

STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT
BOARD OF REGISTRATION FOR ARCHITECTS,
ENGINEERS AND LAND
SURVEYORS

MINUTES OF THE MEETING
November 15-16th, 2021

By authority of AS 08.01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Board of Registration for Architects, Engineers and Land Surveyors was held in person and virtually on November 15th and 16th, 2021.

1. Call to Order/Roll Call

The meeting was called to order at 9:50 a.m. (Late start due to technical difficulties)

Board members present, constituting a quorum:

Jennifer Anderson, PE Civil Engineer, Environmental Engineer (Secretary)
Bob Bell, Land Surveyor
Catherine Fritz, Architect (Vice Chair)
Jeffrey Garness, PE Civil Engineer, Environmental Engineer
Elizabeth Johnston, PE, Electrical Engineer, Fire Protection Engineer (Chair)
Loren Leman, PE, Civil Engineer
Ed Leonetti, PLA, Landscape Architect
Jake Maxwell, PLS, Land Surveyor
Randall Rozier, Architect
Fred Wallis, PE, Mining Engineer

Attending from the Division of Corporations, Business, and Professional Licensing were:

Sara Neal, Executive Administrator
Sara Chambers, Director
Erika Prieksat, Investigator
Patrick Kase, Investigator

Attending from the public: Chris Miller, Colin Maynard, Zachary Druga-CLARB,

Neal read the state Zoom policy: Please note that this meeting is being recorded. The audience may not participate in the meeting with the exception of public comment. If the board enters into executive session, all public attendees will be placed in the waiting room until the executive session concludes and the board returns to the record. Please note that if an attendee disrupts the meeting and does not allow the board to conduct the business scheduled on the agenda, that attendee may be removed from the meeting.

2. Mission Statement –

The board's mission is to protect the public health, safety, and welfare through the regulation of the practice of architecture, engineering, land surveying, and landscape architecture by:

- *Ensuring that those entering these professions in this state meet minimum standards of competency, and maintain such standards during their practice; and*
- *Enforcing the licensure and competency requirements in a fair and uniform manner.*

3. Strategic Plan

Fritz shared the strategic plan consists of two objectives directly from the mission statement. The strategic plan will be revisited during the February 2022 meeting.

4. Virtual Meeting Code of Conduct

5. Review/Amend/Approve Agenda

On a Motion duly made by Catherine Fritz, seconded by Fred Wallis and approved unanimously, it was RESOLVED to approve the agenda.

6. Review/Approve Minutes from August 11-12th, 2021 Board Meeting Edits

On a Motion duly made by Catherine Fritz, seconded by Loren Leman and approved unanimously, it was RESOLVED to approve the Aug 11-12th, 2021 meeting minutes, with minor edits as suggested.

7. Division Update

Chambers explained the 4th Quarter report. Chambers shared that the division had done a study a few years back on the value of the high dollar national organization membership fees that AELS pays. Findings pointed to the fact that the services the national organizations offer AELS far outweighs the cost and without them more staff would have to be hired. Staff expenses were lower than normal since AELS has been understaffed since April of 2021. Because of the biennial renewal, AELS starts the even year with a large amount of surplus that covers the costs of the odd year. AELS ended FY21 with about \$500k of surplus. While it is good to have extra for the unforeseen issues that could come up, it also raises a red flag where licensing is concerned. The licensing fees need to be review and could possibly be reduced. Bell inquired the last time fees were changed to which Johnston stated that had been two years. The fees were lowered as revenue was generated by adding a late fee and a CE postponement fee. Bell asked if AELS had considered having different fees for residents and nonresidents. The AELS board has not considered that and only two boards have that fee structure which is written into their statutes. Chambers said that would be something the board would discuss and bring to her if they wanted to do that. Bell suggested that AELS raise comity application fees since most comity applicants are nonresidents. Chambers said that these points should be raised during the fee analysis this next year. Fritz pointed out that despite Covid, AELS's budget has held strong. Leonetti asked what the division's suggested amount of surplus should be to which Chambers responded that the recommended amount is a year's worth of expenditures. It is not in regulation, but rather a recommendation. Johnston inquired whether or not the fee waiver for military could be considered in the fee analysis. Chambers stated that she would prefer to keep all programs as similar as possible to reduce

confusion.

Chambers went on to walk the board through the draft military temporary license regulation language that she, Neal and Johnston worked on. The proposed language is for a general temporary license so it can apply to all comity applicants. She pointed out that this would not apply to land surveyors as they have to pass the AKLS before being licensed. Included in this regulation is the permissiveness the board has been wanting for the executive secretary or its designee to review temporary licensing. If an applicant meets the model law requirements that the national organization for that profession has set forth, then the executive secretary or its designee, could approve the temporary license. A temporary license would restrict a person from accepting the role of person in responsible charge since most like the person would not have taken the arctic course yet. The draft regulation also offers an extension to the 180-day language. Chambers stated that this is an amazing opportunity for the board to make licensing faster without reducing public protection and also reduced the amount of time spent reviewing applications. Fritz shared that there are two options for an architect by comity; one is with an NCARB record and the other is with two letters of reference in addition to the necessary verifications and transcripts. Fritz asked how the latter option would be handled under this proposed regulation and shared that she did not feel comfortable with staff reviewing an application under the latter option. Johnston stated that that was not the intent. Bell asked if a temporary license registrant had to work under the direct supervision of a registered professional engineer how are they different than an EIT. Leman said that it probably had to do with a pay differential. Johnston commented that the language which said a temporary license holder could not hold the position of person in responsible charge had to do with firms and the certificate of authorizations (COA). If a temporary license holder worked for a firm, they would need to work under the person in responsible charge for that discipline. If a temporary license holder was a sole practitioner, which is not required to have a COA, then they would have to hire someone to supervise their work. Questions were raised regarding the ability to stamp documents as some interpreted the draft language to infer that a temporary license holder could not stamp. Johnston stated to make it more clear the language of (e) should be changed to read "cannot be in responsible charge of a corporation." Chambers suggested referring to the regulation or statute that addressed the COAs.

Fritz clarified that this language would allow temporary license holders to stamp things without having passed a Northern Design course or the Jurisprudence Questionnaire. Johnston said that the Northern Design course and the Jurisprudence Questionnaire could be included in the requirements to be temporarily licensed. Chambers responded by saying the requirements for temporary licensure are set by what the board interprets as "substantially equivalent." Under SB21, the law states that if an applicant comes to Alaska with a background that is "substantially equivalent" to what Alaska requires, Alaska must issue them a temporary license. Chamber said "The debate is how can the board find a way to get people to work, who qualify for this military duty, military pathway without just requiring what you require now, if they are safely able to practice in another state. Is there a pathway?" The board can say that there is no pathway and then take it to legal to see if it would hold up in court if someone was to sue the board over it. The board could say that a restricted temporary license could be issued because it does not feel that a person could safely practice if they do not have the northern design course. Chamber does think that the requirement for

meeting the exact education and coursework regulation and the Jurisprudence Questionnaire would not be allowed under SB21.

Leonetti questioned why AELS would allow someone to work without the northern design course for six months to which Johnston replied that the six months came from the language in SB21. Leman suggested having a somewhat limited temporary license which excludes practicing in areas that involve cold region issues until they have taken a northern design or arctic engineering course.

Johnston summarized the discussion on temporary licensure by noting that AELS can either restrict the availability of the license through the “substantially equivalent” portion of the law and require the arctic course to obtain a temporary license with no restrictions, however the licensing process would be quicker, or offer a restricted temporary license which limits a registrant to only certain areas of practice. Chambers said that most boards have a restriction in their statutes and regulations that limit registrants to only practice in the area they are educated or trained to practice in. Before Chambers left the meeting, Leman thanked her for a job well done and for her competence and extraordinary communication skills.

8. Investigator’s Report

Erika Prieksat introduced the new AELS investigator Patrick Kase and presented the investigator’s report. There are 16 open matters and between July 29th and November 3rd five cases were closed. Kase will be following up with board members who are assigned to open cases. Leman encouraged Kase to contact the board member with the issue early on during the investigative process as that would alleviate some of the investigative work or possibly avoid it altogether. Fritz asked Kase to share a bit about his background to which he replied that he had been with child support services for ten years where he had been doing formal hearings and presenting cases to the administrative law judges. Prieksat pointed out that Kase will be relying on the board for its guidance as he is not an expert in the fields of practice that the board licenses. Bell asked if there was a statute of limitation on the open cases to which Prieksat answered that there was not. Due to multiple vacancies, cases have been slower to close that Prieksat would have liked. Prieksat said she did find a disciplinary matrix from 2009 for the board to build on so that it can track decisions that were made with regards to closed investigative cases.

9. Board Orientation

a. AELS Board By-Laws

The Board By-Laws have not been changed in seven years. Johnston suggested the following three options: 1. Make a motion to readopt them. 2. Leave them with the old date of May 2014. Or 3. Undertake a project to change them as language especially with regards to landscape architects. Johnston talked through the by-laws section by section. She pointed out that the board follows Robert’s Rules of Order for Small Boards, but the By-Laws refer only to Robert’s Rules of Order. The By-Laws state that the landscape architect may not vote, however, since May of 2014 the landscape architect became a permanent member of the board and has voting privileges. Fritz suggesting assigning this project to a committee for them to review and bring back to the board proposed changes. Fritz suggested that the committee check to see how a board changes its by-laws. Johnston said the references at the end need to be checked to see if they are still relevant and in use. She then assigned the project of reviewing the

by-laws to the Guidance Manual Committee.

