

MINUTES FOR BOARD MEETING OF THE NEVADA STATE BOARD OF ARCHITECTURE, INTERIOR DESIGN AND RESIDENTIAL DESIGN

October 12, 2010

Siena Hotel Spa Casino, One South Lake St, Reno, NV 89501

Tuesday, October 12, 2010

Chairman Bill Snyder called the meeting to order at 9:30 a.m.

Roll Call: Greg Erny, Judith Fermoile, George Garlock, Larry Henry, John Klai, JoAnn Oppenheimer Gore, Bill Snyder and Larry Tindall. Sean Tanner arrived at 10:45 a.m.

Also in attendance: Gina Spaulding, Executive Director; Christine Parvan, Legal Counsel; Betty Ruark, Chief Investigator; Laura Bach and Monica Harrison, staff.

AGENDA ITEM 1 Approval of consent agenda

Consent agenda included the following:

- A. Approval of agenda
- B. Approval of minutes: August 26, 2010
- C. Secretary/Treasurer report
 - 1. Nevada Architect, Registered Interior Designer and Residential Designer Licensing Statistics
 - 2. Bank of America and Wells Fargo monthly statements
- D. Ratification of reciprocal licenses (see list below)
- E. Firm name approval requests
 - 1. AADF Architecture
 - 2. GEARING ARCHITECTURE
 - 3. IZ Design Studio
 - 4. Meleca Architecture, Inc.
 - 5. Redrock Design
 - 6. CORE ARCHITECTURE + DESIGN PC
 - 7. SCA Design, LLC
 - 8. Berger Hannafin Architects L.L.P.
- F. Firm registration approval requests
 - 1. Allenby & Associates
 - 2. Design Group Carl Ross inc
 - 3. TVA Architects, Inc.
 - 4. WHR Architects, Inc.

Architects: Registration by reciprocity

6589	Jonathan A. Huddy	6595	Charles A. Kotterman	6600	Elizabeth R. Mitchell
6590	Craig A. Stoffel	6596	Stephen L. Lippert	6601	Bryan L. Bowen
6591	Ian G. Wilson	6597	William P. Brown	6602	Dennis H. Cecchini
6592	Eric D. Milberger	6598	Peter F. Hapstak, III	6603	Franklin H. Brooks
6593	Donald F. Barry	6599	Kenneth Liu	6604	Mark D. Furgeson
6594	Kevin P. Hengst				

Residential designers: Registration by reciprocity

307-P Michael A. Pancirov

Board members requested agenda items 1E-5, 1E-7, 1F-1 and 1F-3 be pulled from the consent agenda.

Motion: Garlock moved to approve the consent agenda, items 1A through 1E-4, 1E-6, 1E-8, 1F-2 and 1F-4. Motion seconded by Fermoile.

Vote: All in favor. Motion passes.

AGENDA ITEM 1E-5 Firm name approval request: Redrock Design

Motion: Klai moved to approve the firm name request for “Redrock Design.” Motion seconded by Garlock.

Klai asked if the name was too broad. No other board members expressed an issue with the name.

Vote: All in favor. Motion passes.

AGENDA ITEM 1E-7 Firm name approval request: SCA Design, LLC

Motion: Garlock moved to approve the firm name request for “SCA Design, LLC.” Motion seconded by Erny.

Garlock said he was concerned that the composition of the firm requesting approval has only one percent owned by an architect, Mr. Carlson, with the remaining 99 percent owned by a residential designer, Mr. Colen. He said that he is extraordinarily concerned in this case because Mr. Colen has been disciplined by the board for practicing beyond the scope of his license. It was noted that the firm name was previously approved with a 50/50 partnership between Mr. Colen and an architect.

Board members expressed concern because of Mr. Colen’s previous disciplinary actions. They were concerned that this new firm structure would easily allow him to practice beyond the scope of his residential design license.

Motion: Erny moved to amend the original motion to include it be approved with the condition that the application be amended to reflect that the firm provides both residential and architectural design services. Also a letter will be send to both owners reminding them that they must practice within the scope of their individual licenses and that the board will not tolerate circumvention of the law. The letter to Mr. Carlson will also remind him that he bears full responsibility for any architectural design done by the firm. Additionally, the board requires that firm advertise that it provides both residential design and architecture and include both practices on its letterhead, so as to not mislead the public.

