

MINUTES
BOARD OF ARCHITECTURE AND INTERIOR DESIGN

TELEPHONE CONFERENCE CALL

March 11, 2004

10:00 A.M. Eastern Standard Time

toll free 877.651.3473 or direct 850.413.9245

Call to Order

Mr. Bullock, Chair called the meeting to order at 10:05 a.m.

Board Members Attending:

Miguel Rodriguez

Ellis Bullock, Chair

Rick Gonzalez, Vice-Chair

Neil Hall

Stephen Schreiber

Mary Jane Grigsby

Sharon Del Bianco

Joyce Shore

Kenneth Horstmyer

Garrick Gustafson

Roymi Membiela

Others Present:

Mary Ellen Clark, Board Counsel

David Minacci, Prosecuting Attorney

Juanita Chastain, Executive Director

GW Harrell, DBPR Special Counsel

Erica Glover – DBPR Contract Attorney

Jean Whitten – Office of Planning and Budget

Jay Culley

Terri Estes, Government Analyst

Les Smith, Investigator

Trent Manausa

Emory Johnson

Mike Huey

Vicki Long

Ms. Mary Ellen Clark commented that there were applications that were going to be pulled. Ms. Chastain confirmed that George Hasser and Jilla Montenegro need to be tabled. She continued by stating that VLC Ventures business name change has withdrawn their application.

MOTION: Mr. Rodriguez moved to table the applications for Hasser and Montenegro until the April board meeting.

SECOND: Ms. Shore seconded the motion and it passed unanimously.

Discussion

Letter from Secretary Carr regarding appropriations

Letter from Deputy Secretary Julie Baker regarding trust fund sweep

Second Quarter Financial Report (Operating Account)

Second Quarter Financial Report (Unlicensed Activity)

Privatization

Mr. Huey legislative update

Mr. Bullock commented that the board would be addressing the Secretary's and Governor's position that all the money the board has is in the initial appropriation. He commented that the unlicensed activity fund was not available.

Mr. Bullock commented that Mr. Minacci had written a letter to the Governor's office and asked him to comment. Mr. Minacci commented that he had not received a response from Mr. Hanson with the Office of Policy and Budget in the Governor's Office. He commented that Mr. Hanson made the determination that the board does not have access to the unlicensed activity account. He commented that the letter was an attempt to provide additional information that was not provided by the Secretary in hopes that Mr. Hanson would reconsider his position.

Mr. Horstmyer commented that the letter was a recapped language from the original board contract. Mr. Minacci confirmed and stated that it contained statutory language that the board was entitled to use the department's unlicensed activity account. He commented that he looked at the Secretary's letter to the Governor's Office dated February 4, 2004, on the second page second to the last paragraph, states that there is money appropriated for unlicensed activity, however, if the board was to use that money it would dramatically reduce the unlicensed activity funds for the other professions.

Mr. Hall commented that if there was no movement on that position the downside would be that Mr. Minacci could not continue to do the wonderful work that his firm is performing.

Mr. Rodriguez commented that this paints the entire effort in a dark light. He commented that the effort has been incredibly successful and this is being viewed with perhaps not all the facts aired. He commented that he agreed with Mr. Minacci's remarks that the original letter from the Secretary to Mr. Pruitt and Mr. Hanson did not state all of the facts so they would have a full understanding of the situation. He commented that they would run out of funds before the end of the fiscal year and this would be a disservice to the citizens of Florida.

Mr. Harrell commented that the position regarding the appropriation is unchanged. He commented that their position is that there are substantive errors in Mr. Minacci's letter and they understand that because he is trying to get paid. He commented that Ms. Whitten was at the meeting to inform the board on the appropriation and budgeting process.

Ms. Whitten commented that even though the board has cash monies in their unlicensed activity account the department nor the board has the authority to spend it. She commented that no funds could be taken out of an account without an appropriation. Ms. Del Bianco asked why the department did not provide that information to the board in a timely manner. Ms. Whitten replied that she was not sure if that was true. Ms. Del Bianco commented that the board did not do something they were supposed to do because the department did not inform them.

Ms. Whitten commented that Chapter 481.205, F.S., that gave the board the authority reads, "the board shall submit an annual budget request to the legislature for the purposes of funding this activity under this subsection, which must be separate from the department." She commented that the law that was passed gave the board the authority and responsibility to submit their budget request. She commented within that section gives the board the authority for licensed and unlicensed appropriation. Mr. Minacci commented that when this contract was initially signed the department agreed to provide the appropriation language in its budget. He commented that representation was made that he would be paid from the unlicensed activity funds that were appropriated that year. He continued by stating that fiscal year they were not paid from the unlicensed activity fund even though they submitted bills specifically requesting payment from the unlicensed activity account. He commented that he was told this fiscal year he would be paid from the unlicensed activity account. He commented that there was an appropriation this year of \$680,000 for the department to spend on unlicensed activity, so the department has monies to spend on unlicensed activity.

