

# **MINUTES**

## **BOARD OF EXAMINATION AND REGISTRATION OF ARCHITECTS**

**DATE:** June 8, 2009

**PLACE:** Department of Business Regulation (DBR)  
1511 Pontiac Avenue, Bldg 69-2 Conference Room  
Cranston, RI 02920

**MEMBERS PRESENT:** Wilbur E. Yoder, Barbara Feibelman, John K. Grosvenor, Christian J. Ladds and David R. Prengaman

**MEMBERS ABSENT:** None

**OTHERS PRESENT:** Richard W. Berstein, DBR Executive Counsel  
Brian J. Riggs, DBR Department Budget Administrator and  
Representative for the DBR Director

Dawne Broadfield, Board Executive

Greg Spiess, AIA, President of the American Institute of Architects/RI  
Chapter (AIA/ri)

**CALLED TO ORDER:** Vice-Chair Yoder called the meeting to order at  
1:08 p.m. to commence Board business.

Attorney Berstein and Mr. Riggs left at 3:35 p.m.

### **MINUTES OF THE MEETING OF THE BOARD**

(1) Ms. Feibelman moved to approve the open meeting minutes of  
May 11, 2009 as published. Mr. Ladds seconded. Motion approved.

**(2) Ms. Feibelman moved to approve and seal the executive session meeting minutes of the May 11, 2009 as published. Mr. Prengaman seconded. Motion approved.**

## **EXECUTIVE SESSION**

**(1) Ms. Feibelman moved to convene into executive session at 1:11 p.m. pursuant to RI General Laws, §42-46-5 (a)(2) for sessions or work sessions pertaining to collective bargaining or litigation and §42-46-5 (a)(4) for investigative proceedings regarding allegations of civil or criminal misconduct. Mr. Ladds seconded. Motion approved.**

**(2) Ms. Feibelman moved to adjourn from executive session and to reconvene to an open meeting at 1:42 p.m. pursuant to R.I.G.L. §42-46-4. Mr. Ladds seconded. Motion approved.**

**(3) Ms. Feibelman moved to seal the executive session and record the votes taken in executive session pursuant to RI General Laws §42-46-4 and §42-46-5. Mr. Ladds seconded. Motion approved to close Board Member Appointments; John Sheridan, AIA (Touisset Fire Co., Station 6, Warren, RI – (Unauthorized Practice); and McKinnell McKinnell & Taylor – (Requesting a Certificate of Authorization – Previously Practiced in Rhode Island without holding a Certificate of Authorization)**

**(4) Ms. Feibelman moved pursuant to RI General Law §42-46-4 that**

**the Board defer disclosure of all votes in executive session until such time as such disclosure would not jeopardize any strategy, negotiation, or investigation undertaken concerning RI General Law §42-46-5(a). Mr. Ladds seconded. Motion approved.**

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**OLD BUSINESS**

**(1) Proposed Amendments to the “Rules and Regulations”**

**Public Hearing Scheduled for 2:30 p.m.**

**Present was: Greg Spiess, AIA (American Institute of Architects/RI Chapter (AIA/ri) President) at 2:34 pm**

**Richard W. Bernstein, Legal Counsel and Hearing Officer for the Public Hearing opened the Public Hearing at 2:34 p.m. Attorney Bernstein stated for the record that on May 8, 2009 a Legal Notice of this Public Hearing was published on the Rhode Island Office of Secretary of State website and indicated that this Board has under consideration Proposed Revised Rules and Regulations to be held on June 8, 2009 at 2:30 p.m. at which time and place all interested parties will be heard. He introduced the Board Members and indicated the format in which the Public Hearing will be conducted. Attorney Bernstein indicated that emails were received by the Board prior to today’s Public Hearing from Greg Spiess, AIA, President of the American Institute of Architects (AIA/ri) and from Daniel A. Taylor, Legal Counsel to the National Council of Architectural Registration Boards**

**(NCARB). Those written comments will be duly noted. Attorney Berstein then asked if anyone was present to testify regarding the Proposed Revised Rules and Regulations. Mr. Spiess was present to testify. Attorney Berstein stated that all oral comments will be recorded on audiotape and become part of the Public Hearing record.**