Garlock did not accept the motion to his original amendment. Motion to amend fails.

Vote: Tindal in favor. Erny, Fermoile, Garlock, Henry, Klai and Oppenheimer Gore against. Snyder abstained. Motion fails.

Snyder said that Mr. Anderson, the current architect owner, should be sent a letter stating that he is responsible for architectural work done by the firm that was completed under his responsible control.

Motion: Erny moved to approve the firm name request for “SCA Design, LLC,” with the condition that the application be amended to reflect that the firm provides both residential and architectural design services. Also a letter will be send to both owners reminding them that they must practice within the scope of their individual licenses and that the board will not tolerate circumvention of the law. The letter will also remind them that any violations of Mr. Colen’s settlement agreement may result in his license being summarily suspended. The letter to the architect owner, Mr. Carlson, will also remind him that he bears full responsibility for any architectural design done by the firm. Additionally, the board requires that firm advertise that it provides both residential design and architecture and include both practices on its letterhead, as so to not mislead the public. Motion seconded by Fermoile.

Vote: Erny, Fermoile, Klai, and Oppenheimer Gore and Tindall in favor. Garlock and Henry opposed. Snyder abstained. Motion passes.

AGENDA ITEM 1F-1 Firm name registration approval request: Allenby & Associates

Motion: Klai moved to approve the firm name registration request for “Allenby & Associates.” Motion seconded by Erny.

Klai asked if there was more than one registrant, since the firm was using the term, “associates.” Spaulding said that the term, “associates,” was not protected and could be used.

Vote: All in favor. Motion passes.

AGENDA ITEM 1F-3 Firm name registration approval request: TVA Architects

Motion: Klai moved to approve the firm name registration request for “TVA Architects.” Motion seconded by Tindal.

Klai noted that nonregistrants should not be using the title “principal,” per NAC 623.300.3.

Motion: Klai moved to amend his original motion to approve the firm name registration request for “TVA Architects,” conditioned upon the second page of the application being corrected and resubmitted. Tindall accepted the amendment.

Vote: All in favor. Motion passes.

AGENDA ITEM 2 Presentation of audit results for Fiscal Year End 2010 – Christy Andersen, CPA, Bradshaw, Smith & Co., LLP

Christy Andersen, accountant for Bradshaw, Smith & Co., LLP, presented the Fiscal Year End 2010 audit results to the board.

Motion: Klai moved to accept the audit results for Fiscal Year End 2010. Motion seconded by Fermoile.

Vote: All in favor. Motion passes.

AGENDA ITEM 3 Review and approval of the 5-year budget projection from FY 2011-2015

Spaulding presented the budget projection for 2011-2015.

Motion: Erny moved to approve the 5-year budget projection from FY 2011-2015. Motion seconded by Garlock.

Vote: All in favor. Motion passes.

AGENDA ITEM 4A Deliberations/Action on applications for registration: Architectural

Henry swore in the following individual as an architect:

1. Roger Skaff..... 6588

Motion: Klai moved to approve the registration of the above referenced individual as an architect. Motion seconded by Erny.

Vote: All in favor. Motion passes.

AGENDA ITEM 4B Deliberations/Action on applications for registration: Registered interior design

Henry swore in the following individuals as a registered interior designer:

1. Elizabeth Allen 184-ID

Motion: Fermoile moved to approve the registration of the above referenced individuals as a registered interior designer. Motion seconded by Klai.

Vote: All in favor. Motion passes.

AGENDA ITEM 5A-3 Case No. 10-040N – In the matter of Carlos A. Alvarado, Jr.

Carlos Alvarado and his attorney, Salli Ortiz, were in attendance.

Motion: Garlock moved to approve the settlement agreement. Motion seconded by Fermoile.

Ruark stated that a formal hearing in this case had been scheduled for October 19, 2010, but Mr. Alvarado has agreed to a settlement agreement, in lieu of the formal hearing.