10. Public Comment

Chris Miller thanked the board for having a public comment time and for sending out the CE survey. He thought it was concise and had an ample amount of space to write comments. Miller read with interest Leman's write-up on the board make-up and was not able to come up with a solution either. He encouraged the board to provide more clarity for continuing education with regards to those who hold multiple licenses when the board reviews the CE regulations. An example Miller gave was the carry forward hours and how it applies to each individual license. Miller also commented on the proposed regulation change to allow for Landscape Architects to test right out of school. His opinion was that the professional license test should stay separate from college graduation. The board could possibly allow for the test after three quarters of the experience had been gained. He does not think that testing immediately following graduation fulfills the mission of the three-legged stool (education, experience and exams). Miller also spoke to the topic concerning the CE regulation 12AAC36.520 that states "Continuing education credit is computed as follows: (7) for serving as an officer or actively participating in a committee of professional and technical societies, up to eight professional development hours per year may be claimed for each professional or technical society." He believes this to be a valuable credit as it encourages registrants to be involved in the professional societies, however, he does not think that a person should have to wait a year before earning credits for CEs if they are offering valuable services to the society they are serving. Miller stated that while he understands high bar the SE-16 hour exam sets, he does not think that it needs to be post-civil registration as many structural engineers only do structural engineering and should not be made to have to get their civil license before their structural. He thinks it should have a similar path as other professional licenses.

Colin Maynard urged the board to not allow for temporary licensure without the arctic engineering course. Even if the responsible charge stipulation was in the language, that would only apply to those who worked for firms. It would not stop someone from working on their own. It could also appeal to those that are coming up to do one job for a chain store or hotel. He pointed to the problems on the military bases where projects were designed by professionals who do not know about the arctic conditions. Maynard also spoke to the SE issue since Miller brought it up. The reason the board decided to make it a post-civil license was two-fold. One, every other west coast state does it that way so it makes comity application easier for Alaska's registrants to the west coast states since that is most likely registrants would move to or work on projects in. The second reason it because they wanted a higher requirement as the 16-hour SE exam is not a PE exam. While it has depth, it does not have breadth. It only covers structural engineering. It was designed to be the test for those states that require 16 hours which is the west coast states and Illinois.

Because of Maynard's previous AELS board service, Johnston asked him his opinion regarding the proposed temporary licensure whether the board should require the arctic or restrict practice. Maynard said that requiring the arctic would be easiest on the board as writing the regulation for restricting practice would be near impossible. Johnston also asked Maynard to expound on the SE-16 hour exam not being considered PE exam in the state of Alaska, because in many jurisdictions it is. Maynard shared that when the board first looked into expanding from its six licensed engineering discipline, it was just considering adding

environmental, fire protection and structural. The Structural Engineer Association of Alaska told the board to make the SE a post PE. The board at that time did not want to create a different kind of license so they just added eight disciplines. It was after that that the board changed it to a post PE and required it for large building and tall buildings. Maynard estimated that 95% of the projects in Alaska do not require a SE license. The SE license is only for the major projects when there is a large risk to public health and safety. Bell asked Maynard if the board considered adding sanitary engineers when it decided to expand. Maynard replied saying that there is no NCEES exam for a sanitary engineer, however, they did add an environmental engineer. Maynard then said that because Jennifer Anderson is not going to serve a second term on the board he wrote the governor's office and asked to not have another environmental engineer on the board as it already has several and could benefit from having other disciplines represented. Johnston said that we are limited to only offering licensure to the disciplines that there are NCEES exams for, excluding architectural engineering. That being said, Johnston did point out to Bell that Alaska could join in with the other states that are asking for an NCEES exam to be developed for sanitary engineering. Sterling Strait joined the meeting during public comment but was just listening in and did not have a comment for the board.

11. Ethics Reporting

Fritz shared that she has been working with AIA to develop a presentation for their annual conference that speaks to the health, safety and welfare issues around HB61. She has been asked to be a co-presenter with others on the team on November 18th, 2021. There is no financial issues and Fritz stated that she will not be advocating for the passage or the defeat of HB61. Leman asked if he could virtually attend the presentation. Fritz said that she would check with AIA. Both Johnston and Maxwell attended the annual meeting for NCEES. There were no financial costs to the state and the report is in the board packet. Fritz attended a WCARB executive meeting at no financial costs to the state. Leonetti attended the CLARB annual meeting with the state paying the registration fee for both him and Neal to attend. Maxwell went to an APDC meeting on September 2nd.

12. Licensing Examiner Report

Neal pointed out that she had changed the dates in the renewal section of the report to accommodate renewal opening on October 5th. 1600 individuals and 92 firms have renewed thus far.

13. Old Business

- a. Regulation Project FAQs** – Neal shared with the board the list of outstanding FAQs that need to be completed before the regulation project can be public noticed. Fritz, Anderson and Maxwell all assisted in the review of the completed FAQs.

b. Regulation 12AAC 36.068(2)(i)

On a Motion duly made by Ed Leonetti, seconded by Catherine Fritz and approved unanimously, it was RESOLVED to approve the changes to 12 AAC 36.068(2)(i) as presented below. Motion passed through roll call vote.

12 AAC 36.068. ELIGIBILITY FOR LANDSCAPE ARCHITECT REGISTRATION BY EXAMINATION.

(2)(i) Upon submission of evidence of graduation from an LAAB accredited curriculum in landscape architecture, an applicant for examination as a landscape architect may sit for **the examination as early as can be scheduled after graduation.** [SECTIONS 1 AND 2 OF THE EXAMINATION AS EARLY AS CAN BE SCHEDULED AFTER GRADUATION. AUTHORIZATION TO SIT FOR THE REMAINING PORTIONS OF THE EXAMINATION WILL NOT BE GRANTED UNTIL SATISFACTORY EVIDENCE THAT THE APPLICANT'S EDUCATION AND WORK EXPERIENCE REQUIREMENTS SET OUT IN THE TABLE OF EDUCATION AND WORK EXPERIENCE FOR PROFESSIONAL LANDSCAPE ARCHITECT IN (A)(2) OF THIS SECTION HAVE ALL BEEN SATISFIED.]

Fritz expressed her support of this motion stating that this is the way architects approach the exam. The examinations are just one leg of the three-legged stool and taking it closer to when you have graduated and the information is still fresh is a good thing.

c. Regulation 12AAC 36.180

Before changing the language, Garness wanted to discuss it with the board. Currently, for the engineer seal, it says Registered Professional Engineer across the bottom of the circle with no discipline. The board agreed that this should not change. The discipline is identified by the two-letter designator in front of the license number. Architects, landscape architects and land surveyors do not need a two-letter designator as there is no unique identifier needed. Garness inquired whether or not the diagram of the structural engineer needed the two-letter designator as the name is written across the bottom as Registered Structural Engineer. It was agreed that the designator SE would be removed. For the professional engineer stamps, the diagram in the regulation should be changed by removing "No." before the license number and instead signify that the two-letter designation for the discipline would go there followed by only the numeric portion of the license number. There is confusion surrounding how the license numbers need to be represented on the seal because of the old license numbers that included a four-letter alpha prefix. Garness was thinking of having two examples of engineer seals: one that had the four-letter prefix and number for old licenses and the other having a two-letter discipline designator and number for the newer licenses.

A motion was made by Jeff Garness, seconded by Jennifer Anderson, to approve a regulation project to change the graphics in 12AAC 36.180 to more clearly clarify the appropriate design for a seal.

When Johnson opened it up for discussion, Fritz asked if the graphics were going to show out-of-date information by showing old license numbers. Johnston assured her

that there are registrants who have these old license numbers that these graphics would apply to. Garness questioned why SEs have their own separate stamp and do not just use the two-letter identifier like the other engineering disciplines. Fritz said it was because NCEES does recognize it as a discipline of professional engineering but rather a totally separate type of engineering. Johnston pointed out that the guidance manual differs from the regulation. It says that a structural engineer stamp should have an SE before the number on a Professional Engineer Stamp. The guidance manual also states that the two-letter designator must come before the license number which for those old license numbers that include alpha characters would be quite cumbersome. To allow change to more than just the graphics Jeff Garness amended the motion.

An amendment to the motion was made by Jeff Garness, seconded by Jennifer Anderson, and approved unanimously, it was RESOLVED to approve a regulation project to change 12AAC 36.180 to provide clarity and consistency for the design of the seals.