Ms. Whitten commented that they are spending monies from the unlicensed activity fund. She commented that when they pay his bills it is charged against the cash in the board's unlicensed activity fund. She commented that the appropriation for that is part of the \$375,000.

Mr. Bullock commented that the department knows the board's position and their wishes and asked that they help them get to where they want to be. Mr. Harrell commented that the department was prepared to help the board to the degree that they are statutorily authorized. He commented that the department could not statutorily provide contract monitoring services, prepare budget request, or advise legal matters. He commented that was their board counsel's responsibility and hers alone. He commented that the department could give information on the appropriation process, budget process, and anything else the board would like.

Mr. Rodriguez commented that the initial appropriations for 2002-2003 was prepared and written by the department and presented to the legislators prior and during the preparation for entering into this contract. He commented that he and Mr. Lopez-Isa were involved in the ITN process. He commented that his first knowledge of the proviso language was February 5, 2004. He commented that with everyone involved in the process from the department, including Mr. Biegalski and Mr. Culley, he does not understand how them knowing the wishes of the board that the proviso language was written as it was. He commented that the 2002-2003 proviso language was clear that it was to be inclusive of licensed and unlicensed. He commented that the 2003-2004 proviso language does not include both. It provided for the transfer of \$375,239 and to be used in accordance with 2002-274, which is the language in 481 that enables the board to proceed with the privatization. He commented that language clearly gives the board authority and restates the intentions of the board that the unlicensed activity funds be used. He commented

that the board was not made privy to the proviso language that was flawed and when the department on two separate occasions asked the board if they were going to prepare a budget the board has asked if there was a problem with the amount or if it needed to be changed. He commented that the board has asked that of Mr. Minacci and the department and they were told no and that is why the board took no further action and allowed the department to do the roll over budget.

Mr. Rodriguez commented that the fact that the board has stated that they want to use the unlicensed activity trust fund monies for 2003-2004, in fact the statutes allows for them to do so, and in his opinion and in conversations with their board counsel that the 2003-2004 language does not preclude them from doing so. He continued by stating that Mr. Minacci is billing separately and requesting that he be paid from the unlicensed activity fund, why did it not occur to the department to tell the board that in fact they were not paying from the unlicensed activity account until February 5, 2004. Mr. Rodriguez commented that he did not feel the department has followed through with the board's wishes or their decisions on how to fund this contract. He commented that the board's positions and decisions were discussed in the manner allowed by statute and the department has decided they did not want to do what the board asked. He commented that he felt that was a problem as well as that no one from the department decided to inform the board of the department's position, which brings them to the situation they are in today of them running out of money to pay the contract. Mr. Rodriguez commented that he was tired of getting the blame for the situation they are in today and would like to know from the department who could answer the question as to why the board was in the situation they are in.

Mr. Harrell commented he had hoped to avoid the history and thought the board was going to move forward with the three issues at hand. He continued by stating there is a clear misunderstanding regarding the original appropriation and what the department has done. He commented the original fiscal impact statement prepared for the bill analysis that transferred the duties and responsibilities indicated that the department was spending \$261,000 annually to provide you with services that Mr. Minacci is providing. He commented that was adopted by the legislative staff in their bill analysis. He commented that amount was increased to \$375,000 by a former department Deputy Secretary. He commented that the department does not have a written justification for the increase, however, the bill passed with the increased amount. Mr. Harrell commented that the bill that passed transferred primary responsibility for the budget for this contract to the board from the department. He commented that it was the board's responsibility to assure they had sufficient appropriation to enter into this contract. He commented that the department did not want to interfere with this contract. He commented that the department provided services during the ITN process because the board did not have the infrastructure to issue an ITN.

Mr. Harrell commented that a review of the minutes indicates that Mr. Biegalski on July 15, 2002 informed the board that there was \$375,000 appropriation with no contingencies to escalate. He commented that there was not further mention of the price in the minutes until the contract, which the contractor prepared and the board the signed. He commented that after the contract was signed there was a meeting with department staff and members of AIA to discuss the contract price. He commented that his understanding from persons in attendance at that meeting understood that the contract price had exceeded the appropriation and there was not enough

money. He commented the understanding was that AIA was going to obtain additional funding. He commented that throughout the minutes of 2003 reflect numerous conversations regarding a deficit. He commented that Mr. Rodriguez predicted a deficit in 2005. He commented that Mr. Shalley predicted that the board would not have sufficient funds to privatize the administration functions. He commented that the department has been above board when they asked the board last fall about their annual budget. The board had not prepared an annual budget request and they were informed at that time they would have two continuation budgets. He commented that as soon as the department became aware that there was a problem with the original appropriation they informed the board. He commented that the department sought an objective determination from the legislature and Governor's office. Mr. Harrell commented that they were here today to move forward.