The respondent is alleged to have violated NRS 623.360.1(a) and NRS 623.360.1(b) by holding himself out as being a registered architect in Nevada and as being qualified to practice architecture in the state of Nevada, without having been issued a certificate of registration by the board.

On June 10, 2010, Executive Director Spaulding received a call from an employee of the Clark County Development Services Department-Plans Examination Division, requesting verification that the respondent had been issued a certificate of registration (#6527), granting the respondent the right to use the title of “Architect” and to practice architecture in the state of Nevada.

A review of the board’s database and administrative files revealed no record of the respondent having been issued a certificate of registration, or of the respondent being a Nevada applicant currently testing for the Architect Registration Exam (ARE).

Further investigation revealed the respondent had falsified National Council of Architectural Registration Board (NCARB) ARE “score reports” and disseminated the fraudulent score reports to the Clark County Development Services Building Division (CCDS). The fraudulent score reports indicated to the CCDS that the respondent had taken and passed all seven divisions of the ARE, when in fact, the respondent had not passed any division of the ARE. In addition, the respondent also produced a fraudulent Nevada Certificate of Registration and forged all nine board members’ signatures. He then disseminated the fraudulent certificate to the CCDS, indicating that he had been granted the right to practice architecture and use the title of architect in the state of Nevada.

The respondent was sent a Notice of Hearing and Complaint concerning this matter. The respondent’s attorney requested that the matter be resolved through a settlement agreement. A settlement agreement was negotiated incorporating a Guilt Clause, an administrative penalty of \$10,000 and investigative costs in the amount of \$6000. The \$10,000 penalty will be held in abeyance until Mr. Alvarado applies for registration as an architect in Nevada. He may not apply for registration until a period of at least five years has passed. All information in this case will be transmitted to NCARB and every NCARB member board. Staff recommends approval of the settlement agreement.

Mr. Alvarado addressed the board, explained what he did and apologized for his actions. Board members discussed the actions and terms of the settlement agreement.

Board members discussed Mr. Alvarado's ability to test in Nevada in the future. Board members said they would like Mr. Alvarado to come before the board before he starts testing to tell them what he had been doing in the preceding years. Spaulding said that is required of any applicant with enforcement action in his record. It was also noted that the board may, in the future, determine that he is not of good moral character and therefore not able to become registered in the state.

Board members asked about the person who created the forged certificate. Board Counsel Christine Parvan told board members that it was outside of the board's jurisdiction to discipline that person, but it could be turned over to the District Attorney to investigate and prosecute.

Vote: Erny, Fermoile, Garlock, Henry, Klai, Oppenheimer Gore, Snyder and Tindal in favor. Tanner against. Motion passes.

AGENDA ITEM 5A-1 Case No. 09-025R – In the matter of Michael R. Davis and David Tubridy and BAI Architecture, Inc.

Motion: Garlock moved to approve the settlement agreement. Motion seconded by Fermoile.

The respondents are alleged to have violated NRS 623.270.1(c)(d)(f) and Rule of Conduct 5.2 by failing to maintain responsible control and being negligent by deviating from the normal standard of professional care.

During the investigation of a related case, it was discovered that respondent, architect Michael Davis of BAI Architecture, Inc. (BAI), sealed drawings for a Nevada project for which he was not in responsible control. A detailed review of the project documentation revealed that Davis did not prepare any design documents and was not sent or copied on any correspondence during the preparation of the design documents. Additionally, Davis did not attend any project meetings. (Note: Davis is the only Nevada registrant in the firm.) Additionally, a copy of the BAI's "Procedure for Document Review," which describes the process for stamping/signing of plans, reveals no requirement for a registered architect to be in responsible control during the design phase.

The respondents were sent a Notice of Charges concerning this project and a letter of response was received. The respondents' case was discussed with Chief Investigator Ruark and the decision was made to offer the respondents an opportunity to settle the issue informally rather than face a disciplinary hearing before the board. A settlement agreement was negotiated incorporating a No Contest Clause, a requirement that Mr. Davis complete and pass the *NCARB Professional Conduct Monograph* within 30 days of the board-approved settlement agreement, an administrative penalty of \$10,000 and investigative costs in the amount of \$1,800. Staff recommends approval of the settlement agreement.