14. New Business

- a. **CLARB Uniform Standard** – Zachary Druga joined the meeting to discuss the proposed uniform standard. He shared that CLARB’s legal team found that for Alaska to adopt CLARB’s uniform standard only regulation changes would be required. Leonetti pointed out that CLARB has been working on this project for 3-4 years and are recommending these standards for all jurisdictions. CLARB is now asking for boards’ thoughts and comments. CLARB is recommending two paths forward for Landscape Architects. One is a LAAB accredited degree with two years of experience and passing the LARE or the alternative path which is education through practical experience which would require eight years of experience and passing the LARE. The biggest difference between CLARB’s uniform standards and the current AELS LA regulations is the years of experience. Through the uniform standard CLARB is also offering a path for those that do not have a LA degree. Druga went on to say that in Alaska it would be a reduction of the years required to get a license. He explained that while CLARB was evaluating the Uniform Standards they kept health, safety and welfare at the top of the list so reduction in years required would not endanger the public. Garness expressed concern that the path which required practical experience only would compromise health, safety and welfare because the person’s ability is compromised without a formal education. Leonetti said that the passing of the LARE would show they had gained the skills needed through the experience. The reason for this path, Leonetti went on to say, was to get more people licensed, who do not have a college degree and how does that happen with the public safety in mind. To address the education concerns of CLARB’s members, Druga said CLARB spelled out in more detail what kind of experience would qualify to give better guidance. With the Diversity, Equity and Inclusion (DEI) initiatives trying to increase pathways to licensure and increase access to the profession, 92% still go the accredited degree path. This alternate path opens up the pathway to licensure for the other 8%. Fritz expressed concern about taking away one of the legs of the three-legged stool of one of the professions that the AELS board is responsible for. Current AELS regulations have three options with as little as one year of coursework which Fritz thinks should stay in place. Druga clarified that if a person had

any post-secondary degree they would need six years of experience and no degree they would need eight years. Fritz stated that a person would need coursework in landscape architecture to do licensed landscape work. Druga replied by saying that the experience only pathway is not missing the education leg of the stool; those applicants are getting their education leg through experience. Maxwell pointed out that the land surveyors had a similar discussion in 2012 which resulted in requiring a four-year degree and requiring land surveying coursework. Fritz asked if the education requirement was a barrier to licensure in Alaska to which Leonetti responded affirmatively. Leonetti said that many people have their degree but because education is open to interpretation in the AELS regulations the years of experience required is open for debate. CLARB's model law makes the requirements clear. Garness asked if the LARE would weed out people that do not know the profession. Druga said that the LARE is intense and a good test of knowledge. The Licensure Mobility committee will meet to discuss where AELS stands on the issue of CLARB's Uniform Standard so that when it goes to a vote in April Leonetti can vote in a way that represents AELS's position. 3:07.53

b. CE Regulation 12AAC 36.520 (a)(5) – “one full year of service”

The regulation states (a)(5) *“credit for participating in professional and technical societies may be claimed for a year of service as an officer or in active participation in a committee of the society, based on one professional development hour for every two hours of service or participation; professional development hour credits under this paragraph are earned at the **end of each full year of service or participation.**”* Colin Maynard had been invited to the meeting to speak to this issue with regards to what the board had done in the past. Maynard stated that he had not been audited, but did say that this regulation is confusing and should be changed to say, “are earned for each calendar year of service” so that it is clear that no matter when a person started in the year they could earn CEUs for their service. Maynard went on to say that the reason AELS has the requirement for CEs was because after two separate legislative audits, AELS was asked why they did not have this requirement. AELS decided to adopt regulations for CEUs so that the legislature would not make them do it. After the legislature gave them the power to set the regulation in 2003 or 2004, the CE regulations were set in place and have not changed much since that time. At that time, it was a national trend with 46 of the 50 states having requirements for CEs. It was decided that the requirement would be 24 hours because that was the common requirement for architects and the board did not want different requirements for different professions it regulated. Leman asked Maynard his understanding on the AELS Board being considered a “professional society” so therefore board members would earn one hour for every two hours served. Maynard confirmed that that was correct with a maximum of 8 hours per year. Bell then asked about earning CE hours for the AELS committee meetings that board members attend and prepare for. Maynard pointed out that it says “or” not “and” so a board member could count the actual board meeting or the committee hours, but not both. Maynard shared that he is an officer in two different societies which earns him all of his required 24 CEUs so he does not have to take any classes and went on to ask if that is what the board intends with this regulation. Fritz suggested putting in the Guidance Manual that the board means “one calendar year of service” with regards to this regulation and do the regulation change at

a later date. Johnston assigned this task to the Guidance Manual Committee.

c. CE Audit – Retire License 03:24:42

A registrant who was selected for the random audit for the renewal period 2020-2021 has requested to retire his license as opposed to complying with the audit. This registrant's audit was never given to investigations. The board made a motion in the May 2021 board meeting to allow for another registrant, whose case had been given to investigations, to do this. After reviewing this case, Marilyn Zimmerman recommended to the board that they allow this individual to retire as well to keep decision made during this audit consistent. After this audit cycle is complete, investigations does not want this to be allowed for registrants who fail their audit. To be continued after Director Chambers speaks to the next topic.

11. b. Military Spouse Regulation continued

Johnston gave a recap that the two options before the board on this regulation is to say that a temporary license applicant must have the arctic course or that temporary license holder will be restricted to certain areas of engineering until they pass the arctic course. Garness cautioned considering the second option saying that a person would not know what they do not know. Without the arctic course, a person would not know how the arctic environment effects different engineering issues. He said that possible options might be to offer an accelerated arctic course that could be taken in a weekend. Leman said that his position is that a temporary license should be issued but restricted where the individual cannot independently practice in areas of cold region engineering or architecture. The temporary license holder would need to self-regulate. Fritz voiced concerns of how the board would regulate the restricted license holder. She talked about possibly having an online northern design (arctic) exam developed and available so that it is not a barrier to licensure. Another suggestion Fritz had, is to strike the extra 180 days that was added on to the existing 180 days and limit the temporary license to six months only. When a person applies for temporary licensure, they must show that they are registered for and will complete a northern design course within those six months. Bell asked if this issue could be resolved with requiring a temporary license holder to have a peer review done on their work by a registered professional engineer who has sat for the northern design course. Wallis agreed with Bell's idea adding that it would also keep temporary license holders from setting up an independent practice. Johnston inquired of Chambers whether the 180 days with the extension of the 180 days was what was written into law. Chambers said that it was by the extension is worded in a way that gave boards discretion as to whether or not to grant it. Johnston asked if there was a way to tell in the license database whether or not a license was temporary to which Chamber responded that there was and if there were restrictions they would be noted on that license for anyone searching to see. Leonetti inquired as to whether or not municipalities would accept this temporary license on submitted plans. Chambers did not know if municipalities were aware of this upcoming change yet. Leonetti also brought up that the temporary license holders' stamps would need to be different and that there was a possibility that someone could be temporarily licensed without ever seeking permanent licensure. Chambers said the intent of this law is to give military families a pathway to get a temporary license that would allow them to start working right after moving here while they are finishing up Alaska requirements to receive a permanent license. Garness asked about

restricting the temporary license holder to working for an engineering firm but not allowing them to seal any documents until they have completed the northern design course. Fritz said to uncomplicate the issue this temporary license should only be offered to military families only. Military families want to be in Alaska and will most likely be here for a few years, where a developer in Florida might receive a temporary license to do just one job, not intend to take the northern design course, and never apply for a permanent license. Garness stated that he agreed that it should be only offered to military families, that it only be good for six months, there should be a restriction on duties they can perform and that there needs to be a more accessible, time sensitive northern design course available. Johnston said that she wanted this regulation to be proposed so that staff would have the ability to review applications and issue licenses for model law applicants who submitted an NCARB, CLARB or NCEES record and had their northern design and jurisprudence questionnaire completed. She thought that by including everyone but land surveyors in this regulation and not make it just for military it would create that opportunity. It was not her intention to get applicants without the northern design course licensed. Johnston proposed to keep the regulation for all and not just military but require all who apply for the temporary license to have completed a northern design course. She said that a person without the northern design course does not have a license that is substantially equivalent to an Alaska issued license. She does think that northern design courses need to be more readily available. Neal pointed out that Director Chambers also drafted new language for 12AAC 36.010 that would give the Executive Secretary the ability to approve model law applicants. It is included under new business for this meeting. Fritz thanked Johnston for pursuing a way for staff to be able to issue licenses to model law comity applicants but does not think that it should be done with the temporary license regulation. She supports a temporary license where the northern design course is required. Johnston restated the board's position that a northern design course will be a temporary license requirement because if any applicant does not have that their license is not substantially equivalent. Chambers asked for clarification with regards to whether the board intended the temporary license to be available to all model law comity applicants or just military and their spouses. Johnston said that the board wants it to be for military and military spouse only but adding on the requirement for northern design. With regards to the 180-day extension, the board would like 12 AAC 36.XXX (f) to be reworded to say *"A temporary certificate is valid for 180 days and may be extended **with the completion of the Jurisprudence Questionnaire (12 AAC 36.103, 105, 109)** at the discretion of the executive secretary, or its designee for an additional 180-day period by applying on a form provided by the department and submitting the temporary license fees established in 12 AAC 02.105."* Leman suggested giving two options, the one just stated being the gold standard, but also the restricted license that only allows practice for work that does not require cold region engineering knowledge. Neither option would allow for the 180-day extension. Johnston questioned how the restricted option would be regulated. Garness asked if the board could request UAA and UW to design an on demand northern design course.

