TEXAS BOARD OF ARCHITECTURAL EXAMINERS
Minutes of August 21, 2014 Board Meeting
William P. Hobby Jr. Building, 333 Guadalupe Street
Tower III, Conference Room 102
Austin, TX 78701
9:00 a.m. until completion of business

1. Preliminary Matters
A. Call to Order
Chair called the meeting of the Texas Board of Architectural Examiners to order at 9:00 a.m.

B. Roll Call
Chuck Anastos called the roll.

Present
Alfred Vidaurri              Chair
Debra Dockery               Vice-Chair
Charles H. (Chuck) Anastos Member
Bert Mijares, Jr.           Member
Chase Bearden               Public Member
Sonya Odell                 Member
Michael (Chad) Davis        Member
William (Davey) Edwards     Public Member

Excused Absent
Paula Ann Miller            Secretary/Treasurer

TBAE Staff Present
Scott Gibson                 General Counsel
Glenda Best                  Director of Operations
Glenn Garry                  Communications Manager
Mary Helmcamp                Registration Manager
Christine Brister           Staff Services Officer
Kenneth Liles               Finance Manager
Jack Stamps                  Managing Investigator
Dale Dornfeld                IT Manager
Katherine Crain             Legal Assistant
Julio Martinez              Network Specialist

C. Determination of a quorum
A quorum was present.

D. Recognition of Guests
The Chair recognized the following guests: Donna Vining, Executive Director for Texas Association for Interior Design, David Lancaster, Senior Advocate for Texas Society of Architects (in at 9:06 a.m.), Jeri Morey, registered architect of Corpus Christi, Texas, and Jaime Condit.
F. Chair’s Opening Remarks
The Chair welcomed everyone to the Board meeting. He stated that he attended his first Board meeting ten years ago. He observed some of the faces have changed while others remained constant. He said that he was thinking about the journey and what a privilege it has been to serve on the Board. However, he noted it has not always been easy and there have been days that were very difficult.

The Chair stated he recently attended a leadership training where a young man stated “Pressure is a privilege.” The Chair said he thought about that and found it interesting. The context of the conversation was a person in the middle of active participation in a practice making decisions is probably always under a certain degree of pressure. With that pressure, a person gains experience and wisdom. The Chair observed as Board members we have very active practices, active businesses, volunteerism and your service on this board there is pressure involved in many of those things you do, but in many ways it is a privilege. So, while pressure isn’t easy, many times it comes with the territory, but it is productive to look at it as truly a privilege. So the Chair suggested that mindset as the Board conducts its business and makes important decisions.

The Chair encouraged full discussion of the items on the agenda but urged the Board to move through the agenda expeditiously. Some things on the agenda might have to be taken up at a subsequent meeting.

G. Public Comments
None

2. Approval of the May 15, 2014 Board Meeting Minutes
The Chair put the draft minutes of the last Board meeting before the Board. A MOTION WAS MADE AND SECONDED (Anastos/Edwards) TO APPROVE THE MAY 15, 2014, BOARD MEETING MINUTES.

Ms. Dockery moved to correct the following errors: Walter Gropius is erroneously stated to have made a PowerPoint presentation. She also stated “Snowden Architects” should read “Snøhetta Architects.” The Chair also stated the reference to “UT-Austin” should read “UT-Arlington.”

The Chair asked if there were any other corrections to be made. There were none. He put the Motion, as amended, before the Board for a vote. THE MOTION TO APPROVE THE MAY 15, 2014, BOARD MEETING MINUTES, AS CORRECTED, PASSED UNANIMOUSLY.

The Chair stated the Board would take up item 3 on the agenda and then the Board would take up item number 6 on the agenda.
3. Executive Director Report
The Chair stated that the Executive Director was not available today due to a health issue. He requested the Finance Manager to approach the Board.
A. Fiscal Year 2014 3rd Quarter Operating Budget (Information); and
B. Board Approval of the Fiscal Year 2015 Operating Budget (Action)

The Finance Manager noted the budget documents include projections to the end of the year pursuant to the Board’s request. At the start of the fiscal year, the agency asked the Board to authorize the expenditure of $105,000.00 from the reserve fund for specific projects during this fiscal year. The Finance Manager anticipated the agency will need only $12,000.00. The Chair asked if all of the projects to be funded from an allocation from the reserve have been funded. The Finance Manager stated that they have been fully funded because the agency has done well with its revenue receipts and holding down expenditures. As a result, the agency did not need as much from the reserve as it initially thought.

