

## **JOINT PRACTICES COMMITTEE**

### **Minutes of JPC Meeting**

**August 14, 2015**

**Santa Fe, New Mexico**

#### **Members Present:**

Raymond Vigil, Chair, Architect Member  
Martin Romero, Treasurer, General Construction Bureau Chief, Construction Industries Division,  
Regulation and Licensing Department, Public Member  
George Radnovich, Landscape Architect Member  
Karl Gil Berry, Landscape Architect Member  
David Cooper, Professional Surveyor Member

#### **Board Members Available by Teleconference**

Ronald Bohannon, Vice-Chair, Professional Engineer Member

#### **Staff Present:**

Wren Propp, Director/CFO, New Mexico Board of Examiners for Architects  
Michele Barela, Compliance and Records Clerk/Receptionist, New Mexico Board of Examiners for  
Architects  
Perry Valdez, Acting Executive Director, New Mexico Board of Licensure of Professional Engineers  
and Professional Surveyors

#### **Absent:**

Tara Rothwell-Clark, Professional Architect Member

### **I. Convene, Roll Call Introduction of New Members and Guests**

Mr. Vigil called the meeting to order at the approximate hour of 1:37 p.m. Roll was taken and a quorum was determined to be present.

JPC FINAL August 14, 2015

## II. Approval of Agenda

Mr. Vigil asked for a motion to approve the agenda.

**Motion:** Motion to approve the agenda.

**By:** David Cooper

**Second:** George Radnovich

**Board Vote:** Passed unanimously

## III. Approval of Minutes from May 29, 2015

Mr. Vigil asked for a motion to approve the May 29, 2015 Joint Practices Committee minutes.

**Motion:** Motion to approve the May 29, 2015 Joint Practices Committee minutes as presented.

**By:** Karl Berry

**Second:** George Radnovich

**Board Vote:** Passed unanimously

## IV. Chair Report

Mr. Vigil noted that the committee will cover various items that need to be addressed this year. The committee has a new Public Member, Martin Romero, General Construction Bureau Chief of the Construction Industries Division (CID) from the Regulation and Licensing Department.

Mr. Romero introduced himself. He has been involved in construction for many years, where he started off as a GB 98 contractor and then to (CID). He is now currently serving as acting director of (CID). He is looking forward to working with the committee and offering his expertise.

Mr. Vigil added that there is an opportunity to network and for Mr. Romero to offer his standpoint on various issues that affect all entities. The committee will focus on why they exist and their purpose. These topics will be discussed further and Mr. Vigil will focus on these areas and hopefully the committee will gain an understanding on how each agency impacts one another. He encouraged the committee to send him agenda items.

Mr. Berry added that he enjoyed Senator Mary Kay Papen, D-Las Cruces, attending the committee meeting in May. She seemed to be engaged and interested in what the committee is doing. Ms. Propp will draft a letter of thanks to Senator Mary Kay Papen.

**V. Committee Reports**

**A. Proposed Changes to the Rules and Regulations**

Ms. Propp reviewed the documents provided in the booklet. The first document is the final version. The second document is the edited version of the 1994 Rules and Regulations of the committee. The sub-committee (Ray Vigil, Ronald Bohannon and Karl Gil Berry) made revisions to the document. They received concurrence from attorneys at various boards and the conclusion is that these are standing rules and they are outside of Rules and Regulations requirements on amendments. The Standing Rules are functional and procedural rules. She reviewed the changes to the draft document.

In consultation from Joe Dworak, Assistant Attorney General, Ms. Propp stated that the committee does not need to pass an Open Meeting Act Resolution because the committee is made up of representatives from other boards that do pass Open Meetings resolutions. Although, she was unclear about why the committee needs a quorum to meet, she will follow up on that.

Mr. Berry had a concern about Item IV. D-Travel Expenses: The language is fine but in actuality, it does not work. The Public Member has never been paid per diem. And in item II.: A #1-4 Membership, it says: "two members from the board, one of which should be a member of the board." Does the committee follow this?

Mr. Vigil concluded that the language may be explained by what the committee has done as opposed to how it was written. He felt it was good to bring members from outside but do they understand what each board is dealing with on a day-by-day basis. The original purpose of the committee was for dispute resolution. The committee needs to address the funding of travel.

Ms. Propp will check the per diem parameters. The Architects Board does pay board members for committee work. Because the public member is a state employee, he may not be entitled to per diem.