14. New Business – continued

e. Draft regulations for application approval by staff

12AAC 36.010 – The terminology “by the board” has been broadened to include “the executive secretary of the board, or its designee.” This would allow for board staff to

approve comity applicants who submit a model law NCEES, NCARB or CLARB record. Added to the regulation is (j) which states “Notwithstanding any other regulation, the executive secretary of the board or its designee may approve an applicant for licensure by comity only if credentials are submitted by NCEES, NCARB, or CLARB record.” All alternate paths of licensure would still go the board for review and it does not waive the northern design course or the Jurisprudence Questionnaire. Fritz pointed out that it should say NCARB certificate and not record. Fritz asked how this interfaced with the answer legal gave when asked what would be required for staff to approve applications. Johnston stated that the answer was not altogether clear and that legal said statute changes would not be necessary for staff to do some reviewing of applications. Director Chambers suggested making a motion for a regulation project for both this regulation and the military spouse temporary license regulation so that it will move to the regulation specialist who will work on the language of them and bring them back to the board for approval and public comment. Johnston said that when they see the revised draft language for these regulations, a motion would be made to move it forward as a regulation project

15. Application Review

(Maxwell, Wallis, Bell, and Garness had finished their application reviews and left meeting)

5pm Recessed for the day

November 16th, 9am – Reconvene Meeting/Roll Call

Jennifer Anderson
Bob Bell
Catherine Fritz
Jeffrey Garness
Elizabeth Johnston
Loren Leman
Ed Leonetti
Jake Maxwell
Randall Rozier
Fred Wallis

Attending from the Division of Corporations, Business, and Professional Licensing were:
Sara Neal, Licensing Examiner

Attending from the public:

Mike Armstrong, Josh Batkin, Caitlin Stromberg

16. NCARB Presentation – Mike Armstrong, CEO, Josh Batkin, VP for Council Relations and Caitlin Stromberg, Assistant VP for Member Board Relations from NCARB joined the meeting to update the board and answer any questions it may have regarding NCARB. Armstrong thanked Fritz for her many years of volunteering with NCARB and encouraged Rozier to volunteer when the call goes out in January. Armstrong and Batkin had met with

Neal and the Alaska chapter of AIA so it would be aware of what the professional society is hearing and thinking about the role of regulation and keep the information and communication lines open. Armstrong shared that NCARB along with NCEES, CLARB and CIDQ as members of ICOR (Interorganizational Council on Regulation) is in its second year of a collaborative task force on incidental practice. It is looking at the overlap of disciplines in a way that is legally appropriate so that the public is not endangered. Within the next few years, NCARB would like to have model regulatory language to give guidance to licensing boards on how to monitor this and ensure that professionals are not doing something on a regular basis that is outside of their legal scope. Another task force is working on the definition of responsible charge or responsible control. Larger firms are more comfortable with their responsible charges delegating day to day responsibilities to their competent, qualified staff. The responsible charge checks in at key moments in the project and then signs and seals the document. Smaller firms disagree with that approach and argue that there needs to be more regular engagement on the project for one to sign and seal documents. This creates an enforcement dilemma for regulatory boards. The task force is trying to come up with new language that acknowledges the evolution of architectural practice.

Armstrong brought greetings from the current NCARB president Alfred Vidaurri. Vidaurri announced at the beginning of his term as president that he had the following two goals: 1) How member boards can fully embrace goals around diversity, equity and inclusion (DEI) and how those goals might be manifested in a more visibly diverse board of directors at a future date. 2) Take a fresh look at the way competency, on which licensure is based, is measured.

To reach the first goal, Vidaurri has had listening sessions inviting all member boards to talk in small focus groups about their perspectives, their issues, their biases, and how that contributes to the body as the whole. The NCARB board of directors is undergoing a multi-meeting journey regarding working with the diversity consultants around root causes and educating each other on how every point of view matters, every perspective is valuable and how collectively that perspective and help reshape the volunteer profile of the organization.

In addressing the second goal, Vidaurri is looking at the long-standing guidelines for licensure. Currently, licensure is based on the three e's – education, exams and experience. NCARB uses its architectural experience program (AXP) to track experience, used the architectural registration exams (ARE) for exam and has an education standard that mirrors the National Architecture Account Accreditation Board (NAAB). These constructs have been in place for many decades. However, Vidaurri is asking if these constructs are being too tightly held onto and keeping underrepresented groups that could qualify as architects, but find the pathway inaccessible, out of the profession. NCARB has offered alternative pathways to licensure through its certificate programs that allows for experience to count in lieu of education. NCARB has modified its experience program to allow for an option to submit a portfolio of work rather than reporting hours. It offers accommodations to people taking the exam who have a variety of impediments that put them on an unequal footing. It has an ongoing fairness and licensure initiative that is auditing the exam questions as well as the alignment between its experience and examination program to ensure that there are no unconscious biases in the way these programs are designed and delivered. NCARB recently

released results on the disparate pass rates of the exam. There is a gap between the success rate of white males and all others taking the exam. It is continuing to sift through the information and look for ways that it can keep refining and tightening its approach in a way that is most equitable for anyone who aspires to be an architect.

NCARB has been working with jurisdiction to stave off undermining of regulation the keeps in place the core requirements of licensure. It has helped prepare people to have informed conversations with elected officials about how mobility of licensure across state boundaries it is not an issue for architecture.

Remote proctoring had been being researched for years at NCARB, but due to Covid it expedited the issue. For over a year now, the AREs have been available to take online through remote proctoring. Today roughly one quarter of all examination candidates are taking the exam online. NCARB is not seeing any real disparities between the online results versus the test center results.

NCARB is on the brink of releasing its first Analysis of Practice in 10 years. This data collection effort is designed to get a snapshot in time regarding how the profession is conducting itself and where the profession is going. It can then do a gap analysis between what the profession is telling NCARB versus what its programs are requiring. NCARB then adjusts its programs to meet the current state of the profession. The last time this was done its experience program evolved from IDP to AXP and the exams changed from ARE 4.0 to ARE 5.0. The third phase of this analysis will roll out this next year in the form of a survey.

Armstrong opened it up for questions to which Loren replied that he appreciated Armstrong's ability to communicate the issues NCARB is dealing with and how they are trying to make architecture relevant to as many people as possible so that they will enter the profession to replace those that are aging out. Armstrong commented that NCARB is looking for ways for people who are interested in architecture, but do not have a way to obtain an NAAB accredited degree, to have a pathway for education that will lead to licensure. Possible pathways could include community college or experience in lieu of education and would hopefully lead to more people entering the profession. Leonetti inquired of Armstrong how NCARB is demonstrating education through other paths as CLARB is also focusing on DEI and developing the Uniform Standard. With the first leg of the three-legged stool being education, how do these professions include a pathway for those that might not have opportunity to get an accredited degree. Leonetti's main concern is getting more indigenous people to the table, specifically Alaska Natives. Armstrong shared about how the NCARB Certificate program allows for multiple ways to earn education for those already licensed, whether it be through experience or some schooling or a combination of both. Armstrong went on to say that Alaska requires for initial licensure an applicant graduate from a NAAB accredited program. However, if someone applies by comity with an NCARB Certificate where the person does not have a NAAB accredited degree, Alaska will license that person. He said that it is inconsistent to have one standard for initial licensure and a different standard for comity licensure when licensure is licensure. He encouraged the board to review its statutes and regulations to see if it can adjust the requirements it has for initial licensure. This requirement seems like a barrier to licensure. The states that have the most

licensed architects, California, New York and Texas, do not require initial applicants to have a NAAB accredited degree. Fritz responded by saying how she appreciated NCARB's work on the alternative education pathways. She said the reason the AELS board had decided to have the requirement for a NAAB accredited degree for initial licensure was because it was too hard for the reviewing board members to determine degree equivalency. It created such inconsistencies that the board determined the best course of action was to have someone do the vetting for them. Fritz said at that time there was an alternative path for comity that was taken advantage of and created an unfair situation for initial applicants. Fritz and Jeff Koonce both advocated for the board to accept NCARB standards for both initial and comity applicants. Fritz and Koonce encouraged NCARB to look at an alternative pathway for initial licensure as well so that the AELS board could have confidence that the vetting has been done in a legal, fair and robust way and could be accepted as an alternate pathway. Armstrong spoke to the fact that all three professions, engineering, architecture and landscape architecture have a lack of diversity and opening up a pathway for alternate education would take down a barrier for those that did not have the same advantages as those that took the traditional path to licensure. Bell added that at one time his company offered a surveyor school in Kotzebue, Alaska. Out of that program came the first Alaska native licensed woman land surveyor which confirms that offering alternative pathways does work. Garness asked Armstrong to address the concept of direct supervisory control and how it relates to responsible charge. In Alaska, to be an independent contractor means no one has direct supervisory control over that person. If a person in responsible charge seals a document that an independent contractor worked on, how can they by definition have direct supervisory control. Armstrong said that there is not clarity on this issue yet and it is an issue that the task force is working on. He said the task force is listening to people from different disciplines and different sized firms to talk about how much knowledge and day to day familiarity should the signing and sealing party have with the work and what is realistic with today's firm with today's workload and today's technology.