Mr. Edwards noted that the budget for late fees was $75,000 and actual receipts are projected to be $88,000, whereas, the projection for next year is $85,000. He asked whether this year’s late fees might be the result of a one-time restructuring and whether it is prudent to budget that much for next year. The Finance Manager stated the agency had originally underestimated the amount of late fees that the agency would capture in 2014. He stated his belief that the projected revenue of $85,000 is accurate. Late fees were reduced last legislative session and, as a result, more people are paying them.

Ms. Dockery asked why the proposed printing budget is significantly higher than this year’s printing expenditures. The agency is projected to spend $12,000 on printing in 2014, but the proposed budget is for $23,000. The Finance Manager deferred to the Registration Manager. The Registration Manager stated the agency required new wall certificate blanks, renewal postcards, and pocket cards during next year. The Finance Manager noted the agency will be spending an additional $10,000 for scanning records at the State Library and Archives. Mr. Mijares noted that it was a 335% increase in printing from 2014 and he proposed doing away with printing notebooks for Board meetings which would save some costs. Mr. Anastos asked that the agency not compromise on the quality of the certificates of registration. Ms. Dockery noted that at some point the agency is going to have to stop relying on the reserve fund to balance the budget and start restoring the reserve. The Finance Manager stated the IT projects are critical and as revenue improves it might be that there will be no draw upon the reserve for fiscal year 2014.

The Chair asked if the rules allow for the Board to provide renewal notices exclusively by email, to reduce the costs of printing and mailing postcards.
The General Counsel stated the rule allows the Board to provide notice via email upon request of the registrant. He suggested a rule amendment would be necessary to allow the Board to send notification to registrants by email exclusively. Mr. Bearden asked if the agency could track whether the number of registrants drop or fail to timely renew after going exclusively to email. The Registration Manager said the agency could do so. Mr. Anastos suggested that the agency send something through the mail and email at the beginning and drop down to just email after one year. The Chair questioned whether it was necessary for the agency to send pocket cards to the registrants.

Mr. Mijares stated one thing that can be implemented immediately is doing away with printing Board notebooks. He proposed experimenting with meeting without a notebook at the Board’s next meeting in October.

The Finance Manager added that the agency has researched the issue of document imaging in-house in order to reduce the printing budget. The IT Manager explained the process for document imaging and stated that the project has not been initiated yet. Once implemented, the agency will not have to pay $10,000 for microfilming agency records. Mr. Anastos asked if records could be copied digitally, not by microfilm. The IT Manager said it would be digitally copied, stored on a storage server and also, as a long term goal, stored on the Cloud.

A MOTION WAS MADE AND SECONDED (Mijares/Davis) TO APPROVE THE PROPOSED 2015 BUDGET OF THE BOARD AS PRESENTED. THE MOTION PASSED UNANIMOUSLY.

The Chair recognized the Communications Manager to lay out the agency Strategic Plan for 2015-2019.

C. **Board Approval of the 2015-2019 Strategic Plan (Action)**

The Communications Manager stated the agency is required to adopt a Strategic Plan every 2 years in even-numbered years. The Strategic Plan must be approved by the Board. He reported the agency must file the Strategic Plan with the Governor’s office, the Legislative Budget Board, and possibly with the Office of the Speaker of the House and the Lieutenant Governor’s Office. Mr. Mijares asked about the difference between the current strategic plan and the proposed plan before the Board. The Communications Manager reported the proposed strategic plan included performance measure definitions which do not appear in the current plan. The inclusion of the performance measures was to ensure compliance with requirements of the Sunset bill from last session.

A MOTION WAS MADE AND SECONDED (Anastos/Dockery) TO APPROVE THE 2015-2019 STRATEGIC PLAN.
Ms. Odell questioned why it is entitled a 4-year report when the agency must submit it every 2 years. The Communications Manager said the strategic planning instructions require a 4-year plan prepared every 2 years so they overlap. Ms. Odell noted the Board would have an opportunity to change it in 2 years.

The Chair noted it was strange to him for a strategic plan to include the Board as stakeholders only at the end. He opined that the process is almost backwards. He read it and found some things seemed more tactical and less strategic, and it seemed odd to have it in a strategic plan. He noted it was different from any strategic plan process he had ever been involved in. The Chair recommended a meeting to allow the public to have input in the plan. He suggested in the future the agency should conduct strategic planning with more Board and public input at the front end. Mr. Mijares agreed and suggested that the title of the report be "TBAE's Operational Plan" instead of "Strategic Plan."

The Chair asked for further comment. There was none. The Chair put the Motion before the Board for a vote. THE MOTION PASSED UNANIMOUSLY.

Mr. Anastos noted the Motion was not to approve the Strategic Plan as submitted, but was to allow leeway for corrections to typos or other technical errors.