Mr. Vigil suggested a modification to change the language for flexibility. He proposed to say something like "travel expenses to be paid as allowed by each individual Board" and the same for reimbursement.

Ms. Propp stated that in the Architectural Act, the statute does not say that the representatives are both coming from the Board. It states that the Board will be part of the joint standing committee but it does not state the composition of the committee. A copy of

JPC FINAL August 14, 2015

the resolution is attached and each Board should adopt a new resolution if the standing rules change.

Mr. Vigil mentioned that is up to each individual board, as to whom they want to represent but the travel reimbursement will be on that individual board. Ms. Propp will create the language for flexibility.

Mr. Bohannon motioned to adopt the revised Standing Rules as presented by staff.

Mr. Berry moved to amend IV. Meetings D. in order to reflect the travel expenses of the Public Member as allowed under the Per Diem Act. This would be provided by each individual board and the ability to reimburse the Public Member, if allowed.

Mr. Cooper requested a few changes to the Standing Rules. They are: 1. to change "Board of Registration" to "Board of Licensure" and to update is language throughout the document; 2. For II Membership, to include "Professional Surveyors" and to add, "and one from the Professional Surveyor committee of the Board"; 3. and for III. Organization change, "Treasurer" to "Secretary".

Mr. Berry added that the secretary of the Joint Practices Committee would be the chief administrator of the Board that has the primary responsibility for that year.

Mr. Vigil stated that the acting secretary is by default, the director of each individual Board. In Part V. Duties of the Officers C., Mr. Vigil suggested to add, "Chief Administrator" where it references "Secretary" or to leave it as is. He mentioned that there is no secretary to vote on.

Mr. Berry suggested the following language: "the Secretary shall be the administrator for the committee Board and have primary responsibility for staff services". Meaning: Take out the last five words.

Mr. Vigil recapped the amendments: to update the standing rules of the Joint Practices Committee to include the inclusion of surveyor; 2. To add the ability for each board to handle reimbursement for travel, if available; 3. Change edits in regard to language for the Architect, Engineer, Surveyor, Landscape Architect; 4. To add: Professional Surveyors and Professional Surveyor to Membership make up.

Mr. Vigil motioned to accept the proposed updates, with the modified amendments discussed above.

JPC FINAL August 14, 2015

**Motion:** to accept the proposed updates, with the modified amendments discussed above.

**By:** Karl "Gil" Berry

**Second:** Martin Romero

**Board Vote:** Passed Unanimously

Ms. Propp will have these changes available to show that the amendments were adopted as of August 14, 2015 and she will have everyone sign it.

#### **B. Handbook for New Mexico Building Officials update**

Mr. Romero had some changes that include: 2. Single Seal Requirements, where the current \$400,000 should be raised to \$600,000, in order to be in line with today's construction economics. It is important to make this change and some agencies raised the amount to \$600,000, like the Professional Engineers/Professional Surveyor Board. Mr. Romero added that the Handbook has not been updated since 2007.

Mr. Vigil recommended taking the Handbook back to their individual boards and request changes to the rules, for consistency. The Architects' Board will take these changes to the Rules and Regulations Committee for rule changes.

Mr. Berry stated that the Landscape Architects have never had a limit on incidental practice. The Landscape Architects' Board has re-written all the rules and regulations and is in the final phases. He added that all the government money is going to small communities for street improvements. They send the work to the Department of Transportation and the Department of Transportation says they cannot utilize a landscape architect; it has to go to an engineer. With this larger amount, a landscape architectural firm can be a lead on a project.

Mr. Vigil stated that there is a lot of discussion on this issue between the different Boards. What if the project includes additional stamping? Maybe it should be tied to scope of work or type of work. He has had complaints regarding architects that stamp civil jobs, or engineers stamping roofing projects. This is a critical piece.

Mr. Romero added that this happens all the time. His agency makes sure that there is a valid stamp. For example, if the project included a pump house, for \$600,000 and below, it will get stamped by an architect if there is a pump house with a building on site. The Construction Industries Division does make the effort to look at the scope of work and the stamp.

Ms. Propp stated that in the Architectural Act and in the Engineering Act these monetary and occupancy limits are specific to the incidental practice of the profession. This only

JPC FINAL August 14, 2015

goes for Engineer and Architectural relations. Incidental practice of landscape architecture does not exist in the Architectural Act or the Engineering Act. Now is the time to create these practices. Knowing that the engineers have raised their monetary amount to allow incidental practice of architecture under \$600,000, and the Architectural Act states \$400,000, is the \$600,000 value for both?