Josh Batkin ended the discussion with reminding the board that NCARB collaborates with boards to reinforce the view on the importance of licensure. It is part of an alliance known as the Alliance for Responsible Professional Licensing (ARPL) that is made up of the regulatory and professional societies for architects, engineers, landscape architects and accountants. ARPL has done public opinion polling along with economic research to build the argument that licensure is valuable, and the role regulatory board have is important in ensuring competent professionals are overseeing the work. NCARB uses this information to help support regulatory boards push back on the deregulatory proposals that are coming to them.

14. New Business Continued

b. Renewal Request for Medical Exemption

Registrant James Rice, whose license lapsed on 12/31/2017, submitted a medical exemption for CEs on the 2022-2023 renewal application. He included a medical evaluation. He has not shown evidence of completing any CEUs since 2010 due to this medical issue.

On a Motion duly made by Loren Leman, seconded by Catherine Fritz and approved unanimously, it was RESOLVED to approve to waive CE requirements for the 2022-2023 registration period for registrant James Rice with license number AELC4558.

c. Retire License from CE Audit - continued

Continuing the conversation from yesterday, Johnston recapped by saying that this situation is one where Christopher Hawe did not complete his CEUs, however, he checked the box that he did on his renewal application. When selected for the audit Hawe did not provide evidence that he had completed his CEUs. He has not been turned over to investigations due to communication with prior board staff and is now requesting to retire his license. In its May 2021 board meeting, the board made a motion to allow for another registrant, who was also under the CE audit, to retire his license. This person had been sent to investigations. In an email from Marilyn Zimmerman to Neal, she suggested that the board handle the case of Hawe in the same manner since it is the same audit cycle, however, from this point on the board should not handle failed audits by allowing the registrant to retire their license but instead they should be sent to investigations. Johnston stated that the board could refer this case to Zimmerman, have him go through the consent agreement process, but waive the fee as to be fair because of the previous case yet there would still be a license action. Another option would be to make a motion to retire his license and not refer it to Zimmerman. Leonetti asked what the purpose would be in sending him to investigations if he has not been working for 10 years. Fritz brought up the fact that he might not have been working in Alaska for these past 10 years; however, he might be registered in other states. His explanation lets the board know that Alaska is safe as he has not been practicing without completing his CEUs but procedurally he checked the box on his renewal form that said he had done his 24 CEUs. Fritz asked what it was legal for the board to do, what is its responsibility in these cases and is concerned about consistency in making these decisions.

A Motion was duly made by Loren Leman, seconded by Catherine Fritz that in the matter of Christopher J. Hawe, Professional Civil Engineer registration #AELC9958, it be approved to allow for the retirement of his license effective immediately

Johnston opened it up for comment to which Bell asked what would happen if Hawe wanted to reinstate his license at a later point. Johnston referred to statute 08.48.215 that states to reinstate a retired license “the board may require the applicant to meet reasonable criteria as determined under regulations of the board. The criteria may include submission of continuing education credits and reexamination requirements.” If Hawe did want to reinstate, all of this information would be in his record and the board at that time would have to decide if they wanted to impose “reasonable criteria.” Bell said that he was concerned that Hawe could complete 24 CEUs, reinstate and not be held accountable for his actions. Leman suggested leaving a note in his record as to what this board recommends for future action, whether it be making up those CEUs and/or some sort of community service, if he was ever to try and reinstate. Bell asked

why Hawe would get this special treatment when others would have a license action. Leman said that in the effort to be consistent with this year's audit findings let Hawe retire as an investigation is not worth the cost to the board. Garness agreed that to investigate these types of issues is not worth the cost, but on the flip side he could retire in Alaska, but keep working in the other states in which he is licensed. Leman made the following amendment to his motion:

A Motion was duly made and amended by Loren Leman, seconded by Catherine Fritz that in the matter of Christopher J. Hawe, Professional Civil Engineer registration #AELC9958, it be approved to allow for the retirement of his license effective immediately with the following stipulations: that he makes up his CEUs upon future renewal or reinstatement, makes an acknowledgement of his wrongdoing that is acceptable to the board, and if other states contact Alaska for the reason for the retirement, this issue will be disclosed.

When Johnston opened it up for comment, Bell wondered why the board was not having Hawe voluntarily surrender his license instead of allowing him to retire.

With Anderson, Fritz, Leman and Leonetti voting YES and Bell, Garness, Johnston, Maxwell, Rozier and Wallis voting NO, the motion failed.

On a Motion duly made by Bob Bell, seconded by Jeff Garness and approved unanimously, it was RESOLVED to approve to refer the matter of Christopher J. Hawe, Professional Civil Engineer #AELC9958, to investigations for a voluntary surrender of his license or investigation as appropriate. Motion passed with roll call vote.

Before the above motion was voted on, Johnston opened it up for comment. Leman suggested amending it to include the following three stipulations: that he makes up his CEUs upon future renewal or reinstatement, makes an acknowledgement of his wrongdoing that is acceptable to the board, and if other states contact Alaska for the reason for the retirement, this issue will be disclosed. Garness did not see the need for the amendment in that a voluntary surrender would fulfill much of what the stipulations are trying to do. If there was a license action, then a future board would review any request for renewal or reinstatement. Leonetti referred to Sec 08.48.111 that says the board has the power to revoke, suspend, or reissue certificate. However, Bell pointed out that if Hawe voluntarily surrenders his license this statute does not apply, but if he does not this statute will apply. Fritz stated that the board does not have in statute the ability to make investigations do a voluntary surrender but the board would support that if that was the finding of investigations. It was decided that no amendment was needed.

d. Draft Regulations for 36.010 and Military Spouse

In looking at (c) the temporary license regulation, Johnston expressed concern that is using military orders as a required document since military orders are issued for any assignment that is over 30 days. She suggested that language "current active duty military orders exceeding *some timeframe*." Also, in (d) it needs to read "a land

surveyor.” Fritz noted that the northern design requirement had been added. If this is just for military, Leonetti inquired why the military language was at the end. He also pointed out that the language used does not limit it to just military. Fritz suggested that the title read “Temporary Registration for Military” as well as adding “For military spouse or member of the military,” to the beginning of (a). Johnston said that the changes would be submitted and then reviewed during the February meeting.

e. Subprofessional Definition

Johnston is proposing a change to the definition of “subprofessional experience” so as to create clarity for exam applicants. The definition should also help the board make consistent decisions on whether or not an applicant’s experience qualifies as subprofessional experience. The proposed change is as follows:

(22)"subprofessional work" means time spent working as a rodman, chainman, recorder, draftsman, clerk of works, instrument man, inspector, work as a tradesperson such as an electrician or plumber, or similar work where personal responsibility and technical knowledge are slight

Leman and Maxwell pointed out that this definition used antiquated terms. Rozier shared that NCARB uses the language “working in design or construction related employment.”

“subprofessional work” means time spent working in design or construction related employment. The board will evaluate the relevance of the requested subprofessional work.

f. Sealing

Because many letters have been sent out regarding this topic, Johnston thought it best to make a change to the Guidance Manual. The issue is related to the sealing of as built or record drawings on building or utility projects. Many letters have been sent by the board stating that if an engineer or architect did not observe or supervise the construction, they should not be sealing. Johnston proposes adding to the Sealing Professional Work Section in the Guidance Manual a statement that gives guidance to registrants on this topic. Garness shared a situation where an engineer signed and sealed drawings, that a contractor had forwarded with it’s red lines. All the engineer signed were red line notes from the contractor. Garness felt as if there should be a disclaimer by the seal or possibly not even be sealed by the engineer. Leonetti pointed out that on page 24 and 25 of the Guidance Manual it has a section on record drawings that states “record drawings should not have a new signed and dated stamp, unless the changes in construction have been directly overseen by the licensed professional.” Fritz suggested adding a note to reference the regulation 12AAC 36.185 – Use of Seals. Garness said that utility companies and even sometimes the state wants record drawing to be signed and sealed. Leonetti said the term “signed and sealed” needs to be clarified. To engineers it means the engineer of record stamps it at the completion of the project, but what they might be meaning is a statement that is signed by the engineer that says, “these record drawings are a reflection of what was built during

construction.” Johnston stated that record drawings are signed for identification purposes and the department responsible might place a seal on it that is signed and dated. An engineer might get record drawings from a contractor that are signed by the contractor to say that they had been completed. Garness said that what actually happens many times is that the contractor gives the engineer a set of red lines and the engineer puts all the notes and changes on the drawings. The utility company or state then wants to see those records drawing signed and sealed by the engineer. Leonetti said that it should not be restamped, but it could be signed saying that the product being produced reflects construction to the best of the engineer’s knowledge. According to AELS’s regulations and Guidance Manual record drawings should not be signed and sealed. Leman shared that his standard statement he issues on record drawings is as follows: “This is based on information provided by others, I believe that to be accurate and complete to the best of my knowledge.” Fritz said that it would be legal to sign and seal if the design professional was on site supervising the work. Johnston said that Texas’s design professionals have both a seal for final work products and an identity stamp for the purpose of identifying a person in responsible charge on a project. Fritz read from 12AAC 36.185 (3) *seal only final drawing surveys reports and required construction documents, for which the registrant is qualified to seal for which they're registered claims responsibility.* Johnston also brought up the idea of dual stamping, where the design professional only stamps the parts of the drawings they are responsible for. Both Fritz and Rozier said that architects in general prepare a final document that incorporates the red lines, but do not stamp it. Rozier went on to say that the architecture community does not place their professional stamp on as built drawings because they are not produced by the architects and they recommend that the engineers do not stamp them either. Once an explanation has been written, Garness volunteered to make a presentation to DEC and building officials so that a consensus can be reached on how to approach this issue.

g. Calculations

The Guidance Manual has a statement saying “Drawings, specifications, and calculations must have a signed and dated seal...” Johnston tasked the Guidance Manual Committee with removing the words “specifications, and calculations.” Fritz suggested adding a note in this section of the Guidance Manual thanking the regulators who are trying to do the right thing in requiring stamping and sealing of documents.