D. **Report on Action Items assigned at the May 15, 2014 Board Meeting (Information)**

The Chair recognized the Director of Executive Administration to explain the document which lists items for agency action at the Board’s direction. The Chair explained that it is a new reporting process and he was open to suggestions. He asked what happened as items were completed. The Director stated they remain on the list but are color coded to indicate completion. Mr. Edwards asked how each item is prioritized. The Director stated that comes as direction from the Board. Mr. Bearden and Ms. Dockery stated it is useful and helpful in refreshing one’s memory about Board deliberations. Mr. Edwards requested staff to email a copy of the document prior to each meeting.

E. **Customer Service Survey Report (Information)**

The Chair recognized the Communications Manager to present the customer service survey report. The Communications Manager stated the survey is required and is part of the strategic planning process. In the last two surveys the agency received a 93% rating of overall satisfaction, but it had dropped to 87% in the latest survey. He reported the drop is due to the fingerprinting requirement. The agency received 700 text responses
on fingerprinting in the survey. Respondents went out of their way to add comments about fingerprinting. The main complaint on fingerprinting was a fundamental belief that fingerprinting is governmental overreach which is something beyond the agency’s control. The Communications Manager noted the agency made great efforts to let people know about the new fingerprinting requirements to make it as easy as possible to comply. He reported 82% of respondents heard about it twice and 95% of respondents had heard about it at least once. The agency thus succeeded getting information to the registrants. By a ratio of 7.5:1 respondents said agency instructions on fingerprinting were helpful. Eighty-seven percent of survey responses requested TBAE produce continuing education programs, including on demand access via prerecorded presentations or courses for free or low cost. Approximately 35% suggested that the agency make a rule to lower continuing education hours, return to the old reporting schedule, or remove the requirement for sustainability and accessibility continuing education. Respondents also suggested lowering renewal fees and lowering the 20,000 square foot threshold for retaining an architect. Many respondents complained about title restrictions, particularly the misuse of the title “architect” in the context of the Internet or software or other areas unrelated to professional design. Mr. Anastos recommended that the agency address these concerns in the next newsletter. He noted the agency should let people know that the Board cannot change statutes. Mr. Davis asked if there is a way to determine the percent of small businesses registered in the agency database. He noted 70% of survey respondents were from small businesses. He observed that is an important consideration for the Legislature.

F. Agency response to Sunset advisory Commission request for information on the SDSI program
The Chair recognized the General Counsel to outline the agency’s written response to the Sunset Advisory Commission regarding the SDSI program. Mr. Davis noted the agency now transfers enforcement penalty revenue to the Comptroller for deposit in the General Revenue fund. At the last Board meeting he had proposed pursuing legislation to recover costs for collecting that revenue. He asked the General Counsel if an amendment to that effect should be added to this discussion. The General Counsel suggested it might be an issue the Board’s legislative committee might consider addressing.

The Board took a break at 10:11 a.m. and reconvened at 10:25 a.m.

The Chair directed the Board to item 6 on the agenda.

6. Request for reinstatement after architectural registration was revoked by operation of law (Action)
The Chair recognized the General Counsel regarding the reinstatement application. He explained that Jaime Condit was a registered architect who was
convicted for a substance abuse matter and had served some prison time. The materials before the Board included a letter of reference from a parole officer. The materials show Mr. Condit completed substance abuse training, successfully completed parole, and the agency staff recommended reinstatement of his registration.

A MOTION WAS MADE AND SECONDED (Mijares/Bearden) TO ACCEPT STAFF’S RECOMMENDATION AND REINSTATE JAIME CONDIT’S ARCHITECTURAL REGISTRATION.

Ms. Dockery inquired about continuing education after reinstatement and whether Mr. Condit will wait until next year to report continuing education after reinstatement. The Registration Manager stated he does not have an obligation to do continuing education during the period of revocation. He will begin fulfilling the continuing education requirement after reinstatement. Mr. Anastos noted Mr. Condit had returned his certificate of registration and architectural seal in 2013. Mr. Condit stated he had turned in his seal after he had served time in prison in response to a letter from the Managing Investigator. The Chair asked Mr. Condit if he wished to address the Board. Mr. Condit stated that he had a lot of personal tragedies that he did not handle very well when he committed his offense.

The Chair put the question before the Board. THE MOTION PASSED UNANIMOUSLY.