Mr. Rodriguez asked Mr. Harrell approximately when the proviso language was prepared for 2002-2003 for submission with the department's budget to the legislature. Ms. Whitten replied that proviso language is always prepared and passed out the last day of session. Mr. Rodriguez commented that how could the board prepare the proviso language prior to the board receiving the statutory authority when the budget was prepared and authority granted in the same legislative session. Mr. Rodriguez commented that the board could not write the proviso language and could not have known that this was something they would be responsible for doing when the law had not been passed transferring that authority.

Mr. Rodriguez commented that Mr. Harrell was mixing different conversations as same topic. He commented the conversations regarding budget shortfall and that AIA Florida assisting with the deficit was regarding the issue if the board would have enough money to move forward with the privatization of the rest of the board. He commented that it had nothing to do with the prosecutorial contract.

Mr. Bullock commented that this was not germane to this conversation and what the board is faced with today. He continued by stating that the board has the desire for the contractor to continue to provide services and they need to find a resolution to allow him to continue.

MOTION: Ms. Del Bianco moved that the board continue with the contractor for unlicensed and licensed activity cases and seek avenues to do so for the next fiscal year and the remainder of this fiscal year.

SECOND: Mr. Gustafson seconded the motion.

Mr. Rodriguez commented that the motion reflects the intent but does not solve the problem for the remainder of this fiscal year. Mr. Horstmyer agreed. Mr. Rodriguez commented that the contractor should be paid from the unlicensed activity fund and the department has not done so. He commented that since the department has not done that the board is now over their budget. He commented that Mr. Minacci's firm needed to put together a worst case scenario of what would happen to him and his staff over the next three to four months if nothing changes from today.

Mr. Rodriguez commented that the statute allows the board to do something and the department is informing the board they cannot. He commented that his conversations with the board's

counsel, he has not seen where the department is correct and understands that the board has the authority to utilize the funds. He commented the issue with the appropriations may have been done backwards but there is a general appropriations for the department for unlicensed activity every year. He commented that the department is to utilize those funds for all boards and the department has not given this board a penny of that. He commented he would like to know why and that he understands that the Secretary might feel with the current appropriation that it may effect the other boards but they would like their share because they haven't gotten that. He commented that if there were other requests from other boards that if this board had more than its fair share would it hamper or hinder their efforts. He commented that the Secretary is saying that they would cut into the other boards share and he was saying that this board hasn't gotten their share. Mr. Rodriguez asked what this board's share was of that appropriation, where is it and why it had not been applied to this contract. Ms. Del Bianco commented that her recollection was that it was never conveyed to the board that there was a \$275,000 allocation and a plus fund for the rest with a cap at \$350,000.

Mr. Rodriguez commented that the \$375,000 was given to the board by the department and it was represented as what the department spent on prosecution on licensed and unlicensed activity historically. He commented that with the scenario that are under now they are prosecuting and pursuing much more cases than the department did.

Mr. Harrell commented that this was not the department's interpretation. He commented that the department requested the interpretation first from the Senate Appropriations staff, which was most closely involved with the privatization bill. He continued by stating that statutorily they were required to send to the Governor's office, which they did. He commented that this was an Executive Office of the Governor, Senate and House Appropriation staff interpretation. He commented that the interpretation is that there is a finite amount that the board could spend on the contract and that is a different issue from whether you have access or not to the unlicensed activity funds.

Mr. Rodriguez commented that he was reading from the Congress Report Senate Bill 2A, line item 2138A, which says special categories, transfer architect and interior design activities Chapter 2002-274 from DBPR regulation trust fund in the amount \$375,329. He commented that this was a transfer of that amount and it refers to 2002-274, which states that the board may use their unlicensed activity funds and the department reads that to mean that \$375,329 is inclusive of that amount. Mr. Harrell replied that the House and Senate Appropriations staff and the Governor's office interpreted that provision.

Ms. Whitten commented that of what the board has spent to date, \$343,000, they have spent \$93,000 out of the board's unlicensed activity account and \$250,000 out of their operating account. She commented that the board is confusing appropriation with the account. She commented that they have an operating account and an unlicensed activity account. She commented that they were spending out of both of those cash accounts to pay the contract. She commented that there was an appropriation, which is a line item for this board of \$375,000 and there is another appropriation that's a line item called unlicensed activity of \$680,000. She commented that this board is segregated as far as appropriation to \$375,000 for the board's authority under Chapter 481.

Ms. Clark commented that the board has been receiving conflicting information about where the money was coming from and even if the unlicensed activity money was being spent. She commented that even as late as last week they were informed that the monies were coming from operating funds and at some point the monies had been swapped between the two accounts operating and unlicensed activity. She commented that according to Secretary Carr's letter she states that no unlicensed activity funds would be used. Ms. Whitten responded that Secretary Carr's letter was referring to the other appropriation category, not cash. Ms. Whitten commented that they are using the unlicensed cash. She commented that they have an appropriation, which is spending authority and then you have cash accounts and they are utilizing the board's cash accounts. She commented that they were spending the board's special category appropriated amount from their cash account.