**Mr. Spiess introduced himself to the Board and indicated that he is representing the AIA/ri Board of Directors, Executive Committee, Government Affairs Committee, and Members. He indicated that it is the understanding of AIA/ri that the Board will operate as it did before except now under the Department of Business Regulation (DBR) and there were concerns among some of the members that this would change the operation of the Board or the certification of the architects. Mr. Spiess indicated that it was his understanding that this will not happen and that the Board is still operating as it did before. He would like to be able to report that information back to the members. Mr. Spiess stated that the Executive Committee went through the changes and did not find anything to object to.**

**Ms. Feibelman indicated that the legislative change that happened in 2007 and 2008 happened outside this Board and that the Board was subject to this law. The change to the Rules and Regulations clarifies the relationship of this Board to DBR.**

**Attorney Berstein, who is also the legislative liaison for the DBR,**

addressed proposed legislation now under consideration which is separate and apart from the changes to the Rules and Regulations. The current proposed legislation seeks consistency between the administrative legal processes and procedures with all of the Boards within the DBR, so that all of the Boards would have a common practice and procedure with DBR when a formal hearing is held. Attorney Bernstein indicated that DBR representatives met with Senator Paiva-Weed and there seems to be general support for the proposed legislation.

Mr. Spiess asked how a complaint against an architect was previously handled before the Board. Ms. Feibelman told Mr. Spiess that the Board would appoint an investigator. That still will remain but then the investigator will report the results to the Board, and the Board's Counsel would serve as Prosecutor. The reason for the change is to assure that the Board does not become tainted, and does not act as both "judge" and "jury." This change is coming from the DBR Director and Legal Division and not from the Board. Attorney Bernstein stated that the way the architectural statute is written right now, there are procedural inconsistencies between the existing law and the way that DBR operates from a legal and procedural matter. In addition, the *Arnold v Lebel* case is very important and holds that Hearing Officers have to be totally independent, and DBR felt that the only way that it could do that was to bring an independent DBR lawyer to act as Hearing Officer who has no ongoing interaction and/or communication with the Board.

The expected law change will amend the existing statute because a portion of the law says that the law will supersede certain inconsistent Board statutes, insofar as administrative and legal procedures are concerned. It addresses statutory concerns and judicial concerns with the Arnold v. Lebel case. The problem is if the Board continued as it has been, it is possible that the Board could discipline an Architect and the person appeals to the Superior Court of Rhode Island. It is likely that one of the grounds for appeal will be a violation of the Arnold v. Lebel case that the Board was acting as judge and jury at the time and is tainted and the person did not get the required independent Hearing Officer that the Arnold v. Lebel requires. Ms. Feibelman stated that this procedure is not something that happens commonly. Most of the complaint cases are handled with Voluntary Consent Agreements and the Board has not had a formal hearing

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case in years. Attorney Bernstein stated that the Board would give him, as the prosecutor, the architectural facts. The Hearing Officer can always ask additional questions and the DBR Director will certainly be deferential to the knowledge of the profession involved.

Mr. Spiess asked how a person could appeal the Board's decision. Attorney Bernstein explained that an appeal of any administrative procedure from DBR goes to the Superior Court of Rhode Island which is in accordance with the Administrative Procedures Act (APA).

**DBR will then represent the Board to uphold the decision and the registrant will represent that the decision is wrong. An appeal of the decision of the Superior Court of Rhode Island, could then go to the Supreme Court of Rhode Island if it decides to hear the case. Attorney Berstein stated that it is an efficient procedure for all of the DBR Divisions and more efficient for the Board as well. Mr. Spiess stated that it was now clear.**

**Attorney Berstein stated that he does not see any other persons from the public and asked Mr. Spiess if he would have any additional written testimony to submit. Mr. Spiess replied that he did not. Attorney Berstein stated that he will hold this hearing open through the close of business on Thursday, June 11, 2009.**