4. **Staff recommendation regarding Legislative Committee of the Board**  
*(Action)*  
The Chair recognized the General Counsel to outline the memo recommending the creation of a legislative committee. At the Board’s direction, agency staff researched minutes from 1997 to the present. He explained the Board had an Ad Hoc Stakeholders Committee from 2006 through 2008. Other than that, there was no real formal committee ever created by an action of the Board that met to address matters. The memo to the Board recommended that the Board create a Legislative Committee. The General Counsel noted the Board may not lobby the Legislature but may provide information to the Legislature. The Chair asked for input from the Board on the composition of the Committee if it were created. Mr. Edwards noted the Board of Professional Land Surveyors had several committees and conducted much of its business through committee. He asked if the Board could appoint members that were not currently on the Board. The General Counsel stated he had researched this before and advised against the appointment of people not on the Board because the Board has no legislative authority to do so. Appointing committees from outside the Board raises difficult questions regarding the authority of the agency to reimburse for travel expenses and other issues regarding the legal authority of the committee. Mr. Anastos, Mr. Davis and Ms. Odell volunteered to serve on the Legislative Committee. The Chair accepted Mr. Bearden’s offer to serve on the committee. Ms. Dockery offered to serve as an alternate as she has experience testifying at legislative
hearings and is located near Austin. Mr. Davis suggested receiving input from the professional societies. The Chair invited Ms. Vining to address the Board. Ms. Vining reported that TAID does not intend to file any legislation at the upcoming session. She agrees the agency should attempt to recover the cost of enforcement as suggested by Mr. Davis. She also reported TAID will meet with Mr. Abbott's staff regarding interior design in response to statements made in his campaign for Governor. She said TAID will support a bill, if needed, to address agency issues. Mr. Lancaster stated he has noted lots of public information specialists from agencies, although agencies are not allowed to lobby. He noted the agency has an appropriate role to answer questions and serve as a resource and it is wise to convene to address how it will answer those questions. He stated that TxA had some items on their agenda and would let the Board know what those are when he is authorized to do so.

A MOTION WAS MADE AND SECONDED (Edwards/Mijares) TO APPOINT MR. ANASTOS, MR. DAVIS, MS. ODELL AND MR. BEARDEN TO A LEGISLATIVE COMMITTEE AND TO APPOINT MS. Dockery AS AN ALTERNATE MEMBER. THE MOTION PASSED UNANIMOUSLY.

5. Proposed Rules for Adoption (Action)
Report of the Rules Committee
Possible Rule Amendments Recommended by the Rules Committee for Proposal
A. Rules 1.69, 3.69, and 5.79 relating to continuing education.
The General Counsel explained that the first set of rules pertain to continuing education requirements during the initial period of registration or reinstatement. The amendments create an exemption for the remainder of the calendar year after initial registration. The Board at an earlier meeting had expressed concern about being out of compliance with other jurisdictions which may cause reciprocity problems. The General Counsel reported there are no consistent standards in other jurisdictions.
A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO ADOPT PROPOSED RULES 1.69, 3.69 AND 5.79. THE MOTION PASSED UNANIMOUSLY.

B. New rules relating to registration of military service member, military veterans; amend Rules 1.22, 3.22, 5.32 to provide an expedited process of reciprocal registration of military spouses.
The General Counsel stated the rules implement legislation passed during the last legislative session. The new rules would expedite reciprocal registration for spouses of military service members. The Committee amendments to Rules 1.22, 3.22 and 5.32 would require the Board to give credit to an applicant for registration for education, training and experience while in military service. The Board discussed the proposed rules regarding military training, the meaning of an “auxiliary” of the military, and the application of the rules to a veteran of the National Guard. Mr. Davis stated that the Committee decided to track the wording from the statute. Mr. Edwards questioned whether it was the Board’s prerogative to apply it
to a veteran of the National Guard. The General Counsel stated that he believed so, if the training was relevant to the professions TBAE regulates. Ms. Dockery opined the statute seems to state a person who serves a 6 year term and 2 years in the reserves could substitute military education for an accredited degree entirely. Mr. Davis understood that the agency could still require the accredited education component even under this provision in order to ensure access to the examination which is still required under the law. He construed the law to allow military training and experience to count toward fulfilling the experience requirement. The General Counsel stated the law allows for credit toward education but does not supplant the accredited degree. He stated the law does not exempt someone from the education requirement. Mr. Lancaster asked about the meaning of “auxiliary service” and whether the Board could construe that to mean serving in the National Guard. He also asked about “verified” service under the new law. General Counsel confirmed verification would be by staff but the Committee discussed verification by the national registration associations for consistency. Ms. Dockery suggested the rule draft be amended to specify that military service does not supplant an accredited degree in addition to the examination. Mr. Davis stated the examination, which is not supplanted, includes the accredited degree as a prerequisite so such a change is not necessary. After examining the bill passed by the Legislature, Ms. Dockery noted the Board seems to be required to adopt the provisions as written. Mr. Anastos suggested the military education may count toward fulfilling the experience requirement for registration.