Ms. Clark commented that at various times over the past few weeks the board has been informed that some monies had been utilized from the unlicensed activity fund and then they were told none had. She continued by stating that as recently as yesterday the accounting had changed from all from the operating fund to all from the unlicensed activity fund then back to the operating fund. Ms. Whitten commented that this board was only the second board that had this special category for operating like this. She commented that due to lack of internal communication the accounting department was not familiar with exactly how they should be splitting the invoicing and which cash funds it should have been attached to. She commented that her office has been working with them to help them apply the right cash to the right accounts and invoices.

Ms. Whitten commented that she would be providing updated and corrected financials. She commented that the department must also operate under a release scenario, which allows them to spend one-quarter of what is appropriated, and they cannot over spend. She commented that their contract payments have been in excess of what the department has been released so they have been working with the Comptroller's office and the Governor's office to pay the contract where they had the authority. Ms. Clark asked Ms. Whitten if she agreed that the accounting had gone back and forth. Ms. Whitten concurred.

Ms. Clark asked Ms. Whitten that for 2002-2003 fiscal year how much money was attributed to the unlicensed activity fund. Ms. Clark continued by stating that the board would appreciate that information regarding how the department accounted for the monies for the 2002-2003 and 2003-2004 fiscal year budget and would like their final decision on that accounting. Ms. Whitten replied that she was looking at the June 30, 2003 financials and it does not reflect that the contract payments were credited against that cash. Ms. Clark asked if they were going to correct those financials and was that going to affect the amount that was spent. Ms. Whitten replied that they would not go back and correct the financials. She continued by stating whether the cash was in one account or the other there is statutory authority to move across the accounts between unlicensed and operating accounts. Ms. Whitten commented that because the board was spending at a higher level and issues were unresolved there were no funds taken from the operating account when the cash sweep was figured. She commented that there was an opportunity but wanted to leave the board in a positive operating fund.

Ms. Clark asked if it was possible that the monies had been calculated against the unlicensed activity fund that the prior fiscal year the amount that was available to be swept would have been lower. Ms. Whitten replied that they would have had a higher cash balance on the operating side and potentially they could have swept that account. Ms. Clark commented that she understood that they were predicting a shortage in 2005 and they would have had to leave a certain amount of money. Ms. Clark commented that this was a valid point that the board was entitled to have an answer.

Mr. Harrell commented to Ms. Clark that if she was not clear on the response today that she could submit a letter to the department and they would respond. Ms. Clark replied that the board would like a final fiscal financial statement this fiscal year and the prior fiscal year because they have established that the monies have been attributed from one account to another and they deserve a clear answer. She continued by stating that this information would be instrumental in any further negotiation that the board may choose to make with the Governor's staff and DBPR personnel regarding how much money should have been available for payment of this contract. Mr. Harrell asked Ms. Clark if she understood the difference between the cash account and the appropriation. Ms. Clark replied in the positive.

Ms. Whitten commented that the department has staff working on the expenditure projections for the next three to five years. She commented that they now know they need to be better at that because they know the allocated costs and the board could use that information to determine their future revenue needs.

Mr. Rodriguez commented that he agreed with Ms. Clark regarding the past allocations and financials. He commented that he understood the factor with them being placed in either account and the sweep could have come from either or both accounts. He continued by stating he would like to know the 2002-2003 corrected funds because the unlicensed activity funds are replenished by limited sources, which is the \$5 surcharge and fines from unlicensed activity. He commented that the operating account is replenished by renewal fees. He commented that he would have been more at ease with a sweep from the operating funds and a lesser sweep from the unlicensed activity fund. He commented that he felt it would be easier to replenish the operating account.

Ms. Del Bianco asked Ms. Clark if there was an avenue available to get the rest of the money to pay Mr. Minacci's contract. Ms. Clark replied that they could continue their negotiations with the Governor's staff and DBPR personnel regarding their interpretation of the existing appropriation, seek legislative approval for an emergency appropriation, or live with the department's and Governor's staff interpretation and seek a resolution with their contractor.

Mr. Rodriguez commented that he spoke with Ms. Clark regarding what standing they had as board members to go before members of the House, Senate, or Governor's office and whether that would be conceived as lobbying for the board. He commented that he understood from her that there was no prohibition against them doing that but they would have to register as lobbyists. Ms. Clark commented that they could make the argument that the rule states that each agency is allowed up to three staff and they could argue that the board is its own agency entitled to three lobbyists that would have to be registered.

Mr. Rodriguez commented that they would have to abide by the sunshine law, which prohibits more than one board member in meeting simultaneously even if lobbying. Ms. Clark replied that was correct because they could not discuss board business outside a publicly noticed meeting.

Ms. Chastain reviewed the motion as stated, "the motion made by Ms. Del Bianco, was to move forward with the contract this fiscal year and next fiscal year and seconded by Mr. Gustafson."

