voigt moved to ratify the REC recommendations related to delegation to EO regarding stipulated settlements to revoke or surrender license and to authorize the Board to order an applicant for licensure to undergo a psychological or medical evaluation in response to DCA proposals (numbers one and six) regarding SB 1111.**

Jon Baker seconded the motion.

The motion passed 6-0.

- **Sheran Voigt moved to approve the REC recommendation to oppose the provision that would require the Board to deny a license to an applicant or revoke the license of a licensee who is registered as a sex offender in response to DCA proposal (number three) regarding SB 1111.**

Jon Baker seconded the motion.

The motion failed (Michael Merino opposed and other member(s) that opposed could not be determined).

Mr. Duke stated that the Board needed to address the remaining DCA proposals regarding SB 1111, as they are recommendations from the REC.

- **Michael Merino moved to approve the remaining REC recommendations (numbers two, four, five, seven, eight, and nine) related to sexual misconduct, confidentiality agreements regarding settlements, failure to provide documentation and 718(d) – failure to comply with court order, sexual misconduct, failure to provide information or cooperate in an investigation, and failure to report an arrest, conviction, etc., indicating that the issues either do not apply to the Board or that there are already existing statutes that pertain to the issue.**

Sheran Voigt seconded the motion.

The motion passed 6-0.

Ms. Johnson indicated that the Board's Strategic Plan directed the REC to review a fingerprint requirement for licensees for its potential use by the Board. She reviewed examples of the fingerprint processes of two other boards and indicated that they can be done at different times (i.e., when an applicant applies for licensure or at a license renewal) depending upon how a board implements the program to comply with the requirement. She stated that currently, the Board does not have a fingerprint requirement for licensure; however, the REC recommended monitoring legislation (SB 543 – Price) that required PELSG to implement a fingerprint requirement.

- **Sheran Voigt moved to approve the REC recommendation to monitor the legislation that requires fingerprinting.**

Michael Merino seconded the motion.

The motion passed 6-0.

M. NATIONAL COUNCIL OF ARCHITECTURAL REGISTRATION BOARDS (NCARB) REPORT

Mr. McCauley reported that the NCARB resolutions to be voted upon at the annual meeting have not changed since the Board reviewed and took positions on them at its March meeting, so no action is needed.

Mr. McCauley reported that NCARB has presented two new issues for public comment, which is new for them to be more collaborative with their work and obtain feedback from the member boards. He indicated that the first issue is a proposed modification to NCARB's Education Standard and, after a review of them, did not find any substantial changes to the standard. He indicated that no action is needed.

He reported that the second issue is a proposed modification to NCARB's IDP 2.0 Experience Settings and, if the Board has no issues, no action is needed.

N. SCHEDULE

Mr. McCauley stated that the next Board meeting is scheduled for September 15, 2011 in Sacramento, and December's meeting will be December 7-8, 2011 in San Diego, where the second day is the Board's Strategic Planning session. Ms. Voigt inquired as to whether the Board will maintain November 18, 2011 as the date for the AIACC's AEP Architectural Education Summit. Mr. McCauley indicated that the November date will be on the Board's schedule.

O. ADJOURNMENT

The meeting adjourned at 2:20 p.m.

**Agenda item for this meeting taken out of order to accommodate the guest speaker. The order of business conducted herein follows the transaction of business.*