15. Correspondence Received

a. Expiration of Engineering Records

A City and Borough of Sitka Building Department official wrote the AELS board asking if engineering reports that are signed and sealed appropriately by an Alaska licensed professional expire after a certain amount of time. He cited two examples. One was a report that was created over 30 months ago resulting from a licensed civil engineer’s assessment of an existing 30 plus year-old dwelling foundation. The original structure was damaged in fire and removed down to the foundation around 15 years ago. The other example is an engineer designed a single-family dwelling (not standard light-frame construction). The engineer is still licensed in AK but the expiration on the signed seal on the drawings has lapsed. Fritz started the conversation

by saying that both of these items are non-conventional so the building official can require more information. The age of the report is not as important as the condition of the foundation and what it is being planned on being used for. Because single-family dwellings fall under the AELS exemptions for licensure, Fritz suggested they use their own discretion. Johnston pointed out that the original question was asking if reports that are signed and sealed expire and remembered sending DOT a letter that stated if a licensee was deceased or no longer licensed than their drawings should not be used. Rozier spoke to the topic by saying the statute of limitations can be used. If whoever generated the reports is no longer liable for the reports, then the reports are no longer reliable. Rozier believes that the statute of limitations is 10 years so drawings that are over 10 years are no longer reliable from the legal standpoint. If there was an extenuating circumstance within those 10 years then that could cause a report to be unreliable. Garness said that the Municipality of Anchorage accepts signed and sealed records even if the licensee has deceased. However, they reserve the right, if they think there has been a change to the site conditions or something as happened to make the initial report invalid, to not accept the drawings. Bell agreed by saying that if the engineer did proper due diligence and nothing has happened between when the report was done and now, then the report should be valid. Bell spoke to the second example given in that if the engineer's license was active when he did the drawings then he or she is responsible for that work. Johnston suggested giving the guidance that new plans should conform to the requirements of the jurisdictions they are in since the AELS statutes and regulations do not speak to this topic. Garness will prepare the written response.

Fritz brought up incidental practice as it relates to the first example and said that it could apply in that a civil engineer might not be able to stamp it like he or she could have 30 years ago. Using current regulations, the drawings might now require a structural engineer to sign and seal.

b. Metallurgical Gain Experience under a Mechanical Engineer

There are currently five metallurgical engineers that are registered in the state of Alaska which makes it burdensome for a metallurgical engineer applicant to gain responsible charge experience under a professional engineer in their discipline. This individual is asking in advance if they can get their responsible charge experience under a mechanical engineer since it is a similar discipline or if they need to go the mentorship program route. The regulations state that the board will evaluate out of discipline experience at its discretion. In the Board Policies, metallurgical and mechanical are not equivalent degrees, but Johnston said that it is the most similar discipline. Garness observed that if there are only five of this discipline in the state then it would be a service to the general public if the board created a pathway for more to enter the profession as long as it does not compromise public health and safety. Leonetti thought that the mentorship program seems to be the answer in that the information given to the board does not prove that the mechanical and metallurgical are parallel. Leman felt that if it was the right mechanical engineer they would have the ability to verify metallurgical experience so both options should be given to the individual. Fritz agreed by saying that if Alaska is going to license metallurgical engineers then the board needs to make a viable path for them to become licensed. Wallis shared that he has had

several metallurgical engineers come and work at the mine and from what he observed the work is very similar to a mechanical engineer. Anderson stated that if this application had come in after the experience was verified under a mechanical engineer the board would have accepted the experience and have done so in similar circumstances many times. If there are concerns, then the board has called the supervisor to ask questions or ask for additional information as to why the discipline is similar. Rozier said he want to have more information about the mechanical engineer that will be verifying the responsible charge experience. Johnston proposed responding with “the board considered your request and is genuinely interested in giving you clarification. Please provide us with the following information: education background and verifier background. Johnston volunteered to write the response.

16. Applications – Full Board Review

a. Hannah Sponseller

She had work verifications submitted by military non- PEs. Garness said the job duties listed did not appear to be engineering related. Because she is military, she does not have a choice about what job she gets assigned to. The description she put in her application versus what was in the verification are not the same and it is mostly likely because the verifier does not know what the board is looking for. The verified experience sent in by Lynch did not seem to be related to engineering in Garness’s opinion. Because Sponseller had met her required 24 months of responsible charge, it was agreed that she would be conditionally approved based on providing an updated verification from Lynch that provided more information that Garness and Wallis would review.

b. Alyson Mathers

A non-PE provided a verification that did verify engineering related sub-professional work. Because it was a non-PE, Garness wanted the full board to review it. Because Mathers has both her bachelors and masters in discipline, and has 36 months of verified experience by a PE, she does not actually need the non-PE verification so it was decided to conditionally approve her to sit for the PE exam.

Break for Lunch 12pm

Reconvened at 1pm

17. Status Focus Groups

a. Definitions – Fritz and Anderson

Fritz and Anderson looked at the definitions in both the statute 08.48.341 and regulation 12 AAC 36.990. Working from the statute mark up from 2019, a suggested change then was to the board name in #2 – changing it from State Board of Registration for Architects, Engineers and Land Surveyors to State Board of Design Professions. Suggested changes were also made to 12, 13, 14 and 15, the definitions for the professions, to omit phrases that are hard to regulate Johnston asked about the issues surrounding “may by the regulation of the board” that was highlighted in #12, 13, 14, and 15. Fritz responded by stating that these phrases might not be a problem, however, with the issue of incidental practice, they need to be addressed in regulation. Definition

15 for Landscape Architecture had the most amount of suggested changes to make it consistent with the other profession definitions. In thinking of board discussions regarding the term “direct supervisory control”, there might also be changes the board would want to make to the definition for #20 for responsible charge. Fritz’s suggested change was to make the definition more broad by removing the word “personal” and instead say “direct control and supervision of work.” More detail to the term “responsible charge” could be spelled out in the regulations. Because a design professional does not “supervise” contractors, a suggestion was to have the definition read “direct control of work.” Johnston asked to wait until legal responded to the board’s question regarding “direct supervisory control” before changing the definition for “responsible charge.” For now, the task to look into a better definition was assigned to the Guidance Manual Committee. Lastly #21 the phrase “but does not include final drawings” was highlighted for the board’s consideration in the definition for “shop drawings” or “field drawings” as there are times when shop drawings happen to be the final drawings. The board agreed to have definition #21 end after construction document and delete “but does not include...” to the end of the sentence. Fritz pointed out that statutory definitions are more broad and the more detailed definitions are in regulations as they are easier to change.

Fritz and Anderson also reviewed the definitions in regulation 12AAC 36.990. Highlighted in the definition of #1 “advanced courses” is the phrase “beyond the academic year” as this might not be a relevant term anymore. The term “advanced courses” was not found in either statutes or regulations in a search done by Johnston so it was agreed to delete this definition from the regulation. The second definition is for the name of the board and changes it to the “State Board of Registration for Design Professions.” Leman suggested changing it from “Professions” to “Professionals” since it is a board about people doing work in the design professions. The definition of “design” in #5 currently incorporates words that do not capture the essence of the word design such as “basic” and “original” as it pertains to the design professions. Johnston assigned drafting a better definition for “design” to the Guidance Manual Committee. Fritz and Anderson looked into definitions for the different engineering disciplines, however, NCEES does not have them defined. Johnston pointed out that ABET does have them defined. Also in question, was all the disciplines of engineering the board regulates that are listed in #17. In 2012, the board decided to adopt the NCEES standards of the multiple branches of engineering which added several disciplines. With efficiency in mind, Fritz and Anderson reviewed the number of licensees in each discipline and are making the proposal to remove agricultural and nuclear engineering since neither have ever had anyone ever be licensed in that discipline. They also suggest removing naval architecture and marine engineering since there are so few. Another suggestion is to remove structural engineering from the discipline list as it is a distinct branch of engineering itself and should not be a subcategory. Removing it from the discipline list would make the discipline list consistent with NCEES. Garness asked the question of what would be done with the few that are licensed in the disciplines suggested for removal and Wallis asked what harm it was to leave these discipline in. Johnston shared that she is on the NCEES Exam Policy and Procedure Committee and they are looking into this matter as far as how many individuals sit for a

certain discipline and does that number make it worth it to maintain the exam for the discipline. Agricultural engineering as well as other disciplines are up for a sunset review so Johnston suggested waiting until the review was completed before making the change to the AELS regulations. However, the removal of structural engineering as a branch of engineering was agreed upon. The definitions in regulation for “responsible charge” – numbers 19, 20 and 30 and the definition for “subprofessional work” #22 were highlighted for change, but have already been discussed previously during this meeting. The board agreed to remove definition #33 for “Landscape Architect” as it is redundant to what is already in statute. Two new definitions were added to the list of definitions #46 “progressive structural experience” and #47 “mentoring program.” #46 has been added since progressive structural experience is required in 12AAC36.063, but, up to this point, was not defined in regulation. It was decided to remove “the branch of professional engineering” from definition #42 for structural engineering.