Ms. Clark commented that the contract does not run in exact fiscal year increments and the contract ends October 31, 2004. She commented that this was a topic they would need to address when discussing the renewal of the contract. She commented that her understanding of the motion was to continue with it and they should be more specific about the renewal of the contract. She commented that perhaps the intent is to continue with the contract through this fiscal year and up to October 31, 2004.

Ms. Del Bianco agreed and amended the motion. Mr. Gustafson agreed to second that amended motion. The question was called and it passed unanimously.

MOTION: Mr. Rodriguez moved that the board authorize three members to register as lobbyists on its behalf as appropriate under state law and one member be available at meetings for any discussions as the board moves forward until this is resolved.

SECOND: Ms. Membiela seconded the motion.

Mr. Gonzalez asked that they report back to the board. Mr. Rodriguez commented that they should designate the same persons that would take charge of carrying their budget to the legislature for 2004-2005 to avoid this problem in the future. Mr. Gonzalez commented that he agreed that the same three individuals should be charged with that responsibility to continue the flow of communication and information that is consistent.

Mr. Rodriguez commented that they could report back to staff and they could distribute to the rest of the board members. Ms. Clark recommended that they should prepare written reports after meetings they attend and supply to staff for the agenda and it would be available to be circulated prior.

Mr. Harrell asked the board if they were discussing registering themselves as lobbyists or designating board members to monitor legislation. Mr. Rodriguez replied that they were discussing registering as lobbyists to act on the board's behalf. Ms. Clark commented that she had consulted with Ms. Lannon regarding the board members registering as lobbyists and stated that there was no prohibition against board members acting as lobbyists provided they comply with House and Senate rule requirements. She continued by stating that all lobbyists must be registered and that no more than 3 members could register under an agency and that the board is considered an agency.

Mr. Huey joined the conference call. The question was called and it passed unanimously.

Mr. Bullock assigned Mr. Rodriguez, Ms. Del Bianco, and Mr. Gonzalez as lobbyists.

Ms. Clark commented that she understood by the motion that the board was going to continue to seek and negotiate to increase the amount with those that have interpreted the existing appropriation. She commented that they should discuss a plan if that strategy fails.

Mr. Minacci commented that his position was if the department was not going to pay the contract after April 1, 2004 then as long as he and the firm feels the department and board is working towards a resolution to this matter then they would not cease their services. He commented that he would continue to operate as long as they are moving forward. Mr. Rodriguez commented that he should limit the offer to continue to work for no fee until the month of April. He commented that he did not feel that it was reasonable for him to continue without payment. Mr. Bullock commented that was Mr. Minacci's decision.

Ms. Long with AIA Florida asked the board how much they would be asking the legislature for to get the board through the end of the contract. Mr. Minacci replied that his projection was \$150,000 over the \$375,000. The board discussed whether Mr. Minacci should cease work on licensed or unlicensed cases.

Ms. Clark commented that it was prudent to discuss the remote possibility that there will be no additional funding. She commented that they should discuss with the contractor items that could be cut to lower expenses until June 30th.

Ms. Del Bianco commented that they should look at July through October and the appropriation issue to continue to the end of the contract. Mr. Rodriguez commented that the board should be very specific regarding the proviso language and the future appropriation requests.

Mr. Rodriguez commented that the board should presume a worst case scenario and they should cease all new cases and investigations provided there are no time sensitive issues. Ms. Del Bianco commented that session is in and they should try to get additional funding for the upcoming appropriation for the 2004-2005 fiscal year. Mr. Bullock commented that they needed to get the appropriate appropriation.

Ms. Whitten commented that the board was discussing proviso language and that proviso language could not make a law or be contrary to a law. She commented that their problem was in Chapter 481. 205, F.S.

Mr. Horstmyer commented that action was needed and asked Ms. Clark if the board would be in default of the contract if they were not able to obtain additional funds. Ms. Clark replied in the negative. She continued by stating there was a trump paragraph in the contract that states the contract was subject to appropriations. She continued by stating there was not a true meeting of the minds when the contract was signed. She stated that the board was not technically in violation of the contract.

Mr. Harrell commented that if the board members are going to register as lobbyists on behalf of the board and consider the board an agency then they are considered an executive agency. He commented that the Governor's office has strict rules about the number of lobbyists. He

commented that in the event that the board runs into a problem registering as lobbyist the board might want to consider a fall back option. He commented that they might want to have them operate as monitors. He commented that he did not want the board to be held up in their efforts. Mr. Bullock commented that they would rely on their counsel's advice.

Ms. Long with AIA Florida commented that they were committed to assisting the board in any way they could, including herself and Mr. Huey. The board thanked them for their assistance.

Ms. Clark commented that the board was entering into uncharted territory with their plan to register as lobbyists and she has given her best legal advice. She commented that if there was a problem with the board members moving forward with registering as lobbyists then having the lobbyist with AIA Florida assisting the board in that effort would be appreciated. She commented that the board members could act as monitors and report to the board.

Mr. Maxwell with AIA Florida commented that the unlicensed activity should not go unmonitored because it effects the health, safety, and welfare of the public. Ms. Clark commented that the board should set a telephone conference call for April before the face to face meeting.

