

MINUTES
REGULAR MEETING
CALIFORNIA ARCHITECTS BOARD

September 10, 2015

San Francisco, CA

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

Board President, Jon Alan Baker called the meeting to order at 10:37 a.m. and Board Vice President, Pasqual Gutierrez, called roll.

Board Members Present

Jon Alan Baker, President
Pasqual Gutierrez, Vice President
Tian Feng, Secretary
Denise Campos
Sylvia Kwan
Ebony Lewis
Matthew McGuinness
Nilza Serrano
Barry Williams

Guests Present

Kurt Cooknick, Director of Regulation and Practice, The American Institute of Architects, California Council (AIACC)
Maureen Decombe, Past President, Association of Professional Landscape Designers (APLD) - California Chapter
Katherine Ferguson, Center for Public Interest Law (CPIL)
Shanker Munshani, Chairman, Academic & Credential Records, Evaluation & Verification Service
Moora Paul

Staff Present

Doug McCauley, Executive Officer
Vickie Mayer, Assistant Executive Officer
Trish Rodriguez, Program Manager, Landscape Architects Technical Committee (LATC)
Justin Sotelo, Program Manager, Administration/Enforcement
Mel Knox, Administration Analyst
Timothy Rodda, Examination/Licensing Analyst
Robert Carter, Architect Consultant
Rebecca Bon, Staff Counsel, Department of Consumer Affairs (DCA)

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

B. PRESIDENT'S REMARKS AND BOARD MEMBER COMMENTS

Mr. Baker 1) thanked Sylvia Kwan for making arrangements for the meeting site; 2) advised that all motions and seconds shall be repeated for the record, and votes on all motions shall be taken by roll-call; and 3) announced that the National Council of Architectural Registration Boards (NCARB) selected three California schools of architecture for participation in what is now called the NCARB Integrated Path Initiative (IPI).

C. PUBLIC COMMENT SESSION FOR ITEMS NOT ON AGENDA

There were no comments from the public.

D. APPROVE JUNE 10, 2015 BOARD MEETING MINUTES

Mr. Baker asked for comments concerning the June 10, 2015, Board Meeting Minutes. Vickie Mayer noted a minor edit on page 11, under Agenda Item K, to change "December 2015" to "December 2014." Denise Campos noted that her arrival at the June 10, 2015 meeting was due to a rental car scheduling error.

- **Nilza Serrano moved to approve the June 10, 2015, Board Meeting Minutes with a minor edit to page 11.**

Barry Williams seconded the motion.

Members Gutierrez, Feng, Campos, Kwan, Lewis, McGuinness, Serrano, Williams, and President Baker voted in favor of the motion. The motion passed 9-0.

E. EXECUTIVE OFFICER'S REPORT

Doug McCauley informed the Board that the December 10, 2015 Board meeting will be held in Sacramento. Mr. McCauley reminded the Board that its Strategic Plan is now a two-year plan; however, there will be opportunities to discuss the status of Strategic Plan objectives at the upcoming December meeting. He suggested inviting to the December meeting the three California schools of architecture that were selected to participate in NCARB's IPI.

Mr. McCauley reported that a joint meeting with the Nevada State Board of Architecture is being explored for the Board's March 2016 meeting. He opined a joint meeting with Nevada will be helpful and informative prior to NCARB's Annual Meeting.

Mr. McCauley reminded members who desire to serve on the Board for an additional term to begin the process by expressing interest in reappointment. He also informed the Board that a briefing on DCA's integrated, enterprise-wide enforcement case management and licensing system known as BreEZe was received at a recent LATC meeting. Mr. McCauley reported that a key BreEZe vendor contract was terminated, and that it is not clear at this time what will happen during the Phase 3 rollout in which the Board is scheduled.

Mr. McCauley reminded members that their liaison reports will be expected at the December 10, 2015 meeting, and that liaison materials, including talking points, are anticipated to be provided before the end of September 2015.

Mr. McCauley reported that the Architect Registration Examination (ARE) review and linkage study has been completed by DCA Office of Professional Examination Services. He stated that a comprehensive report will be provided at the December 10, 2015 meeting.