A MOTION WAS MADE AND SECONDED (Davis/Anastos) TO PROPOSE AMENDMENTS TO RULES 1.22, 3.22 AND 5.32 AND PROPOSE NEW RULES 1.29, 3.29, AND 5.29 AS PRESENTED AND TO NOTE ON THE RULES 1.29, 3.29 AND 5.29 THAT THE REQUIREMENT FOR AN ACCREDITED DEGREE IS NOT SUPPLANTED BY EXPERIENCE GAINED IN THE MILITARY. THE MOTION PASSED UNANIMOUSLY.

C. Amend Rules 1.232, 3.232 and 5.242 relating to penalty matrix for assessing sanctions for specified violations of laws enforced by the Board. The General Counsel said the Rules Committee thoroughly reviewed these rule drafts. The amendments correct cross-references, revise recommended sanctions, and improve descriptions of offenses subject to penalties.

A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO PROPOSE AMENDMENTS TO THE PENALTY MATRIX IN RULES 1.232, 3.232, AND 5.242. THE MOTION PASSED UNANIMOUSLY.

Ms. Dockery had a question regarding the description of a violation of the construction observation rules. BY UNANIMOUS CONSENT, THE DESCRIPTION WAS AMENDED TO CLARIFY THE OFFENSE OF UNAUTHORIZED CONSTRUCTION OBSERVATION OF ARCHITECTURAL CONSTRUCTION. The Board conducted further
discussion regarding the discretion of the Board to set the amount of administrative penalties. The Chair put the question before the Board. THE MOTION PASSED UNANIMOUSLY.

D. Amend Rule 1.147 relating to the implementation of the Professional Services Procurement Act as applied to the procurement of architectural services.

E. Repeal Rule 3.147 regarding the procurement of landscape architectural services under the Professional Services Procurement Act.

The General Counsel stated the amendments to Rule 1.147 and repeal of 3.147 are recommendations of the Rules Committee. The amendment to Rule 1.147 would bring the rule as applied to architects more in line with the way the rules read for the procurement of engineering and land surveying services. As amended, the rule defines the term “competitive bid” as used in the statute to include information from which architectural fees may be indirectly determined or extrapolated. The General Counsel reported that the Rules Committee noted landscape architecture is not one of the professions to which the two-step procurement process applies under Section 2254.004, Government Code, of the Procurement Act. For that reason, the Committee recommends rule 3.147 be repealed.

A MOTION WAS MADE AND SECONDED (Dockery/Davis) TO PROPOSE THE AMENDMENTS TO RULE 1.147 AND THE REPEAL OF RULE 3.147 AS REPORTED BY THE RULES COMMITTEE. THE MOTION PASSED UNANIMOUSLY.

F. Amend Rules 1.144, 3.144 and 5.154 relating to dishonest practices and to define the term “intent” as used in the rules, the term “knowing” as used in Rule 1.144, and to clarify prohibitions on offering an inducement to a governmental entity.

The General Counsel reported that the dishonest practices rules include a measure of intent to deceive, mislead or defraud. The amendments define the term “intent” for purposes of the prohibition. The draft definitions are based upon definitions of the same terms in the Penal Code, relating to culpable mental states. The rule provides that intent may be established by circumstantial evidence in the same manner as provided in the Penal Code.

A MOTION WAS MADE AND SECONDED (Davis/Anastos) TO PROPOSE THE AMENDMENTS TO RULE 1.144, 3.144 AND 5.154 AS REPORTED BY THE RULES COMMITTEE. THE MOTION PASSED UNANIMOUSLY.

G. Amend Rules 1.43, 3.43 and 5.53 to allow for extensions to the 5-year “rolling clock” deadline for passing registration examinations.

The General Counsel reported that the draft amendment is in response to a memo from NCARB which noted the Board’s rules conflict with exceptions in NCARB’s model law. The Board’s current rule allows only one extension for the birth or adoption of a child. As amended the rules would also grant an extension for a serious medical condition or for
military service. The amendment would also allow for granting more than one extension.

A MOTION WAS MADE AND SECONDED (Mijares/Odell) TO PROPOSE AMENDMENTS TO RULES 1.43, 3.43 AND 5.53 AS REPORTED BY THE RULES COMMITTEE. THE MOTION PASSED UNANIMOUSLY.

Mr. Davis, Chair of the Rules Committee thanked Mr. Edwards and Ms. Odell for their hard work on the Rules Committee meeting. Mr. Edwards stated the Committee missed Mr. Anastos (who had an excused absence) as the architect on the Committee and stated he looks forward to working with Mr. Anastos on the Committee.