**Mr. Spiess told the Board that the AIA/ri is in the process of publishing its newsletter for its members and asked if he could publish the Board's current information. The Board provided Ms. Spiess with the following information to publish: The Governor's Office appointed the following Board members effective May 13, 2009: Wilbur E. Yoder, reappointment; Barbara Feibelman, reappointment; John K. Grosvenor replacing Joseph A. Cirillo; David R. Prengaman replacing James R. Carlson; and Christian R. Ladds replacing Dana M. Newbrook. Officers were elected at this meeting as follows: Wilbur E. Yoder, Chair; David R. Prengaman, Vice-Chair; and Barbara Feibelman, Secretary. The newsletter will also tell the members that there is pending legislation adopting legal administrative procedures**

and processes to follow similar to the other DBR Boards. As suggested by Ms. Feibelman, the newsletter will also include a “thank you” to the Board’s outgoing Board members, Dana M. Newbrook, James R. Carlson and Joseph A. Cirillo, for their long service both on the local and national levels.

Ms. Spiess asked the Board what NCARB’s written comments were. Ms. Feibelman told Mr. Spiess that NCARB thought that the Board should change its procedure to participate in the “Direct Registration program” and was informed that this Board already does participate. Other comments raised by NCARB for the Board to consider were amending language to allow the Board staff to review and approve reciprocal applications, as is done by other states, to consider changing the language referred to the “Rolling Clock,” since durational time limits may be changed in the future, and to delete the six-month waiting period a person is required to wait when failing a division of the ARE® before retaking and to add as established from time to time by NCARB, since NCARB is considering revising this waiting period. Also, the Board will be suggesting changes to the law to allow the “early testing” to begin taking the ARE® before completing the Intern Development Program (IDP).

Mr. Spiess left at 3:30 p.m.

Attorney Berstein, as Hearing Officer, asked the Board to provide him with their comments to Attorney Daniel A. Taylor’s, NCARB Legal

**Counsel, comments. The Board' suggestions and comments are listed as follows:**

**(1) Mr. Taylor suggested that the Board consider adding the following bracketed language to 3.7.1. "3.7.1 All applications shall be considered individually and passed or rejected on a roll call vote of the Board; [provided, however, that applications for registration by reciprocity based on the applicant holding a certificate of good standing issued by NCARB as provided for in section 3.2 above may be approved by Board staff to whom such power is from time to time delegated by the Board so long as such application does not disclose any disciplinary action as referred to in Section 3.5 above.]"**

**Mr. Taylor indicated that the Rhode Island Rules and Regulations now note that a minimum of 40 days should be allowed for processing of NCARB reciprocity applications. By the Board delegating the power to approve such application to staff, this time might be considerably shortened since it would not need to include time for the Board itself to meet. Many other Boards follow this practice where the NCARB file is "clean." At least this change would give the Board the power to try this procedure for a time to see how it works.**

**After consideration, the Board will continue to review the reciprocal applications and will not delegate to Board staff.**

**(2) Mr. Taylor suggested that the Board add bracketed language to 4.1.6: “4.1.6 The minimum passing grade in all subjects of the ARE [and the duration such passing grade remains valid] shall be established by NCARB.” Then delete all of 4.1.9 “Rolling Clock”.**

**Mr. Taylor suggested this change and indicated that NCARB has established durational time limits during which passing grades now remain valid; these are currently set forth in the Handbook. These “durational time limits” may be changed in the future.**

**The Board decided to consider this change during the next review.**

**(2) Mr. Taylor asked the Board to consider the following changes to 4.1.8: “4.1.8A [delete—six-month] waiting period [as established from time to time by NCARB] is required before an applicant may retake a previously failed division of the ARE.”**

**Mr. Taylor indicated that this may or may not happen, but NCARB has been considering lengthening the “no retake” period beyond 6 months for certain divisions where applicants have disclosed on the internet elements of the exam. Rhode Island could accomplish its goal of notifying applicants of the waiting period without being specific as to its length.**

**The Board decided to consider this change during the next review.**

**Mrs. Broadfield will report the Board's response to NCARB's concerns to Attorney Berstein as requested.**

## **(2) Certificate of Authorization (COA) Requirement (Professional Liability Insurance)**

**After an explanation and background history was provided to the three (3) new members, Mr. Ladds moved to consider the Certificate of Authorization Professional Liability Insurance Requirement in one year. Mr. Prengaman seconded. Motion approved.**