Mr. Berry said it has always been a purview of the committee, no matter the amount. It has always been a discussion with the Joint Practices Committee because whenever the engineers raise monetary amounts, it affects everyone in the design field. Consistency is a big deal. It is becoming a big issue for the Landscape Architects and it is affecting their constituents by not being able to compete.

Mr. Vigil stated that the stamping requirement is an issue. As long as a project is stamped by any engineer, it is ok but that may be incorrect. There is a lot of cross working. The engineers do not seem to be impacted by this. But the landscape architects need to get involved in order to compete. The landscape architects need to find out how to align with the engineers and architects. Agencies can only rely on the good judgment and ethics of the professionals that are licensed.

Mr. Romero added that on a commercial project, it is common that it is stamped by a professional engineer or professional architect, depending on size and type of building. It is the permitting authority's discretion digression to request additional stamping. Mr. Romero will provide a copy of the procedures.

Mr. Romero continued with the changes to the Handbook. They are: 1. For III. Role of the Architect, A add: "accessibility" after parking; and D. #1. Add: "accessibility" after parking (again) here. There are a lot of accessibility requirements to consider. 2. Under C. Requirements for Professional Seals, change: \$400,000 to \$600,000 throughout the document; 3. For #13. add: "Modular non-assembled component panels", before roof truss systems because that is in the modular standard; 4. For Appendix A, Sample of Certification for Exempted Buildings ,: strike uniform building code and add, "current International Building codes"; 5. For #5. Add: "Keeping in mind the building official or the plan review official is authorized to require submittal documents to be prepared and sealed by an architect, registered in accordance with the New Mexico Architectural Act, and the rules promulgated pursuant thereto, or by a professional structural engineer, registered in accordance with the New Mexico Engineering and Surveying Practice Act and the rules promulgated pursuant thereto. An architect or engineer stamp is required for all uses listed in table 1004.1.1 in the IBC".

Mr. Bohannan left the meeting via teleconference. (2:51p.m.).

JPC FINAL August 14, 2015

Mr. Vigil stated to keep in mind that Mr. Romero is referencing the national building codes but under Alterations he may want to add: "International Existing Building Codes".

Mr. Romero continued with changes to the Handbook and under Appendix B Minimum Standards for Code Submissions Landscape Plan, he suggested to strike through the whole sentence and add: "Not required for a building permit" because they do not require a land permit.

Mr. Vigil suggested clarifying the language because some cities do require permits.

Mr. Romero added that under Irrigation Plan, he will look at the permit requirements. Under Foundation Plan, delete: "Provide a geotechnical report or information" and replace it with, "Where quantifiable data created by accepted soil science methodologies indicate expansive, compressible, shifting, or other questionable soil characteristics are likely to be present at a particular location, a soil test to determine the soil's characteristics at a particular location shall be performed." He changed it to be consistent with CID rule and language.

Mr. Vigil suggested adding "shall be performed", if it is required. It will add to the costs of the project but in most cases, you leave it up to the design professional to determine if they need data report and as to why the type of tests will be done.

Mr. Romero continued and under Mechanical Systems he suggested deleting, "Submit energy conservation calculations per state of New Mexico" and add: "Must meet all the requirements of the current New Mexico Energy Conservation Code and New Mexico Mechanical Code." He included the New Mexico Mechanical Code which referenced both the plumbing and mechanical. For the Electrical System, the language was changed in order to meet the Electrical Code standards.

Mr. Vigil said the Handbook is geared to the builders, even though the Construction Industries Division does not require a permit, they cannot do anything without the information because it affects the engineers, like wastewater treatment centers. Should this be referenced as a part of code or just for construction Industries? Mr. Vigil agreed with all the edits but said he realized how these changes could affect other entities.

Mr. Radnovich asked if Construction Industries Division looks at large landscape architectural projects.

Mr. Romero, said no. This administration is trying to get away from "if the agency does not permit, then the agency will not inspect". It gives the consumer a sense of protection that is

JPC FINAL August 14, 2015

not there. Construction Industries Division issues the license but not the permit, so how can agencies regulate the license. It is a catch twenty two.

Mr. Vigil commented that once the handbook is completed, it should be available electronically and in print.

Mr. Valdez stated that his agency could print a small amount of the handbooks if needed. Their agency is creating a new website and Mr. Valdez has created a space for the Joint Practices Committee information.