11. Approval of the Proposed 2015 Board Meeting Dates (Action)
Thursday, January 22, 2015
Thursday, June 25, 2015 (Board member orientation early June & NCARB 2015 Annual Business Meeting, June 17-20, New Orleans)
Thursday, August 20, 2015
Thursday, October 29, 2015 (TxA Conference, Nov. 5, Dallas)

12. Upcoming Board Meeting (Information)
Monday, October 20, 2014 – Full Board

The Chair placed agenda items 11 and 12, relating to upcoming Board meeting dates, before the Board for deliberation. He explained that there was a conflict with the scheduled October 30th Board meeting. NCARB will hold the regional chairs meeting on October 30th which is an important meeting for Board Chairs and Executive Directors of the Boards. He recognized the Director of Executive Administration for a range of possible alternative dates for the Board meeting. She indicated November 20, 2014, appears to be the best date upon which a meeting room is available. The Board considered different dates and determined meeting earlier would be preferable to meeting later. The Board decided to change the date to October 20, 2014, for the next Board meeting. The Chair suggested Board Committee meetings may be held on October 21st.

The Chair noted the following Board meeting is scheduled for January 29, 2015. He stated he has a conflict on that date involving NCARB. The Board rescheduled the meeting to January 22, 2015.

The Board discussed rescheduling the August meeting and determined it would be Monday, August 24, 2015.

The Board recessed at 12:03 p.m. and reconvened at 12:35 p.m.

7. Enforcement Cases (Action)
Review and possibly adopt Executive Director’s recommendations in the settlement of the following enforcement cases:
A. Registrant & Non-Registrant Cases:
The Chair recognized General Counsel to present the following cases to
the Board for their consideration and possible approval of proposed
agreed settlements:
Dooley, Thomas A. (#085-14A)
The General Counsel stated that the Respondent is registered in Texas
but resides in Tennessee and had worked on two projects in Texas while
on inactive status. Respondent reported himself when he realized his
registration was inactive.
A MOTION WAS MADE AND SECONDED (Mijares/Edwards) TO
APPROVE THE EXECUTIVE DIRECTOR’S RECOMMENDATION IN
CASE NUMBER 085-14A INVOLVING THOMAS A. DOOLEY TO
IMPOSE AN ADMINISTRATIVE PENALTY OF $1,500. THE MOTION
PASSED UNANIMOUSLY.
Sanchez, Rafael (#116-13N)
The General Counsel stated that this case involved a non-Registrant who
provided architectural services and executed a contract for architectural
services. He prepared construction documents for the design of multi-
family dwellings in excess of 16 units per building and engaged in
construction observation of the buildings. The Executive Director has
recommended an administrative penalty of $15,000.00 which represents
$5,000.00 per violation.
A MOTION WAS MADE AND SECONDED (Mijares/Bearden) TO
APPROVE THE EXECUTIVE DIRECTOR’S RECOMMENDATION TO
ASSESS A $15,000.00 ADMINISTRATIVE PENALTY IN CASE NUMBER
116-13N AGAINST RAFAEL SANCHEZ.
Mr. Anastos stated his failure to understand the contract does not absolve
him of responsibility for contracting to provide architectural services. If
Respondent does not understand the contract, he probably did not
understand the building code. For this reason, Mr. Anastos said he was
not sure that a $15,000.00 penalty is adequate. The General Counsel
explained that it is a problematic project, there are code violations, and
there is a related case. Mr. Edwards asked the General Counsel about an
additional case involving the same project. General Counsel stated that
the companion case will be before the Board at a later date. In response
to questions from Mr. Edwards, the project did receive a building permit
but should not have and there are issues with the client. Ms. Dockery
noted that in the past the Board has applied a penalty per sheet and it
appears that Mr. Sanchez prepared 43 sheets of architectural plans. She
inquired about why the proposed penalty is not assessed per sheet. The
General Counsel explained that the Respondent was assessed a
maximum fine for practice, title usage and construction observation and
that the proposed administrative penalty is the result of negotiations with
the Respondent but he acknowledged it was a serious case. He also
added that Mr. Sanchez was an architect in Mexico and was trying to get
licensed in Texas. In response to inquiries by the Chair, the General
Counsel stated Respondent had an informal conference and was represented by legal counsel. The Chair put the motion before the Board. THE MOTION PASSED 5-2. (Anastos and Dockery opposed).