Vote: All in favor. Motion passes.

AGENDA ITEM 5A-2 Case No. 11-005N – In the matter of Robert Bostwick, Glenn A. Pizzuti, Richard L. Ortmeyer, David Miano, Michael C. Zambo and Bostwick Design Partnership

Motion: Garlock moved to approve the settlement agreement. Motion seconded by Tanner.

The respondents are alleged to have violated NRS 623.360.1(a)(b)(c) by holding themselves out as being qualified to practice architecture and by engaging in the practice of architecture for a project located in Nevada, without having certificates of registration issued by the board.

During the background check on the respondents' (Bostwick and Pizzuti) reciprocity applications it was discovered that the respondents had entered into an agreement to provide architectural services for a medical clinic to be located in Las Vegas, Nevada. Further investigation revealed that the respondents had prepared preliminary drawings including site plans, floor plans, renderings and elevations.

The respondents were sent a Notice of Charges concerning this project and a response was received. The respondents' case was discussed with Chief Investigator Ruark and the decision was made to offer the respondents an opportunity to settle this issue informally rather than face a disciplinary hearing before the board. A settlement agreement was negotiated incorporating a Guilt Clause, an Effect on Licensure Clause, an administrative penalty of \$11,500 and investigative costs in the amount of \$1,300. Staff recommends approval of the settlement agreement.

Vote: All in favor. Motion passes.

AGENDA ITEM 5A-4 Case No. 09-055N – In the matter of Michele Busiri-Vici, Ulderico Micara, Guelfo Carpegna and Space 4 Architecture

Motion: Klai moved to approve the settlement agreement. Motion seconded by Fermoile.

The respondents are alleged to have multiple violations of NRS 623.360.1(a)(b)(c) by holding themselves out as being qualified to practice architecture and registered interior design, and by engaging in the practices of architecture and registered interior design, for three tenant improvement projects, without the respondents having certificates of registration issued by the board.

An anonymous complaint was received that indicated that the partners of Space 4 Architecture were holding themselves out as being qualified to provide architecture and registered interior design services for a Versace retail store located in the Forum Shops. Subsequent investigation revealed Space 4 Architecture also held themselves out through their website as being the executing architect and performing the execution and design of two Versace retail stores (Forum Shops and City Center) and one Devi Kroell store (Forum Shops). In addition, the respondents prepared preliminary drawings for both Versace retail stores prior to contracting and being under the responsible control of a Nevada architectural firm.

The respondents were sent a Notice of Investigation concerning this project and a letter of response was received. The decision was made to offer the respondents an opportunity to settle the issue informally rather than face a disciplinary hearing before the board. A settlement agreement and confession of judgment were negotiated. The settlement agreement incorporates a No Contest Clause, an Effect on Licensure Clause, an administrative penalty of \$17,500 and investigative costs in the amount of \$2,100. Staff recommends approval of the settlement agreement.

Vote: All in favor. Motion passes.

AGENDA ITEM 5A-5 Case No. 09-043N – In the matter of Kirk Nix and Kirk Nix Associates, Inc.

Motion: Fermoile moved to approve the settlement agreement. Motion seconded by Klai.

The respondent is alleged to have committed multiple violations of NRS 623.360.1(a)(b)(c) by holding himself out as being qualified to practice architecture and registered interior design, and by engaging in the practices of architecture and registered interior design, for four projects located in Nevada, without having a certificate of registration issued by the board.

During the background investigation of new applicant Kirk Nix, staff discovered there was an open case against the respondent. Staff called the respondent and inquired about the four Nevada projects on his website. Further investigation revealed that the respondent had contracted directly with the client to provide work that falls under the practices of architecture and registered interior design and also engaged in the practices of architecture and registered interior design by preparing drawings.