b. Exemptions – Fritz, Garness, and Maxwell

Maxwell talked the board through the exemption statute – 08.48.331 – focus group’s suggested changes. The first change was to add to (2) the phrase “*unless those duties are defined in 08.48.341 as the practice of architecture, engineering, land surveying, or landscape architecture*” at the end of the sentence to ensure that those that (2) refers to are not exempt if they are practicing architecture, engineering, land surveying, or landscape architecture. The focus group also added “*land surveying*” into exemption (9) for those that teach post-secondary courses. It was also suggested to delete (11) and (12) from the exemptions as both of these exemptions go into too much specificity as to what determines the practice of landscape architecture. The question was asked of the board if the reference to “Department of Public Safety” in (14) was still relevant to which Johnston replied that it was.

c. Board Composition – Leman, Bell, Leonetti, and Wallis

The focus group met twice but did not come up with an obvious answer. Part of the motivation to look into this is with HB 61 on the horizon and its proposal to enlarge the board by two members, the board should come to a decision as to what they want the composition of the board to look like should that bill pass. HB 61 proposes having an electrical engineer and a mechanical engineer and adding an interior designer. Since electrical and mechanical are second to civils in numbers of registrants, it does make sense to have both on the board. It would also add value to the board to have structural engineering represented in a board seat. The designated mining seat needs to remain to represent the mining industry in Alaska. The focus group also want to keep the seat that is for any other discipline to allow all disciplines to at one point sit on the board. The easiest way to accomplish these proposals would be to increase the board size from 11 to 13. There were options that decreased the size of the board, however, decreasing the board would meet resistance in the legislature. The consensus of the group was to only suggest board composition changes if other statute changes are being recommended as well. They looked at options such as reducing a land surveyor or architect seat but both of the professions are different enough from engineering that it really is not in the best interest of the board to do that. Johnston referred to the 2019

statute change proposal which added a structural engineer and a mechanical engineer and specified that the “another branch” be clarified by adding “otherwise not represented on the board.” The 2019 proposed change also added that if an electrical or mechanical board appointee could not be found then a control systems or fire protection engineer could be appointed. Bell encouraged the board to think about a couple of options for board composition in the event that the board has to reconfigure. Bell said the board should think about what it does and what criteria it would use for board configuration and how it translates to seats on the board. He pointed out that several state boards have less members than the AELS board. Johnston replied that the boards, Bell referred to, all represent one profession where AELS represents several and to adequately serve a discipline of engineering there needs to be representation of that discipline on the board. Johnston does not think that decreasing the board would be in the best interest of protecting the public. Fritz brought up the previous discussion on the definitions in regulations and the possibility of eliminating engineering discipline where Alaska has little to no registrants. If AELS is regulating all 14 disciplines, the board has to be able to serve all of the discipline types. Fritz also referred to what was discussed in 2019 and said a possibility would be to change to wording in the statute from “*one engineer from another branch of engineering*” to “*one engineer from any branch of engineering.*” That could result in having an electrical and a mechanical engineer on the board at the same time. It would keep the board at 11 members and the “any” seat could possibly be a structural engineer as well. Per this suggestion, Sec 08.48.11 (b) would read “*The board consists of two civil engineers, two land surveyors, one mining engineer, one electrical or mechanical engineer, one engineer from any branch of the profession of engineering not otherwise represented on the board, two architects, one landscape architect, and one public member.*” If there are vacancies on the board, she suggested informing the governor of what disciplines are represented on the board at the time and where the board needs diversity. Fritz reminded the board that this statute change proposal would not go before the board by itself, but would go with the whole statute clean-up project that was started in 2019 after being asked to look at the efficiencies of this board. Leman did say that he thought some of the proposals that the focus group came up with might work. One was changing the two civil seats to one civil engineer and the other civil seat allow for a civil, environmental, or structural. Bell added that the group also thought of possibly having categories for board seats. The first category would be primary disciplines which would include civil, environmental, structural, mining, agricultural and petroleum. One of the two civil seats would be a civil and the other could be one from the primary category. Another category for a board seat would be architects and under that would be architects, landscape architects and naval architect and marine engineers. The electrical seat could possibly be electrical, fire protection or control systems and under mechanical would be mechanical, chemical, metallurgical and industrial. Johnston concluded that the board was not ready to take action on this. Fritz recommended that it go back to the focus group to minimize the changes and address the biggest concerns without changing the board member number of 11. Leonetti encouraged the board to think of this in terms of health, safety and welfare. Numbers of registrants do not matter regarding representation on the board as the board’s job is protect the health, safety and welfare of Alaska. Johnston shared that the reason she does feel the configuration of the board

needs to change is because of the investigative caseload she bears as the electrical engineer. Electrical, fire protection, control systems and mechanical cases all come to her. She can provide expert testimony on the electrical drawings but cannot on the mechanical drawings and it is for that very reason she thinks about the health, safety and welfare of the public and not the number of registrants in the mechanical discipline with regards to a seat on the board. Johnston voiced her desire to see the board composition be changed. Garness said he does think it is about the number of registrants in a discipline because of the number of investigative caseloads that directly correlate to it.

Fritz referred to a letter from Director Chamber that was written on July 26, 2019 that stated “*Commissioner Anderson...Tasks our division partner boards, with the following immediate focus: 1) consider whether our occupational licensing requirements are reasonable responses to actual potential harm rather than hypothetical harm, 2)review statutes and regulations to ensure any licensing requirement is necessary and tailored to fulfill legitimate public health, safety and welfare objectives, and 3) review the licensed application process with the goal of substantially reducing the time required to review applications and issue licenses.*” Fritz pointed out that this letter gives the board an open invitation to review the statutes and regulations and propose changes that it needs to take advantage of.

Johnston assigned a new focus group to consider new possibilities for board composition. Anderson, Maxwell and Rozier were assigned to the new focus group and tasked with reporting their suggestions at the February 2022 meeting.

18. Committee Updates

a. Continuing Education

A continuing education survey was sent out via listserv on November 4th and will close on December 15th. It is Johnston’s intention to extend the survey if it is found that there is no way to email all opted-in registrants. Bell requested that a statement be added to the Guidance Manual in addition the explanation of “one calendar year” that states “Service on an AELS (or any qualifying board) committee would meet the requirements of 12AAC 36.520 (5).” Johnston added that service as used in that statement would need to be defined in the Guidance Manual as well. There is a newly revised CEU form for approval in the board packet. In the continuing education regulations, there are specific requirements for documentation as well what records a registrant has to maintain and how long the records must be maintained. The CEU form is not in regulation but is a tool the registrant can use if selected for the random audit. 12AAC36.540 states that the registrant must maintain “(1) a log showing the course or activity claimed, the sponsoring organization, the location and duration of the course or activity, the name of the speaker or instructor, and the unit of credit or number of professional development hours earned.” After discussing what the regulations require to be submitted with the log, it was decided to title it “*Continuing Education Log*” followed with a paragraph stating “*All activities must be relevant to the practice of architecture, engineering, land surveying, or landscape architecture and relevant to promoting the public health, safety, and welfare (HSW) within Alaska.*”

Indicate the relevance of the activity to protecting public HSW by providing a brief description. The activities may include technical, ethical, or managerial content. This form may be duplicated if necessary. The Board may request additional verification records in accordance with 12AAC 36.540.”

b. Legislative Liaison Committee

Leman shared that the committee met on October 28, 2021, to discuss AELS’s response to HB61. In the last legislative session, it moved from the house labor and commerce committee to the finance committee so AELS needs to be prepared to offer testimony. Fritz had prepared a written testimony for the labor and commerce committee in April 2021 that was comprised of four points. During the committee meeting a fifth point was added on which states *“HB 61 establishes licensure for interior designers through a practice act, requiring that all persons practicing interior design would be required to comply with the education, examination, and experience laid out in HB61. The most common framework for regulating interior design in the US is through voluntary certifications (approximately 27 states) while only a few states regulate interior design through practice acts (Nevada, Louisiana, and North Carolina), and the District of Columbia. There are significant differences in regulated responsibilities and authorities in each state, making it difficult to compare HB 61 to the laws in other jurisdictions. If HB 61 was modified to certify interior designers through a title act, individuals who wished to use the title of Interior Designer could be recognized through a voluntary process without being charged with health, safety, and welfare responsibilities in the AELS statute.”* This addition is meant to help legislators understand the difference between a title act versus a practice act. This testimony will now need to be submitted to the legislative Finance Committee. Fritz explained that between testimony provided by interior designers during the Labor and Commerce Committee meeting and meetings held by the APDC, there is a common misunderstanding that this bill creates a voluntary process where people can decide whether or not they want to become a licensed interior designer or not. This is not true because HB 61 is a practice act which requires anyone practicing interior design will now be required to be registered. If the people practicing interior design currently do not meet the qualifications of the regulations that will be put into place, they will not be able to become licensed. Fritz also pointed out that the committee did not want to do a detailed editing of the bill because it might be construed as support of the bill. Leman suggested that this be sent after the legislative session has started in January 2022 and the schedule of bill hearings has been established by the House Finance Committee. There are five days between bill posting to bill hearing. Johnston recommended cc’ing Representative Claman. Bell said that, while the board should stay as neutral as possible, individual board members, as long as it is made known that they are not representing the board, can call House Finance Committee members to let them know their individual opinion. Johnston cautioned the board, that while it is their individual right to contact state representatives, board meeting time should not be used to discuss it. Fritz reminded the board that when Rep. Claman came to the February 2021 board meeting, he did not answer the questions the board had for him and did not invite the board to strategize with him by asking the board what its concerns were and how the board might suggest solving those concerns. It was clear that the Labor and Commerce