B. Continuing Education Cases:
The General Counsel outlined the cases on the agenda. For continuing education cases, the Executive Director’s proposed agreed orders include a standard penalty of $700 for misstatements to the Board, $500 for failing to complete continuing education, and $250 for failing to timely respond to an inquiry of the Board. The Chair asked if any case had unusual facts or otherwise required particular discussion. The General Counsel stated that they all fit the same fact patterns and none required specific discussion and all proposed administrative penalties adhere to the standard matrix. A MOTION WAS MADE AND SECONDED (Odell/Anastos) TO APPROVE THE EXECUTIVE DIRECTOR’S RECOMMENDED ADMINISTRATIVE PENALTIES IN THE PROPOSED AGREED SETTLEMENTS OF THE FOLLOWING CASES INVOLVING CONTINUING EDUCATION VIOLATIONS:

Fridrich, Susan L. (#134-14I)
Hagmann, Gregory G. (#091-14A)
Merwin, Peter C. (#120-14A)
Noah, Robert S. (#203-13A)
Preston, Brigitte (#094-14I)
Spina, Victor (#119-14A)
Suttle, William G. (#118-14A)
Valadez, Frank M. (#121-14A)
THE MOTION PASSED UNANIMOUSLY.

The Chair noted that the General Counsel had received a request to mediate a case relating to the Sanchez case. He asked Board members to contact him if they wish to volunteer. He stated he planned to assign three members to participate in a mediated settlement conference before a mediator at the State Office of Administrative Hearings.

10. The National Council of Architectural Registration Boards (NCARB) Proposed Changes to the Intern Development Program (IDP), the Broadly Experienced Architect Program (BEA), and the Broadly Experienced Foreign Architect Program (BEFA) (Action)
The Chair reported that NCARB requested the member boards to provide input on proposed changes for its consideration in determining whether to make the proposed changes. The Chair recognized Ms. Dockery to report on the proposed changes to the Intern Development Program.

Ms. Dockery stated that IDP currently requires 5600 hours of experience which works out to 3 years. Of that total mandatory experience, the candidate must earn 3740 hours, or 2 years, of core experience in specified categories. The
remainder may be earned in allowed auxiliary experience. One of the 3 years has
to be under the direction of an architect in the traditional practice of architecture.
The other 2 years may be in other work settings like an engineer's office or in
academia. Recently, a change was adopted that allows the IDP credits to be
earned right after high school graduation. The proposed revisions would
eliminate the elective credits which would shorten IDP to 2 years of core hours. A
candidate would still have to work 1 year under the direction of an architect.
Experience could still be earned immediately after high school. The next step in
the proposed revisions to the IDP would be to realign the current categories to
categories based upon the new ARE exam categories. Ms. Dockery stated
the rationale for the proposed changes is to support NCARB's efforts to make
IDP rigorous for a reason. The proposed changes are recommendations from an
ongoing study of the Intern Development Think Tank. Ms. Dockery noted the
underlying reason is to eliminate impediments to licensure and reduce the time it
takes to become licensed. She observed the 1 year of electives which may be
eliminated includes credits which are worthwhile such as obtaining construction
specification institute certification and attending AIA continuing education. These
credits also serve to reinforce core credits.

Ms. Dockery also expressed concern about credits earned right out of high
school when the candidate might not comprehend the training activity. She also
noted a letter from Florida which advocated requiring both years to be under the
control of an architect if IDP is only going to be for 2 years. She stated she
reached out to architects to gauge reaction and reviewed the letter from TxA
which expressed concerns about the time it takes to gain licensure. The letter did
not request reducing IDP to 2 years. It suggested only providing greater options
to fulfilling core hours. Everyone opposed the change.

The Chair recognized Mr. Anastos who opposed lowering the 5600 hours for the
internship. He also believed 2 years should be under the control of an architect.
He said he agreed with Ms. Dockery's concern about receiving credit directly out
of high school when the candidate probably does not understand what they are
learning. He said an accelerated program of 2 years work study under an
architect might be appropriate for certain candidates but not everyone. Mr.
Mijares agreed that candidates should not get credit right out of high school. He
stated the IDP is being changed too often. Mr. Mijares also noted that the IDP
which specifies exact numbers of hours in certain categories of practice is not
realistic, especially the required 2200 hours of design. He noted the requirement
when he became licensed was to work for 2 years in an architectural office. The
intern should take the initiative to learn various aspects of the practice. Mr.
Anastos related his experience with candidates who are not interested in passing
the ARE and becoming architects. The Chair said he needed a recommendation
from the Board.
The Chair noted it appears the Board should relate that the Board is not in favor of reducing IDP from 3 years to 2 years for a variety of reasons related in the deliberations.

A MOTION WAS MADE AND SECONDED (Mijares/Edwards) TO REPORT TO NCARB THAT THE BOARD IS NOT IN FAVOR OF THE PROPOSED CHANGES TO THE IDP REQUIREMENTS TO ELIMINATE ELECTIVE HOURS. THE MOTION PASSED UNANIMOUSLY.