The respondent was sent a Notice of Charges concerning these projects and a letter of response was received. The respondent's case was discussed with Chief Investigator Ruark and the decision was made to offer the respondent an opportunity to settle the issue informally rather than face a disciplinary hearing before the board. A settlement agreement was negotiated incorporating a Guilt Clause, an Effect on Licensure Clause, an administrative penalty of \$29,000 and investigative costs in the amount of \$1,600. Staff recommends approval of the settlement agreement.

Garlock asked staff if the respondent had previous disciplinary action as he recognized the name. Ruark said there was a case in 2001 against Sue Firestone and Nix Firestone Associates. Mr. Nix did not sign that settlement agreement; Sue Firestone signed on behalf of herself and the firm. Board members said they would like Mr. Nix to appear before the board prior to being registered as this is the second time he has been part of a disciplinary action.

Vote: All in favor. Motion passes.

AGENDA ITEM 5B Discussion and possible decision regarding closure of enforcement cases

Ruark recommended the following cases, which were investigated, for closure without disciplinary action:

08-055R 09-074R 10-007N 10-009N 10-010N
10-011N

Motion: Fermoile moved to close the above-referenced cases. Motion seconded by Klai.

Vote: Garlock recused himself. All others in favor. Motion passes.

AGENDA ITEM 5C Enforcement discussion topics and report

Ruark had nothing further to report.

AGENDA ITEM 5D Legal issues update – Christine Parvan

Parvan had nothing to report.

The board adjourned for lunch.

AGENDA ITEM 6A Discussion and possible decision whether to remain in the NCARB Direct Registration Program

Spaulding said she has gone back and forth on whether the board should continue in this program in the past because of the important loss of interaction she sees between architectural candidates and the board. She said that the disconnect became more apparent when, as a result of the Alvarado case, she learned that Mr. Alvarado was not considered a Nevada candidate for registration because he had only applied to NCARB to test for the ARE. Prior to direct registration, the candidate would apply to the board and, after approved to begin testing, the candidate would be entered into the NCARB database.

Board members discussed various avenues to ensure that a person applying to NCARB, who has stated they are testing for Nevada, would also be considered a Nevada candidate. Spaulding suggested asking NCARB to add a step to its direct registration process for Nevada that would require a candidate to also submit an application to

Nevada before they can start testing. Board members agreed this was a good first step. If NCARB does not agree to add the requirement, the board may consider withdrawing from the Direct Registration Program.

AGENDA ITEM 6B **FYI: NCARB Job Announcement for new Chief Executive Officer**

Spaulding said this item was provided for board members' information.

AGENDA ITEM 7A **Review and decision regarding NCIDQ ballot for the 2011 Slate of Directors**

Tanner agreed to be the primary delegate for Nevada. Board members expressed no opposition to the slate.

AGENDA ITEM 7B **Review and decision regarding the resolution submitted from the Kentucky State Board of Architects and Certified Interior Designers.**

Board members expressed no opposition to the resolution.

AGENDA ITEM 8 **Residential design issues**

Spaulding said there were no items to discuss at this time.

Tindal brought up the discussion of giving candidates better feedback of why they failed the graphic exam. Board members said that could be reviewed on a case by case basis.

AGENDA ITEM 9 **Periodic review of NAC Chapter 623 pursuant to NRS 233B.050**

Spaulding led board members in a review of NAC 623.

NAC 623.562

No changes necessary.

NAC 623.564

Change "Foundation for Interior Design Education Research" to "Council for Interior Design Accreditation."

NAC 623.566

No changes necessary.

NAC 623.568

Change "Foundation for Interior Design Education Research" to "Council for Interior Design Accreditation."

NAC 623.570

No changes necessary.

NAC 623.572

Change "Foundation for Interior Design Education Research" to "Council for Interior Design Accreditation."

Amend subsection 2 as follows:

2. Upon the receipt of an application and appropriate supporting information, the Executive Director shall:

(a) Establish a subcommittee of the Board and/or Nevada registrants to review the application. The subcommittee must consist of at least ~~three~~ **two** members of the Board. If possible, at least one of the members of the subcommittee must be a registered interior designer.

NAC 623.574 through 623.576

No changes necessary.