Committee did not want to hear from the AELS board and how it would be impacted by HB61. Fritz is concerned that if the board begins having detailed outside discussions regarding the five concerns that the Legislative Liaison Committee addressed it would have the appearance that the board supports the bill. Fritz suggested staying neutral on the topic of licensure, but not neutral on how this bill will impact the AELS board. Fritz recommended not submitting this as testimony per se, but instead submit it late January 2022 and let the Finance Committee know that the board is meeting in Juneau on February 15-16th if they would be interested in discussing the bill with the board. She also thought that this submission to the Finance Committee should include a letter from the board chair that states, “The AELS board’s Legislative Liaison Committee has reviewed this bill and included are questions that they addressed previously. They would appreciate being given the opportunity to work with you more as you consider this bill.”

19. Statute Working Group

The board discussed the statute mark-up document that was done in 2019 by going through and reviewing each suggested change. A change in 08.48.241 to add limited partnerships to the list of entities that need a Certificate of Authorization has not been looked into yet. Fritz suggested that a group look into that and the statute clean-up project does not move forward until all changes that the board wants are in it. Fritz suggested possibly changing 08.48.021(c)(1) that states that a board member who has served two successive terms cannot be reappointed until four years have lapsed. She thought that the four-year lapse might be too long of time period. Leman said a one-year lapse seemed adequate. Bell said that he felt the break in service was good to allow new people to serve on the board. Leonetti pointed out that if we do a two year lapse it would be more in sync with the current AELS board rotation schedule. After taking a straw poll, 4 board members voted for one year lapse and 5 board members voted for a two-year lapse. Fritz asked if the goal was to have the document done and ready to give to Director Chambers by the end of the February 2022 meeting. Johnston answered that between meetings the board composition focus group would meet and another group would review legal’s response to the questions regarding limited partnership and joint ventures. Those changes would be reviewed by the full board and hopefully the document would be ready to move forward.

The board also discussed the regulation clean-up project from 2019 as well.

On a Motion duly made by Catherine Fritz seconded by Jennifer Anderson and passed unanimously, it was RESOLVED to create a regulation project to address updates of definitions for 12AAC 36.990 in Article 6.

On a Motion duly made by Ed Leonetti seconded by Jennifer Anderson and passed unanimously, it was RESOLVED to approve changes to 12AAC 36.990 Definitions and have it be added to the 2019 regulation project for public notice.

20. Read Applications Into the Record.

On a motion duly made by Bob Bell, seconded by Jennifer Anderson and passed unanimously, it was RESOLVED to approve the following list of applicants for registration by comity and by examination with the stipulation that the information in the applicants' files will take precedence over the information in the minutes.

FIRST NAME	LAST NAME	TYPE OF LICENSE	NOV DECISION
Blake	Carlson	Architect	Approved
Michael	Corbin	Architect	Approved
Janna	Ferguson	Architect	Approved
John	Frank	Architect	Approved
Robert	Pyatt	Architect	Approved
Michael	Werner	Architect	Approved
Patrick	Barrick	Civil	Approved
Zachary	Canody	Civil	Approved
Mary	Dempsey	Civil	Approved
Fred	Doran	Civil	Approved
Adele	Hoople	Civil	Approved
Thomas	Hudgings	Civil	Approved
Matthew	LaCome	Civil	Approved
Brian	Mapel	Civil	Approved
Mark	Merklein	Civil	Approved
Dick	Nelson	Civil	Approved
Nicholas	Sarata	Civil	Approved
David	Campbell	Electrical	Approved
Susan	Ronning	Electrical	Approved
Dakota	Keene	Landscape Architect	Approved
John	Crawford	Mechanical	Approved
Evan	Hall	Mechanical	Approved
Kevin	Jones	Mechanical	Approved
Daniel	Moore	Mechanical	Approved
Ellyssa	Boyd	Structural	Approved
Mitch	Okeson	Structural	Approved
Kimberly	Pacheco	Structural	Approved
Brad	Wallace	Structural	Approved

On a motion duly made by Loren Leman, seconded by Jeff Garness and passed unanimously, it was **RESOLVED** to conditionally approve the following list of applicants for registration by comity and by examination with the stipulation that the information in the applicants' files will take precedence over the information in the minutes.

FIRST NAME	LAST NAME	TYPE OF LICENSE	NOV DECISION
Gladys	Makabenta	Architect	Conditional
Richard	Van Diepen	Architect	Conditional
Shaminder	Ratti	Civil	Conditional
Malek	Smadi	Civil	Conditional
Summer	Garvey	Civil	Conditional
Brittany	Luchini	Civil	Conditional
Alyson	Mathers	Civil	Conditional
Karlee	Miller	Civil	Conditional
Hannah	Sponseller	Civil	Conditional
Mitchell	Titus	Civil	Conditional
Venkata	Grandhi	Civil	Conditional
Estaban	Linares	Electrical	Conditional
Stephen	Wilder	Electrical	Conditional
Derek	Boyce	Electrical	Conditional
Cooper	Gale	Electrical	Conditional
Kasey	Privett	Electrical	Conditional
Jared	Tee	Electrical	Conditional
Mikkel	Foltmar	Environmental	Conditional
Michael	Luketic	Land Surveyor	Conditional
Stephen	Williams	Land Surveyor	Conditional
Owen	Dicks	Land Surveyor	Conditional
John	Goodman	Mechanical	Conditional
Robert	Jewett	Mechanical	Conditional
Matthew	Malecha	Mechanical	Conditional
Jake	Stephl	Mechanical	Conditional
Gregory	Dunn	Structural	Conditional

On a motion duly made by Catherine Fritz, seconded by Jake Maxwell and passed unanimously, it was **RESOLVED** to find the following list of applicants for registration by comity and by examination incomplete with the stipulation that the information in the applicants' files will take precedence over the information in the minutes

FIRST NAME	LAST NAME	TYPE OF LICENSE	NOV DECISION
Rebecca	Wolfe	Architect	Incomplete
Alec	Venechuk	Land Surveyor	Incomplete

21. Upcoming Meeting Dates

- a. **Fire Marshall Meeting – February 13th, 2022**

On a Motion duly made by Loren Leman seconded by Catherine Fritz and passed unanimously, it was RESOLVED to send Elizabeth Johnson or chair appointed delegate to the 2022 Fire Marshall meeting.

- b. **February 15th-16th, 2022 – AELS Board Meeting, Juneau**
- c. **March 3-5th, 2022 – NCARB Regional Meeting**
- d. **May 10-11th, 2022 – AELS Board Meeting, Anchorage**
- e. **May 19-21st, 2022 – NCEES Western Zone Meeting**
- f. **August 23-24th, 2022 – AELS Board Meeting (Tentative)**

22. Review of Action Items

Action items from this meeting will be sent to individuals and committees for completion. Fritz also said the Planning and Implementation Committee needs to meet to discuss the Strategic Plan for the upcoming year so that it can be presented in the February 2022 board meeting. Bell requested to modify the Guidance Manual to indicate that AELS committee meetings be considered a separate PDH.

23. Board Member Comments

Leman felt the meeting was productive and enjoyed the meeting. Fritz thanked Johnston and Neal for their work in putting the meeting together and mentioned that she highly valued the benefits of the in-person meeting. Leonetti appreciated the good dialogue amongst the board members. Wallis thanked Johnston for her hard work. Maxwell expressed how he is still learning all the different disciplines and is thankful for everyone’s effort. Garness and Anderson also made mention to the hard work that went in to planning the meeting. Rozier was glad to see the regulation project moving forward. Johnston thanked everyone for the extra meetings, thoughtful conversations and taking on the extra workloads. While there are outstanding action items, many action items have been completed and Johnston is appreciative.

Adjourn Meeting – 4:30pm

Respectfully submitted:

Sara J. Neal

Sara Neal, Executive Administrator

Approved:

Elizabeth Johnston

Elizabeth T. Johnston, PE Chair
Alaska Board of Registration for Architects,
Engineers, and Land Surveyors

March 1, 2022
Date: _____