Mr. McCauley suggested the Board take a support position on Assembly Bill (AB) 177 (Bonilla) – the bill that will extend the sunset date for the Board and LATC until January 1, 2020. He reported that an important amendment was recently added to the bill to give the Board authority to allow students in an Additional Path to Architectural Licensure (APAL) degree program to take the ARE at an earlier eligibility point.

- **Sylvia Kwan moved to “support” AB 177 (Bonilla).**

Nilza Serrano seconded the motion.

Members Gutierrez, Feng, Campos, Kwan, Lewis, McGuinness, Serrano, Williams, and President Baker voted in favor of the motion. The motion passed 9-0.

Mr. Gutierrez acknowledged that, should the Governor sign AB 177 (Bonilla), California will be the national leader in providing students with access to the ARE.

F. NATIONAL COUNCIL OF ARCHITECTURAL REGISTRATION BOARDS (NCARB)

Mr. Gutierrez, a member of NCARB’s Licensure Task Force (LTF), updated the Board on the LTF’s role in the IPI process. He informed that, at this stage, the LTF has evolved into a reviewing committee that will monitor the success of IPI schools. Mr. Gutierrez informed the Board that the LTF will also consider additional Request for Proposals (RFPs) to expand the program.

Mr. Baker acknowledged that California schools of architecture represent approximately 25% of schools selected to participate in the IPI. Mr. McCauley asked if there are other California schools of architecture that are interested in the IPI, but did not respond to the RFP. Mr. Gutierrez opined there are other schools that are monitoring how the IPI develops. Mr. McCauley suggested inviting all ten National Architectural Accrediting Board-accredited schools of architecture in California to the December 10, 2015 Board meeting, to which Mr. Gutierrez opined that the three IPI schools should certainly be invited. Mr. Gutierrez suggested having a summit for the remaining schools when the next RFP is advertised.

Mr. Baker recognized that only private schools chose to participate in NCARB’s IPI selection process. He asked Mr. Gutierrez if he sensed that private schools had an easier experience responding to the RFP than did public institutions. Mr. Gutierrez stated that private schools have a natural flexibility to maneuver certain obstacles related to the IPI program.

Tian Feng suggested asking the three IPI schools to provide a brief presentation at the December 10, 2015 Board meeting. Mr. Gutierrez suggested comparing east-coast schools that were accepted for participation in the IPI to the three California schools. Mr. Baker stated that it would be a good idea for the Board to assess the differences and similarities between schools that were accepted for participation in NCARB’s IPI. Mr. Gutierrez stated that the Board’s job is not that complicated, and the thing to do is support the IPI schools and provide them with access to the ARE.

Ms. Serrano noted the most recent pass/fail rates for ARE divisions taken by California candidates shown in the Board's Monthly Report. She asked how the Board could help better prepare students. Mr. Gutierrez explained that ARE 5.0 is practice-based, not content-based like the ARE 4.0.

Mr. Baker explained that each of the ARE 4.0 categories are changing and that ARE 5.0 will test candidates on knowledge of the way architecture is truly practiced. He opined that the trend in pass/fail rates have not changed very much in several years. Ms. Mayer opined that, California's pass rates may differ because California offers multiple pathways to licensure. Mr. McCauley offered to provide the Board with a breakdown of candidate performance based on the various pathways available. Mr. Baker stated there is an ongoing debate with State jurisdictions that are not entirely supportive of California's alternative pathways, particularly concerning the issue of reciprocity. He expressed interest in reviewing data that may support the legitimacy of California's different pathways. Ms. Serrano clarified that her concern is about the schools' effectiveness at teaching students the critical skills needed to successfully pass divisions of the ARE.

Ms. Campos asked about the cost difference between ARE 4.0 and ARE 5.0, to which Mr. Baker opined the net cost of ARE 5.0 is lower than ARE 4.0. Timothy Rodda informed the Board that NCARB will not change the ARE fee per division for the first three years. Mr. Rodda explained that once ARE 4.0 is no longer offered, the fee for ARE 5.0 divisions will increase, but the overall cost will still be lower than ARE 4.0.

Ms. Kwan explained the University of California, Berkeley's (UCB) philosophical approach to teaching architecture. She stated that students are taught to think and understand in architectural terms, while practice-based architecture is not a primary focus. Ms. Kwan opined that schools like UCB will likely be among the last schools of architecture to participate in NCARB's IPI. Mr. Gutierrez stated that IPI is simply another pathway for candidates.