Mr. Rodriguez commented that he would like to have a limited agenda to focus on this issue only. Mr. Huey left the meeting at 11:30 a.m.

The board set a telephone conference call for April 13, 2004 at 9:00 a.m.

Discussion

Broward County Board of Rules and Appeals

Ms. Grigsby commented that Michael Schiff submitted this information to her. Mr. Rodriguez commented that they might need to look at the April 27, 2004 board meeting. He commented that the county has determined that an architect cannot perform certain work that they were previously allowed to perform. He commented that the issue was whether a county agency could remove the authority for a licensed professional the ability to practice their profession.

Mr. Rodriguez commented that they had discussed whether the county has the authority to create and enforce a more stringent code then what the statute allows. Ms. Clark commented that this is a separate rule or local ordinance that may have been passed that is more restrictive to architects. She commented that the board could determine how this rule or ordinance is contrary to the architects and interior designer statute. She commented that they could communicate that determination to the local jurisdiction by letter. She commented that the board has no standing and an individual that is directly affected by the rule or ordinance would need to challenge the jurisdiction by way of civil law suit.

Rule Waiver/Variance

Ashley Haynes

Ms. Haynes was present. Ms. Clark commented that the board has the authority to grant waivers or variances in rules. She commented that Ms. Haynes has submitted her request properly. She commented that the board must make the determination if she has provided proof of experience

under a licensed interior designer and if they were willing to waive this requirement based on evidence submitted.

Ms. Del Bianco commented that she did not recall if they have had this situation before but the board has denied similar requests for lack of experience under the supervision of a licensed architect or interior designer. She asked Ms. Clark how this would affect any past rulings and if this would open the board to controversy. Ms. Clark replied that regarding denied applications if they did not challenge the board's determination then it would be difficult to argue that there was a variance in circumstances. She commented that this petitioner clearly explains her circumstances.

Mr. Horstmyer asked if it was the petitioner's responsibility to know her supervisor's licensure status. Ms. Clark replied that the petitioner explained what she did to know her supervisor's licensure status. Ms. Haynes commented that her supervisor owns a business and the business license was renewed and current. She commented that unfortunately, her supervisor did not keep her personal license renewed and up to date.

Mr. Rodriguez asked Ms. Haynes if her supervisor was licensed in another state. Ms. Haynes replied that she did not know.

MOTION: Mr. Horstmyer moved to accept the petitioner's request for rule waiver/variance of Rule 61G1-22.001 and .002.

SECOND: Mr. Gustafson seconded the motion.

Mr. Rodriguez commented that this applicant did everything she could to verify that she was receiving direction under a licensed establishment and individual. He commented that this should not have a negative effect on the petitioner. He commented that this situation is different from others they have reviewed and denied in the past.

The question was called and the motion passed unanimously.

Application Review

Interior Design Endorsement

Pamela Manhas

Ms. Manhas was present. Ms. Grigsby presented the file and commented that Mr. Butler reviewed the education and denied the application based on an equivalency review. She commented that Mr. Bulter recommended denial. Ms. Manhas commented that she had a 4-year Bachelor Degree in Design. She commented that the architecture and interior design degrees were located in the department of design at the University of Florida. She commented that courses with architecture and interior design overlap.

Ms. Del Bianco asked Ms. Manhas if she had checked to see what additional courses would be required to receive the interior design degree. Ms. Manhas replied in the negative because she qualified to take the NCIDQ examination. Mr. Schreiber asked Ms. Manhas if she was in the

Master of Architecture program with the University but did not finish. Ms. Manhas replied in the positive.

Ms. Clark commented that the board was reviewing this application based on Chapter 481.209(1)(2), F.S.. She commented that the board needed to provide a determination if her education has had an equivalency evaluation under the rule set forth and whether it meets the examination and licensure requirements. Ms. Del Bianco commented that NCIDQ has different standards than Florida.

Ms. Del Bianco commented that Mr. Butler has performed an equivalency of her education and determined it did not meet the board's criteria set forth in their rule. Ms. Clark commented that the board needed to instruct her what rule they were evaluating her education under.

Ms. Clark commented that Mr. Butler needed to inform the board what rule he evaluated her curriculum under and why she does not meet the criteria.

Mr. Schreiber commented that he felt the board needed to have a systematic review similar to the ECE evaluation. He commented that they should see a course by course evaluation. Ms. Grigsby commented that Mr. Butler does a course by course curriculum evaluation.

Mr. Rodriguez suggested that the applicant request a continuance to allow for Mr. Butler to provide clarification of his evaluation. Ms. Del Bianco commented that Mr. Butler was familiar with the University of Florida's interior design program.

MOTION: Ms. Del Bianco moved to deny the application.

SECOND: Mr. Horstmyer seconded the motion.