Ms. Propp suggested that the Joint Practices Committee is the author of the Handbook and should go on all the agency websites. The original is the committee's responsibility.

Mr. Vigil suggested adopting an update to this because several items still need to be considered. Based on today's meeting, Mr. Romero now has a few additional changes. For the next meeting, the committee should be able to adopt those changes.

To recap, Mr. Vigil stated that the committee needed to tie down the amount- \$600,000. And he advised the other boards to take this issue to their prospective boards and that if individual boards have issues or comments, to bring them to the next committee meeting.

Ms. Propp suggested that each board read through their own section and to be more familiar with the Handbook, including the seal requirements.

## **VI. Board Reports**

### **A. Board of Examiners for Architects**

Mr. Vigil reported that the Architects Board was not successful in pursuing proposed changes to the Architectural Act, in the prior legislative session. Some issues dealt with the licensure for the Broadly Experienced Architects. Yet the Architect's Board was successful in pushing the qualifications based selection for the State Use Act/Horizons. In writing, there is now a moratorium on professional services.

Ms. Propp stated there is a meeting to look at professional services on Tuesday, August 18, 2015 in Albuquerque. On Wednesday, August 19, there will be a full Council for Purchasing for People with Disabilities in Santa Fe at 1:30. The council will consider recommendations developed by the committee for professional services. She encouraged the committee members to attend the August 19 meeting. AIA will attend.



**B. Board of Landscape Architects**

Mr. Radnovich stated that at the last Board meeting, they had elections and he is now Chair. The Rules and Regulations Committee looked at five different sections of its rules: NCEES, including inactive status, CEU's, reinstatement and a few other issues. These suggestions will be taken to the larger Board in October. In addition, the Landscape Architects' Board has a lawyer now.

**C. Board of Licensure for Professional Engineers and professional Surveyors**

Mr. Cooper stated that they have started meetings for the legislative council process. Next week, he will attend the NCEES Annual meeting in Virginia. At the NCEES Annual meeting there is a motion to fund \$125,000 annually to promote the surveying program.

Mr. Valdez added that was one of the big issues for the Professional Surveyors. At the annual meeting is where NCEES updates their national rules and models and they're requesting to have a separate license for structural engineers. Boards that have general Professional Engineer licenses should consider having a separate license. State boards have to adopt that. In addition, Mr. Valdez added that they are working on the Strategic Plan. At the end of each fiscal year, he will present the plan to the Board for review. There were a few changes to the language and they looked at the performance based measures.

Mr. Cooper added that there is a disciplinary committee to review the fines they impose and to look for consistencies with the type of fines. Texas has a table they use in order to impose fines. The Professional Engineers/Professional Surveyors Board will be looking at this table.

Mr. Valdez stated that they do follow the Uniform Licensing Act. Fines are set at a maximum of \$7,500. The table could offer suggested penalties and fines. The Professional Engineers/Professional Surveyors Board amended the statute to state fines above the Uniform Licensing Act. In addition, the Engineer's Board used to advertise the history of their disciplinary actions on their website and they no longer do that. He is investigating how other Boards handle this issue. Boards struggle with this issue.

**VII. New Business**

**A. Maintaining a Record of JPC Policies/Determinations**

For this year, Mr. Vigil would like build a record for subjects that are discussed and to memorialize issues that are brought forward. He continued by stating that issues are being discussed and are not taken forward. For example, roof consultants and the State Use Act.

He would like to document correspondence related to it and track determinations on the issue. This includes, documenting information and taking action on items. As of now, there are no records or documentation to rely on. If there is some documentation to memorialize the activities of this committee, it will be helpful to future committee members. He suggested creating a system/database in order to hold all this information. Mr. Vigil added that it does not seem to be efficient to look at old meeting minutes. The Joint Practices Committee meeting minutes are not accessible electronically and they should be. A memorialization may end up with a result or it may end up as correspondence which may be helpful for future committees. He would like the committee's support and to work as a team to maintain records and document them. Ms. Propp will take the lead on this project.

## **VIII. Old Business/Concluded Business**

### **A. RFP Selection Committee Appointees**

Mr. Vigil asked if everyone has formalized their board's lists. The Professional Engineers/Professional Surveyors Board and the Landscape Architect Board do not have the list available yet. He asked the members to give their list to Ms. Propp.

Mr. Vigil commented that the Legislature just passed capital outlays and a lot of the homeroom Home Rule municipalities use that same process but he was unsure if they reference the State Procurement Code for the solicitation. The Code references the Joint Practices Committee and how they select professional services. That has been pulled out as an exemption. When they do RFPs to hire an architect or engineers, they are supposed to contact the Joint Practices Committee and receive recommendations. By having the recommendations available, then due diligence is there.