Mr. McCauley explained NCARB's initiative concerning a path for professionals with qualified experience beyond five years. He informed the Board that the initiative is similar to the Broadly Experienced Design Professional pathway that was envisioned by Mr. Gutierrez. Mr. Gutierrez explained that the Intern Development Program (IDP) reporting requirement was expanded to allow 50% credit for experience performed up to five years ago. He explained that there exists a group of individuals who have work experience that falls outside the restrictions of the current IDP reporting requirements. Mr. Gutierrez reported that, consequently, NCARB staff was directed to develop a concept for individuals to submit qualifying experience that identifies proficiency in the IDP experience categories, but falls outside of the current reporting requirement. Ms. Mayer informed the Board that the Professional Qualifications Committee (PQ) briefly discussed the concept as it was first introduced in June and approved a recommendation for the Board to send a letter of support to NCARB.

- **Nilza Serrano moved to approve PQ's recommendation to send a letter of support to NCARB concerning a path for professionals with qualified experience beyond five years, and provide feedback regarding the program for submission before the September 29, 2015 deadline.**

Ebony Lewis seconded the motion.

Members Gutierrez, Feng, Campos, Kwan, Lewis, McGuinness, Serrano, Williams, and President Baker voted in favor of the motion. The motion passed 9-0.

G. **REVIEW AND APPROVE PROPOSED REGULATIONS TO AMEND CALIFORNIA CODE OF REGULATIONS (CCR), TITLE 16, SECTION 109 (FILING OF APPLICATIONS) AS IT RELATES TO REFERENCE OF CURRENT EDITION OF INTERN DEVELOPMENT PROGRAM (IDP) GUIDELINES**

Mr. Rodda informed the Board that a regulatory change is needed to properly reference the most recent edition of NCARB's *IDP Guidelines* in CCR section 109. He presented the proposed changes and explained that the July 2015 edition of *IDP Guidelines* reflects NCARB's decision to reduce the number of hours required to complete IDP in the first of a two-phase process to overhaul the program.

- **Nilza Serrano moved to approve the proposed regulatory changes to amend CCR section 109 and delegate authority to the Executive Officer (EO) to adopt the regulation provided no adverse comments are received during the public comment period and make minor technical or non-substantive changes, if needed.**

Sylvia Kwan seconded the motion.

Members Gutierrez, Feng, Campos, Kwan, Lewis, McGuinness, Serrano, Williams, and President Baker voted in favor of the motion. The motion passed 9-0.

H. **REVIEW AND APPROVE PROPOSED REGULATIONS TO AMEND CCR, TITLE 16, SECTION 118.5 (EXAMINATION TRANSFER CREDIT) AND ADOPT SECTION 119.8 (EXAMINATION TRANSITION PLAN - ARE 4.0 TO ARE 5.0)**

Mr. Rodda informed the Board that a regulatory change is needed to allow candidates to receive transitional ARE 5.0 credit. He explained that the Board's regulations currently do not allow candidates to receive transfer credit for ARE 4.0 or the upcoming ARE 5.0 when transferring to California from another jurisdiction. Mr. Rodda further explained that the Board's regulations do not contain a provision for the granting of transitional credit from ARE 4.0 to ARE 5.0 or obtaining credit for successfully completing divisions of ARE 5.0. Accordingly, he asked the Board to consider amending CCR section 118.5 to allow transfer credit for those who passed ARE divisions, and add CCR section 119.8 to allow candidates to transition to and obtain credit for ARE 5.0. Mr. Rodda noted that candidates will be allowed to transition themselves for the examination until the year 2018.

- **Tian Feng moved to approve the proposed regulatory change to amend CCR section 118.5 and add section 119.8 and delegate authority to the EO to adopt the regulations provided no adverse comments are received during the public comment period and make minor technical or non-substantive changes, if needed.**

Denise Campos seconded the motion.

Members Gutierrez, Feng, Campos, Kwan, Lewis, McGuinness, Serrano, Williams, and President Baker voted in favor of the motion. The motion passed 9-0.