Ms. Clark commented that she does not have sufficient information regarding the statute or rule the board is denying this application under. Ms. Del Bianco commented that the board should instruct Mr. Butler to clarify which statute or rule he is denying applications under. Mr. Bullock commented that Ms. Clark needed to discuss with Mr. Butler the basis for denial criteria she requires. Ms. Clark advised Ms. Manhas of the 90-day requirement for review of applications.

Mr. Schreiber commented that he would like to see Ms. Manhas do a comprehensive review of her education and how she meets the requirements. Ms. Clark referred her to Chapter 481.209, F.S. After discussion it was determined that her curriculum should be re-reviewed by Mr. Butler.

Interior Design Certificate of Authorization Julian Mathis Interior Design, Inc.

Mr. Mathis was present. Ms. Grigsby presented the application and commented that it was referred to the board because the corporation was formed in 2000. Mr. Mathis commented that he opened the business in 1998 with the assistance of an accountant and then she advised that he should incorporate. He commented that he was not informed that he needed to apply for a certificate of authorization. He commented that Les Smith made him aware of the requirement.

MOTION: Ms. Del Bianco moved to approve the certificate of authorization with a \$2,000 fine.

SECOND: Mr. Rodriguez seconded the motion and it passed unanimously.

Mr. Mathis asked the board how he was supposed to know that he needed to have a certificate of authorization. Ms. Del Bianco commented that as a licensed professional he is required to know the laws and rules.

Office Interiors International, Inc.

Ms. Jill Daily was present. Ms. Grigsby presented the file and commented that it was the same situation as the previous file. Ms. Daily commented it was not the same situation and that this was an office furniture business. She commented that she wanted to expand their services because she is a licensed interior designer. She commented that she was not performing interior design through the firm. Ms. Daily commented that she offered floor plans and the manufacturer provides the space planning services.

Ms. Del Bianco commented that the board needed to tighten the definition of space planning. Ms. Daily commented that they have not offered interior design service through the business.

MOTION: Ms. Grigsby moved to approve with no fine.

SECOND: Mr. Gustafson seconded the motion.

The motion passed with Ms. Del Bianco opposing.

Architecture Endorsement

George Hasser

This application was tabled until the April meeting pending additional information.

Ronald La Porte

Mr. La Porte was present. Mr. La Porte commented that he attended Syracuse University, School of Architecture from 1977 through 1992. He commented that he completed all requirements with the exception of receiving an incomplete on his final thesis. He commented that after 5 years of experience he qualified to take the ARE, which he passed. He commented that he is licensed in many states and reviewed his employment history. He commented that he has obtained an NCARB certificate and to receive that certificate he was required to have an EESA evaluation of his education because he was missing his final thesis. He commented that they considered his additional design course work during 5 years of experience. He commented that he received his NCARB certificate in 1991 and was licensed in Florida in 1998.

Mr. La Porte commented that in 1999 he became employed with the educational system and inadvertently allowed his license to lapse. He commented that he was not aware of any educational requirements that had changed since he was originally licensed in 1998. He commented that his education has not changed.

Mr. Bullock asked how this affects the board's mandatory requirement for a NAAB degree. Ms. Clark commented that she disagrees that there is an absolute requirement for a NAAB degree. She referred the board to Chapter 481.209(1)(b), F.S. She commented that there were two ways to be eligible, first to have a NAAB degree and second to be a graduate of an approved school and the board must conduct a review of the curriculum pursuant to their rules. Ms. Clark commented that she understood that Mr. Coons performed that review.

Mr. Rodriguez commented that the reference of the 5 educational credits is what the board has considered as an approved architecture curriculum. He commented that he believes he qualifies under Chapter 481.209(1)(b)(2). Ms. Clark commented that Mr. Coons and Mr. Manausa reviewed and approved this application and met the requirements.

Mr. Schreiber commented that he understood since he began on the board that the education was required to be a NAAB degree if they attended a U.S. school and the EESA evaluation applied to applicants that did not attend U.S. schools. Ms. Clark commented that was not what the statute reflects.

Mr. Rodriguez commented that Mr. Schreiber was correct that the EESA evaluation was used for foreign degree applicants. He continued by stating that the rule allowed for an EESA evaluation and Mr. Coons relied on the evaluation when he would perform a curriculum evaluation.

Mr. Rodriguez commented that if there were an equivalency found in 1998 then it would be valid today. Mr. Schreiber commented that the NCARB evaluation criteria might have changed. Mr. Rodriguez commented that the question would be if the law changed from 1998 until today in a way that would not allow the board to consider the 5 educational credits as equivalent to a NAAB degree. Ms. Clark commented that the board could rule on the old evaluation or conduct an evaluation.

Mr. Schreiber commented he would not feel comfortable taking action on this application without having a current EESA evaluation of his education.

MOTION: Mr. Schreiber moved to continue the application until a current EESA evaluation is completed.

No second, motion failed.