Ms. Propp recommended writing a letter to Facilities Management Division to let them know that the Joint Practices Committee has a standing list and please use the JPC as a resource for the Procurement Code. She will draft the letter.

### **B. Design/Build Definitions**

In prior meetings, Mr. Vigil discussed the revision to some of the exemptions and it is a sensitive subject for home builders. It is a big part of outreach and promotions as a committee. Agencies are coming into a different area of Procurement, in terms of construction services and state legislation for private/public partnerships. This means that there are other individuals that can hire those people to do those projects the way they want to do them, they may not have to be in-state and he is not sure if all that has been worked out. This will impact each profession. In design/build, it is now where a professional may be influenced or under the direction of the developer/builder. In those

scenarios, there are certain protections that need to be put out there. Some professions are being called to make decisions and these decisions could affect codes or safety issues, the influence they face with that is enormous. Networking and having public relation discussions will assist to create dialog on these subjects, combining an option to tie it to the Technological Advisory Group (TAG). Are the professions represented in that group and are they tied to each board? If your agencies are responsible for regulating those, it is imperative that the link needs to be connected. It is important to look at the makeup of the (TAG) and make sure all boards are represented or informed. This is being brought up because it impacts all of us in the legislature and it will be picked up again and the committee should be prepared with the public safety and welfare issue.

The Architects' Board wanted to add a design/build part in the Act that responds to the design/build business organization. The Architects' Board did not get support for this, as there is not a strong desire on the part of the government to regulate it. Networking will open up the discussion to determine the issues. Decisions are being made on a daily basis. From the public perception, it is a better deal in that there are no change orders. It is a public awareness issue.

Ms. Propp stated that there are two definitions of design/build and one is in the Architectural Act under Minimum Standards, where an architect is also a contractor. There is a minimal design/build definition in the Procurement Code referring to large highway projects. She pointed out that the standing rules suggest a joint meeting of all boards together.

Ms. Propp added that the history was with the home builders, in that they adopted the phrase "design/build" which is an exemption under the Architectural Act. Developers do not want to discuss the definition. Also, NCARB had created a model law that addresses design/build and the Architects Board looked at that in drafting amendments that did not make it to Governor's office.

Mr. Berry added that, in the past he had been in discussions that dealt with this issue. It was a discussion about team make up in design/build and the professional responsibility within a team. It may be a basis for something the committee can put together as well.

Mr. Vigil suggested looking at each of the board's Rules and Regulations and bringing it up for discussion. If all boards have it in their act, it could become a strong rule. It will stay on the agenda.

**C. BIM-Building Information Modeling**

Mr. Vigil stated that this issue has been discussed before. The profession has not caught up yet and there are many things to be determined in terms of who owns the model, in terms of responsibility. For architects, the bigger contractors are asking for BIM models and they are being used to do cost estimating. There are levels of liability. How does this affect health, safety and welfare? The model is created electronically then it is converted into plan sheets. It can be as detailed as possible. Mr. Vigil requested to take the item off the list until an issue comes up.

**VIII. Communications**

**A. Request for Letter to Department of Transportation Regarding Landscape Architect Requirements**

Ms. Propp stated that she is waiting for new rules to come out in order to tell the Department of Transportation the new rules regarding the use of a Landscape Architect. After the rules are approved, her and Mr. Berry will meet and then update the Joint Practice Committee.

**X. Set date and location of next meeting**

Mr. Vigil announced the next committee meeting will be in Las Cruces on November 13, 2015 at 1:30. Mr. Vigil motioned to change the meeting location to Socorro, New Mexico.

**Motion:** to change the next meeting location to Socorro, New Mexico  
**By:** Karl Berry  
**Second:** David Cooper  
**Board Vote:** Passed Unanimously

**VII. Adjourn**

**Motion:** to adjourn the meeting at 4:20 p.m.  
**By:** Karl Berry  
**Second:** George Radnovich  
**Board Vote:** Passed Unanimously

JPC FINAL August 14, 2015

Whereupon the regular open meeting of the Joint Practices Committee adjourned by Mr. Vigil at the approximate hour of 4:20 p.m.

Respectively submitted,

\_\_\_\_\_  
Mr. Raymond Vigil, JPC Chair

\_\_\_\_\_  
Date