I. **REVIEW AND APPROVE SECOND MODIFIED TEXT REGARDING PROPOSED AMENDMENT TO CCR, TITLE 16, SECTION 120 (RE-EXAMINATION) AS IT RELATES TO REFERENCE OF CURRENT EDITION OF ARCHITECT REGISTRATION EXAMINATION GUIDELINES**

Mr. Rodda advised the Board that a regulatory change is needed to incorporate the new *ARE Guidelines* into the Architects Practice Act (Act). He reminded the Board that a regulatory amendment was approved at its September 10, 2014 meeting to update the Board's regulations to: 1) incorporate by reference the NCARB *ARE Guidelines*; 2) set the standards by which candidates receive a Rolling Clock extension; 3) clarify procedures to reschedule a division where a candidate has failed to appear; and 4) modify the wait period to retake a failed division. Mr. Rodda informed that NCARB has since released another edition (July 2015) of the *ARE Guidelines*, and asked the Board to consider modifying the proposed language to reference the updated *ARE Guidelines* in CCR section 120.

Mr. Baker asked whether the Board will need to take action on this item again should NCARB publish future editions of the *ARE Guidelines*. Mr. Rodda opined that when ARE 5.0 becomes available, the regulation will again need to be revised. He also opined that NCARB revisions to its *ARE Guidelines* should become less frequent.

- **Tian Feng moved to adopt the proposed regulatory changes to CCR section 120 as modified and delegate authority to the EO to make minor technical or non-substantive changes, if needed in completing the rulemaking file.**

Barry Williams seconded the motion.

Members Gutierrez, Feng, Campos, Kwan, Lewis, McGuinness, Serrano, Williams, and President Baker voted in favor of the motion. The motion passed 9-0.

J. **PROFESSIONAL QUALIFICATIONS COMMITTEE (PQ) REPORT**

Mr. Gutierrez, the PQ Committee Chair, reported that PQ met on July 14, 2015 to discuss the:

1. Promotion of “Accelerated Path to Architectural Licensure;”
2. Reclassification of the California Supplemental Examination item bank based on results of the 2014 Occupational Analysis;
3. ARE testing environment;
4. Entry barriers into the profession for diverse groups; and
5. Position held by NCARB concerning foreign architect certification (Resolution 2015-02).

Mr. Gutierrez reported that PQ will schedule a visit to an ARE testing session in order to ensure that security and efficiencies are operating properly. He also reported that PQ evaluated the profession to identify entry barriers into licensure for various demographic groups, and reported several statistics about those demographic groups from the *NCARB: By the Numbers* publication.

Mr. Gutierrez also reported that PQ made a recommendation to alter the requirement for foreign architects to complete IDP, and value their education and experience to a greater degree as they seek licensure. The Board discussed PQ's recommendation and the Committee's understanding of the distinction between imposing IDP “criteria” and IDP. Mr. Gutierrez stated that PQ

understood NCARB Resolution 2015-02 to impose completion of IDP on foreign architects, not IDP “criteria.” He explained that PQ opposed requiring formal IDP submittal. Mr. Feng stated that clarification is needed in terms of IDP requirements for foreign architects; he recalled that PQ believed the resolution focused on the ARE requirement more so than on portfolio review. Mr. Feng stated that, as PQ Vice Chair, he intends to bring clarity on the matter back to the Committee for further consideration. Ms. Kwan pointed out that the resolution clearly states “You must document completion of the IDP.” Mr. McCauley stated that “document” IDP sounds different from “complete” IDP, and opined that the distinction was intended to have real meaning. Mr. Baker agreed that further clarification from NCARB on the matter is needed, to which Mr. McCauley indicated he would work with Mr. Feng to prepare an inquiry to NCARB. The Board agreed to revisit the issue at its December 10, 2015 meeting.

K. LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE (LATC) REPORT

Trish Rodriguez reported that LATC met on August 6, 2015 to discuss several items including the revision of its *Disciplinary Guidelines*. Ms. Rodriguez explained that LATC staff worked in conjunction with Board staff on the *Disciplinary Guidelines* and incorporated edits previously approved by the Board that were applicable to the LATC and additional edits recommended by the Deputy Attorney General liaison. She directed the Board’s attention to the revised LATC *Disciplinary Guidelines* that were approved at the LATC’s August 6, 2015 meeting. Ms. Rodriguez asked the Board to approve the recommended revisions to the *Guidelines* and the proposed regulatory language that would incorporate by reference the latest edition of the *Guidelines* in CCR section 2680.