## **(3) Record Retention Schedule**

**The Board has to work with the Legal Division to develop a Record Retention Schedule specifically for the Division of Design Professionals. Currently, the Division of Design Professionals is basing its record retention schedule on the General Schedule. Therefore, this item has been continued.**

## **(4) 2009 Legislative Session**

**Attorney Berstein updated the Board on the two (2) bills introduced by the Department of Business Regulation (DBR) Director's Office.**

**Attorney Bernstein indicated that he, the Director, and the Insurance Superintendent met with Senator Paiva-Weed, Senate President, last week.**

**The first bill would enable DBR to require e-mail addresses from all licensees, with a waiver for hardships, so that DBR can go to a paperless environment for green and cost saving measures. Attorney Bernstein told the Board that Senator Paiva-Weed has heard from people who do not want e-mail, so Attorney Bernstein is not sure that it will pass.**

**The second bill, #S-0532 Sub A, would establish consistency in the Administrative Processes and Procedures within DBR for all of its Boards and Commissions. Attorney Bernstein told the Board that Senator Paiva-Weed did not have a problem with this bill and it is expected to pass.**

**RI.gov was given a July 1, 2009 deadline to decide whether or not the implementation of on-line renewals can go forward. The Board is also holding a Public Hearing at this meeting for Proposed Amendments to its Rules and Regulations to include a biennial renewal fee increase. This fee cannot be given to RI.gov until the new Rules and Regulations are adopted and are in effect. Update was given that the Division of Information Technology (DoIT) is also currently working on how the data received by RI.gov will be transferred to the Board's database.**

### **BLUE BOOKS (RECIPROCITY)**

**(A) Mr. Grosvenor moved to approve the following Blue Books as submitted with an expiration date of December 31, 2009. Ms. Feibelman seconded. Motion approved.**

- (1) BANKS, John M. (4) O'LEARY, William**
- (2) BURDETTE, Stephen Carl (5) TORTI, John**
- (3) HALLE, Jonathan Richard**

### **CERTIFICATES OF AUTHORIZATION (COA) APPLICATIONS (See Attached List)**

**(A) Vice-Chair Yoder moved to approve the applications for the Certificates of Authorization for the Sole Proprietorships for APD Architecture, Jason D. Gnich and Nelson Benavides as submitted. Ms. Feibelman seconded. Motion approved.**

**(B) Vice-Chair Yoder moved to approve the applications for the Certificates of Authorization for the Limited Liability Companies (LLC) for Ventrone Architecture, LLC and Paul F. Weber, AIA, Architect as submitted. Ms. Feibelman seconded. Mr. Grosvenor recused. Motion approved.**

**(C) Vice-Chair Yoder moved to approve the application for the Certificate of Authorization for the Limited Liability Partnership (LLP) for Centerbrook Architects and Planners, LLP as submitted. Mr. Ladds seconded. Mr. Grosvenor recused. Motion approved.**

**(D) Vice-Chair Yoder moved to approve the application for the Certificate of Authorization for the Limited Liability Partnership (LLP) for FXFowle Architects, LLP as submitted. Mr. Ladds seconded. Motion approved.**

**(E) Vice-Chair Yoder moved to approve the application for the Certificate of Authorization for the Corporation for Perkins Eastman Architects P.C. as submitted. Ms. Feibelman seconded. Mr. Ladds recused. Motion approved.**

**(F) Vice-Chair Yoder moved to approve the application for the Certificate of Authorization for the Corporation for Richter Cornbrooks Gribble, Inc. as submitted. Ms. Feibelman seconded. Motion approved.**

**(G) Vice-Chair Yoder moved to approve the Change in Responsible Control deleting Peter Bachmann for the application for Certificate of Authorization for the Corporation for BL Companies New England, Inc., #A-14,363, as submitted. Ms. Feibelman seconded. Motion approved.**

**(H) Vice-Chair Yoder moved to approve the Change in Responsible Control adding Ned A. Collier for the application for Certificate of Authorization for the Corporation for Perry Dean Rogers & Partners Architects, #A-14,173, as submitted. Ms. Feibelman seconded. Motion approved.**

**(I) Vice-Chair Yoder moved to approve the Name Change for the application for Certificate of Authorization for the Corporation for Ai3 Architects, Inc., #A-14,339, as submitted. The former name was Architecture Involution Incorporation. Ms. Feibelman seconded. Motion approved.**