Ms. Del Bianco left the conference call at 12:35 p.m. Mr. Schreiber commented that the board should not be in the business of performing course by course evaluations. Mr. Rodriguez referred the board to Rule 61G1-13.003(3), F.A.C. establishes a pattern for a degree program to be evaluated. He commented that this was the criteria for education to be evaluated.

Ms. Chastain commented that the board does not currently have an architectural education consultant.

MOTION: Mr. Horstmyer moved to approve the 1998 evaluation for consideration today.

SECOND: Mr. Gustafson seconded the motion.

The motion passed with Mr. Schreiber and Mr. Bullock opposing.

MOTION: Mr. Rodriguez moved to approve the architecture endorsement application based on Chapter 481.209(1)(b)(2).

SECOND: Mr. Gustafson seconded the motion.

The motion passed with Mr. Schreiber opposing.

Jilla Montenegro

This application was tabled until the April meeting pending additional information .

Architecture Business Name Change VLC Venture LLC to Beck Development LLC

The applicant withdrew this application prior to the telephone conference call.

Ratification List – (faxed/e-mailed)

Interior Design by Endorsement

Items 1-12

MOTION: Mr. Rodriguez moved to approve items 1-12.

SECOND: Ms. Grigsby seconded the motion and it passed unanimously.

Interior Design by Examination

Items 13-14

MOTION: Ms. Grigsby moved to approve item 13-14.

SECOND: Mr. Rodriguez seconded the motion and it passed unanimously.

Interior Design Certificate of Authorization

Items 15-18

MOTION: Ms. Grigsby moved to approve items 15-18.

SECOND: Ms. Shore seconded the motion and it passed unanimously.

Architecture Applicants by Examination

Items 19-23

MOTION: Mr. Rodriguez moved to approve items 19-23.

SECOND: Mr. Gustafson seconded the motion and it passed unanimously.

Architecture by Endorsement

Items 24-79

MOTION: Mr. Rodriguez moved to approve items 24-79.

SECOND: Ms. Grigsby seconded the motion and it passed unanimously.

Architecture Certificate of Authorization

Items 80-102

MOTION: Mr. Rodriguez moved to approve items 80-83 and 85-102, pulling 84.

SECOND: Ms. Grigsby seconded the motion and it passed unanimously.

Architecture Business/Individual applying for dual licensure

Items 103-105

MOTION: Mr. Rodriguez moved to approve items 103-105.

SECOND: Ms. Grigsby seconded the motion and it passed unanimously.

Architecture Business Name Change

Items 106-107

MOTION: Mr. Rodriguez moved to approve 106-107.

SECOND: Ms. Grigsby seconded the motion and it passed unanimously.

Letter to Florida Building Commission

Ms. Chastain commented that Ms. Del Bianco drafted the letter and asked that it be presented to the board for review. Mr. Rodriguez commented that the letter was good.

MOTION: Mr. Schreiber moved to approve the letter.

SECOND: Mr. Rodriguez seconded the motion and it passed unanimously.

NCARB - Region 3 election of officers

Vance Travis

Jeffrey Huberman

Jane Frederick

NCARB – resolutions

Mr. Bullock commented that he would like the board to defer to the delegates. Mr. Schreiber commented he would be pleased if the board supported Jeff Huberman for Regional Director and Jane Frederick Regional Chair. He commented that Mr. Huberman had a compelling platform and

they are important for Region 3 and he has admitted his past mistakes. He commented that Ms. Frederick's political position was helpful.

The board deferred to the delegates regarding the resolutions. Mr. Rodriguez commented that Resolution 04A deals with prototype building documents and it limits to NCARB certified architects. Mr. Bullock commented that should be the jurisdiction making that determination if they must have an NCARB certificate in addition to the Florida license.

Mr. Rodriguez commented that Resolution 04B is regarding the rolling window and he felt the board would support the 5-year rolling window they have presented.

Statute rewrite/clarification comments update

No update.

For the Board's Information

Stephen Schreiber, FAIA elevated to College of Fellows

The board congratulated Mr. Schreiber on his elevation.

Exert from the February 2004 board meeting minutes regarding unlicensed activity funds and payment for the prosecutorial contract

Smith, Thompson, Shaw & Manausa, PA year end financial statement

Letter from Department of Transportation regarding Electronic Signing and Sealing of Architectural Plans

E-mail from Karen Owen

NCARB New Clips

No comments.

New Business

Mr. Rodriguez requested that the April meeting consist of a budget workshop. He commented that they should consider slimming or eliminating the rules workshop in favor of a budget workshop. He commented they should look at board operations and not just prosecutorial. This would be looking at the fiscal year 2005-2006.

Mr. Rodriguez commented that maybe they could manage rules that they have in the works and not entertain any new rules.

Old Business

The board changed the October board meeting to October 4-5, 2004 and Probable Cause on October 6, 2004 to be held in Key West, Florida.

Adjourn

MOTION: Mr. Horstmyer moved to adjourn.

SECOND: Mr. Schreiber seconded the motion and it passed unanimously.

The meeting adjourned at 1:05 p.m.