- **Nilza Serrano moved to approve the recommended revisions to the *Guidelines* and the proposed regulatory changes to amend CCR section 2680 and delegate authority to the EO to adopt the regulation provided no adverse comments are received during the public comment period and make minor technical or non-substantive changes, if needed.**

Tian Feng seconded the motion.

Members Gutierrez, Feng, Campos, Kwan, Lewis, McGuinness, Serrano, Williams, and President Baker voted in favor of the motion. The motion passed 9-0.

Ms. Rodriguez also reported that LATC discussed expanding eligibility requirements to allow credit for teaching under a licensed landscape architect. She reminded the Board that, at its May 13, 2015 meeting, LATC approved proposed regulatory language to allow up to one year of credit for teaching under the supervision of a licensed landscape architect. Ms. Rodriguez directed the Board’s attention to the proposed regulatory language, and asked the Board to consider approval to amend CCR section 2620. Mr. Feng asked for clarity about teaching under a licensed landscape architect, to which Ms. Rodriguez explained that a supervisor in the landscape architect program would be licensed. Mr. Williams asked if the program’s Dean or department Chair would need to be licensed, to which Ms. Rodriguez informed that the regulation does not specify what the title must be. Mr. Feng expressed concern that the requirement may not be practical because it is rare for an institution to have a Dean or department Chair be licensed to practice landscape architecture. Ms. Rodriguez stated that the concept is designed to encourage licensure among students, and if instructors are licensed it would motivate students to become licensed. Ms. Mayer informed the Board that LATC’s

proposed language is similar to the Board's regulations that allow credit for teaching to be earned while under the supervision of a licensed architect. She explained that a licensee would sign an employment verification form stating that they supervised a candidate, which would then allow the LATC to grant up to one year of teaching credit. Mr. Rodda opined that this type of experience is allowed for IDP credit. Ms. Kwan stated that the concept appears to operate successfully under the architecture system.

- **Denise Campos moved to approve the proposed regulatory changes to amend CCR section 2620 and delegate authority to the EO to adopt the regulation provided no adverse comments are received during the public comment period and make minor technical or non-substantive changes, if needed.**

Nilza Serrano seconded the motion.

Members Gutierrez, Feng, Campos, Kwan, Lewis, McGuinness, Serrano, Williams, and President Baker voted in favor of the motion. The motion passed 9-0.

Mr. McCauley introduced the Sustainable Sites Initiative (SITES) to the Board, which is a comprehensive, voluntary rating system for sustainable landscapes. He explained that SITES was developed by the United States Botanic Garden, the Lady Bird Johnson Wildflower Center at the University of Texas at Austin, and the American Society of Landscape Architects (ASLA). Mr. McCauley reported that there are currently no States that utilize SITES for public projects. He opined that SITES would advance California's water conservation efforts and noted that SITES is currently under consideration by the Board's cabinet agency.

Ms. Rodriguez reported that LATC discussed comments that were recently submitted to the Department of Water Resources (DWR) concerning proposed amendments to the State's Model Water Efficient Landscape Ordinance (MWELO). Mr. McCauley explained that, on April 1, 2015, Governor Brown issued Executive Order B-29-15, directing the DWR to update the MWELO through an expedited regulation. He further explained that the ordinance is designed to strengthen water conservation strategies. Mr. McCauley informed the Board that LATC did not learn of the initiative until after an initial public meeting, which took place on June 25, 2015. He stated that LATC submitted comments to DWR and reported that the comments were well-received.

Mr. McCauley informed that LATC staff was then able to explain LATC's interpretations and potential problems with the regulations. He reported that the DWR Independent Technical Panel on Demand Management Measures (ITP) recently held a meeting to develop recommendations on the Landscape Water Use Vision Statement, discuss workforce challenges and opportunities, and develop preliminary suggestions on ITP Final Report format. Mr. McCauley opined it highly inappropriate for another State agency to craft policy recommendations concerning licensure, which was communicated in a letter to DWR on August 27, 2015. Mr. McCauley informed the Board that a discussion regarding recommendations related to codes and standards will be held during the next ITP meeting, to be in November 2015. He asked the Board to consider a motion directing LATC to participate in the rulemaking process and preserve the integrity of the Landscape Architects Practice Act.