**(J) Vice-Chair Yoder moved to approve the Name Change for the application for Certificate of Authorization for the Corporation for Mount Vernon Group Architects, Inc., #A-14,256, as submitted. The former name was Mount Vernon Group. Ms. Feibelman seconded. Motion approved.**

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**NEW BUSINESS**

## **(1) Election of Officers**

**The Board voted to confirm Wilbur E. Yoder, Chair; David R. Prengaman, Vice-Chair; and Barbara Feibelman, Secretary.**

## **(2) Board Member Manuals**

**The reference material in the Board Member Reference Manual will be updated to include the following:**

**Tab 1: National Council of Architectural Registration Boards (NCARB)  
Board Member Orientation Manual**

**Tab 2: Law**

**Tab 3: Rules and Regulations**

**Tab 4: Registered Architects**

**Tab 5: Registered Firms (COA's)**

**Tab 6: List of all Board Members and Staff**

**Tab 7: Calendar of NCARB and the New England Conference of Architectural Registration Boards (NECARB) Meeting Dates.**

## **(3) Tax Certification**

**Attorney Bernstein told the Board that we are waiting for a letter from the Legal Division of the Department of Administration (DOA) to determine whether registrants have the same obligation as licensees**

**to certify that they in fact do not owe any monies to the State of Rhode Island from a tax standpoint, and if a person refuses to certify, then a registration or renewal cannot be issued.**

#### **(4) Board Member Office Positions**

**Ms. Feibelman requested that as being newly appointed as Secretary to this Board, she would like to review all letters and form letters sent under her signature. Form letters will be sent to the Board members for review and discussion at the next Board meeting.**

#### **ADJOURNMENT**

**Vice-Chair Yoder announced that the next meeting of the Board is scheduled for July 13, 2009 at 1:00 p.m. at 1511 Pontiac Avenue, Conference Room 69-1, Cranston, RI 02920. Mr. Grosvenor moved to adjourn the meeting at 3:58 p.m. Ms. Feibelman seconded. Motion approved.**

**Respectfully submitted,**

**Barbara Feibelman, AIA  
Secretary**

**BF/dmb**

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**C. O. A. APPLICATIONS**

**Board Meeting of JUNE 8, 2009**

**SOLE PROPRIETORSHIPS**

**APD ARCHITECTURE - 0 – APPROVED – 06/08/09**

**See Email Correspondence – Relevant?**

**JASON D. GNICH - 0 - APPROVED – 06/08/09**

**NELSON BENAVIDES - 0 - APPROVED – 06/08/09**

**LIMITED LIABILITY COMPANIES**

**VENTRONE ARCHITECTURE, LLC. - 0 - APPROVED – 06/08/09**

**PAUL F. WEBER, AIA, ARCHITECT - 0 - APPROVED – 06/08/09**

**LIMITED LIABILITY PARTNERSHIPS**

**CENTERBROOK ARCHITECTS AND  
PLANNERS, LLP \$100. APPROVED – 06/08/09**

**FXFOWLE ARCHITECTS, LLP \$100. APPROVED – 06/08/09**

## **CORPORATIONS**

**Ai3 ARCHITECTS, INC. \$50. APPROVED – 06/08/09**

**A-14,339 – Name Change**

**from: Architecture Involution Incorporation**

**BL COMPANIES NEW ENGLAND, INC. - 0 – APPROVED – 06/08/09**

**A-14,363 – Change in Responsible Control**

**Deleting Peter Bachmann**

**MOUNT VERNON GROUP ARCHITECTS, INC. \$50. APPROVED –  
06/08/09**

**A-14,256 – Name Change**

**from: Mount Vernon Group**

**PERKINS EASTMAN ARCHITECTS P.C. \$100. APPROVED – 06/08/09**

**PERRY DEAN ROGERS & PARTNERS**

**ARCHITECTS - 0 - APPROVED – 06/08/09**

**A-14,173 – Change in Responsible Control**

**Adding: Ned A. Collier**

**RICHTER CORNBROOKS GRIBBLE, INC. \$100. APPROVED – 06/08/09**

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