NAC 623.578

Spaulding asked board members if they wanted to amend the regulations detailing the nine education standards now or wait to compare the current application with the newer CIDA standards. Board members said to wait for the application comparison. Spaulding said that past binder review committees have found that current standards one and nine are probably not necessary.

NAC 623.580 through NAC 623.594

No changes necessary.

NAC 623.630 through NAC 623.646

No changes necessary.

NAC 623.720

No changes necessary.

NAC 623.740

Spaulding asked if the board wants to see new applications every time there is a change in ownership for firm name registrations. She explained that the board is seeing more than in the past.

After discussion, the board said that it did not need to reapprove firm name approvals if it was a simple case of one registrant being swapped out for another. Board members would like to continue to see any changes to firm registrations.

No changes necessary to the regulation.

NAC 623.750

No changes necessary.

NAC 623.755

No changes necessary.

NAC 623.760

Tindall suggested designing a new stamp for residential designers so that it does not look like a notary public stamp. He will present a draft design at a future board meeting.

NAC 623.763 through NAC 623.770

No changes necessary.

NAC 623.780

Board members discussed if registrants should still be required to retain possession of “all original drawings,” since blueprints are not used anymore. Spaulding said if registrants are required to keep documents, the board can make the registrant produce the documents if a disciplinary action is filed.

Board members said this regulation could be discussed at a public hearing so the board could decide if the regulation should be changed. Public hearings will have to be held prior to amending regulations.

Ruark asked if language should be added to subsection 2 to require that documents given to clients must not be able to be modified. Board members said that is ideal, but not realistic. Many clients require files that can be modified in the future. Board members discussed this in detail and suggested it be discussed again at the next board meeting.

No changes necessary at this time.

NAC 623.800

Amend as follows:

NAC 623.800 Proposals for ~~public works~~ publicly funded projects. An architect, residential designer or interior designer who holds a certificate of registration shall not submit any information to the State of Nevada or any of its political subdivisions as part of a proposal for a ~~public works~~ publicly funded project which would enable the public agency to evaluate the proposal on any basis other than the competence and qualifications of the registrant to perform the type of services required.

NAC 623.810

Amend as follows:

2. The architect, residential designer, ~~or~~ registered interior designer, or firm of record is identified in the drawing, model, rendering, photograph or other work.

Snyder said the board will resume reviewing regulations, from NAC 623.820, at the next board meeting.

AGENDA ITEM 10 Executive director report

Spaulding said that the firm registration application fee is \$300. She asked if the fee should be charged if the firm has to reapply because of changes made to the firm. Board members said a fee should be charged to cover the expenses of processing the application.

Spaulding said that renewals would be sent out to registrants by the end of October. She said other state boards always audit board members to set an example and asked if this board felt all members should be audited. Board members agreed all should be audited for CEUs. Spaulding asked what other registrants should be included in the audit. Board members said that registrants with pending enforcement cases, those on payment plans from settled enforcement cases, as well as those registrants selected on a random basis.

Spaulding reported a bill draft request has been submitted by the current administration that would bring all professional regulatory boards under the Department of Administration.

AGENDA ITEM 11 Public information report

Spaulding said the last issue of *Focus* was in the agenda books. She also reported that she and Snyder spoke to Jess Holmes's professional practice class at UNLV in September.

AGENDA ITEM 12 Election of officers

Motion: Henry moved to reelect Bill Snyder to be NSBAIDRD Chairman. Motion seconded by Oppenheimer Gore.

Vote: All in favor; motion passes.

Motion: Garlock moved to reelect Larry Henry to be NSBAIDRD Secretary/Treasurer. Motion seconded by Erny.

Vote: All in favor; motion passes.

AGENDA ITEM 13 **Items for future agenda**

- Discuss NRS 623.349
- Discuss modifiable drawings (NAC 623.780.2)
- Continued NAC 623 review
- Review of new CIDA standards and possible update of RID Substantially Equivalent application

AGENDA ITEM 14 **Public comment**

Board members thanked Fermoile for her 15 years of service to the board as this meeting was her last as a board member.

Chairman Snyder adjourned the meeting at 4:21 p.m.

Larry Henry, Secretary/Treasurer

Gina Spaulding, Executive Director