- **Nilza Serrano moved to direct LATC to participate in the DWR rulemaking process concerning MWELO and preserve the integrity of the Landscape Architects Practice Act.**

Tian Feng seconded the motion.

Maureen Decombe assured the Board that APLD will submit a written response to LATC's August 27, 2015 letter to DWR. Ms. Decombe stated that APLD has engaged very proactively with the LATC, and there was no intention of excluding the LATC. She said there appears to be a gap in communication and expressed APLD's intention to cooperate with the LATC to advance the issue of water conservation in California. Ms. Decombe stated that APLD has attended meetings regularly, participated in the public process, and worked with the LATC to clarify rules so there is a reasonable and clear exemption for the practice of residential landscape design in the State of California. She also stated that APLD has found no instance of reasonable or proven charge of threats to the public health, safety and welfare through the practice of residential landscape design in the State of California. Ms. Decombe explained that there is a market that needs help with water conservation, and that APLD wants to be able to operate legally and without the threat of enforcement actions. She also informed the Board that the MWELO attracts a significant increase of complaints against APLD members and their interpretation of Business and Professions Code section (BPC) 5641, which, in her view, stated that landscape designers were not allowed to design arbors or use the word 'design' in their advertisements or website. Ms. Decombe expressed concern about her perceived increase in consumer complaints received at the LATC that appeared to take place in July of 2015.

Mr. McCauley stated that issues concerning the Landscape Architects Practice Act and exempt areas of practice have been addressed at 21 public meetings in the recent past. He offered to make the aforementioned meeting materials available for any interested parties. Mr. Baker acknowledged Ms. Decombe's stated desire to better collaborate with the LATC on the issue of water conservation, and noted it consistent with the motion currently under consideration by the Board. Ms. Rodriguez added that, as a result of a prior recommendation made by the LATC, staff monitored the application of BPC 5641 and reported back to the members, which was agenized under the enforcement update at LATC's August 6, 2015 meeting. She stated there have been no issues with applying that particular section.

Moora Paul asked the Board if it had discussed the issue of what unlicensed individuals should call themselves. Mr. Baker stated that Ms. Paul's question is not germane to the current motion under consideration, but he did state that it is a topic of interest to the Board. Mr. Baker clarified that there is no regulation that specifies what unlicensed individuals should be called. He stated that if one does not have a license to practice architecture in California, one may not call himself or herself an architect.

Katherine Ferguson asked for clarification about the Board's ability to delegate disciplinary action against unlicensed individuals to the LATC, to which Mr. McCauley indicated that the Act requires that disciplinary actions and regulations be approved by the Board.

Members Gutierrez, Kwan, McGuinness, Serrano, Williams, and President Baker voted in favor of the motion. Members Campos, Feng, and Lewis abstained from voting. The motion passed 6-0-3.

N.* **REVIEW OF SCHEDULE**

Mr. McCauley reminded the Board that its next meeting is scheduled for December 10, 2015 in Sacramento. He also identified March 4, 2016 as a possible date for the first Board meeting of 2016. Mr. McCauley announced that the Communications Committee will meet on October 21, 2015, Regulatory and Enforcement Committee (REC) will meet on November 5, 2015, LATC will meet on November 17, 2015, and Executive Committee will meet on November 24, 2015.

Kurt Cooknick asked the Board to consider scheduling an additional REC meeting before the December 10, 2015 Board meeting. Mr. Cooknick informed the Board that he desired to revisit the “architectural intern” title issue, which was previously discussed at the June 10, 2015 Board meeting. The Board will take Mr. Cooknick’s request under consideration.

L. **CLOSED SESSION – PURSUANT TO GOVERNMENT CODE SECTION 11126(C)(3) THE BOARD WILL CONVENE INTO CLOSED SESSION**

The Board went into closed session to consider action on the Closed Session Minutes of the June 10, 2015 Board meeting.

M. **RECONVENE OPEN SESSION**

The Board reconvened open session.

O. **ADJOURNMENT**

The meeting adjourned at 2:15 p.m.

**Agenda items for this meeting were taken out of order. The order of business conducted herein follows the transaction of business.*