Nancy Fuller, Assistant Attorney General arrived at the meeting. The Chair put agenda item 8 before the Board.

8. **Committee Report on the Executive Director Performance Goals and the Revision of the Executive Director’s Performance Evaluation form (Information)**

The Chair recognized Ms. Odell, Committee Chair, to outline the Committee’s work in revising the performance evaluation form and setting goals. Ms. Odell reported that the Committee looked at other agencies, best practices, and professional organizations to determine the leadership qualities of effective executive directors. The Committee used this information to put together an evaluation tool that was specific, measurable, and included those leadership qualities. She noted the Committee’s intent was to create an evaluation form which was not person specific but position specific. On July 24, 2014, the Committee met and the Executive Director proposed an alternate form. Ms. Odell noted even though there were similarities and overlaps there were definitely things in the alternative evaluation form which were different. The form seemed to emphasize more administrative functions than leadership skills. She stated the alternative evaluation form proposed at the Committee meeting raised the following legal questions:

1. What are the conditions for an at-will, exempt Executive Director?
2. What is the role of the Board in setting these performance evaluations and correlation of the evaluation with the position description?
3. There were matters relating to merit raises and disciplinary actions put into the alternate evaluation. The Committee has questions about whether these and other standard state employee envelope of personnel matters should be put in this particular position.

At 1:15 p.m., the Chair convened the Board in closed session pursuant to Tex. Gov’t Code Ann. Section 551.071(c) to confer with legal counsel on a confidential or privileged legal matter.

The Board adjourned closed session and convened in open session at 2:04 p.m. Ms. Odell submitted written materials regarding the performance evaluation form to agency staff.
The Board recessed at 2:05 p.m. The Board reconvened at 2:15 p.m.

9. **Board Discussion of following matters regarding Executive Director Vacancy (Action)**

   A. Agency staff transition plan for the assumption and execution of executive director duties.

      The Chair laid out the transition plan prepared by agency staff. The plan specified the reassignment of pending matters before the Executive Director upon retirement. The board discussed the manner in which the Executive Director’s retirement is to be communicated. The Chair stated he believed it is important to announce the Executive Director’s retirement. Ms. Dockery stated she agreed and suggested an email announcement to registrants sooner rather than later. She also stated the agency’s next newsletter should include a two to three page story about the Executive Director’s accomplishments over the course of her service as Executive Director.

      A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO ADOPT THE EXECUTIVE DIRECTOR TRANSITION PLAN AS PROPOSED BY THE AGENCY. THE MOTION PASSED UNANIMOUSLY.

   C. Development of process for recruitment and selection to fill the executive director vacancy.

      The Chair laid out the selection process prepared by agency staff. The Chair asked the board members if they had had any experience in recruiting and filling an executive director position. Two members gave their input.

      Mr. Mijares stated that he was Chair of the Texas Public Finance Authority when the Executive Director of that agency decided to take a job in the private sector. He stated that the Board contracted with a search firm, posted the position in the Texas Marketplace, the search firm came up with a short list, the Board interviewed candidates, a candidate was selected and the new Executive Director took the position approximately 7 months after the position became vacant. It took roughly $50,000 to employ the search firm.

      Mr. Edwards stated that he was President of the Texas Society of Professional Surveyors when the Executive Director retired. The Society had a procedure in place to fill the position. They contacted an association for executive directors, advertised in its publication, received applicants, a committee scored applications, developed a short list and presented to the Board the candidate the committee felt was the best selection. The timing allowed for overlap with the retiring Executive Director to assist with onboarding. The process took about 3 months to fill. At the same time the Society provided input on the selection of an Executive Director of the Texas Board of Professional Land Surveying.

      Mr. Anastos expressed his concern about delegating the search and selection process to a committee when one-third of the Board will leave soon and some expertise and experience may be lost if someone is not
appointed to the committee because of his or her impending departure. He favored having the full board engaged in the screening and appointment process. Mr. Mijares agreed and said if the Board did not retain a search firm, the entire Board should carry out the selection process. Mr. Davis suggested that the position description should not require licensure by the agency or a design background but should have the skills and ability to lead the agency. The Board generally discussed this issue and the value to the Executive Director of knowing about the design professions. A MOTION WAS MADE AND SECONDED (Davis/Anastos) TO ADOPT THE PROPOSED RECRUITMENT AND SELECTION PROCESS PREPARED BY STAFF, AS AMENDED TO ASSIGN TO THE BOARD INSTEAD OF A COMMITTEE THE RECRUITMENT AND SELECTION TASKS IN THE PROCESS. THE MOTION PASSED UNANIMOUSLY. After further discussion, the Board instructed agency staff to have a job description prepared for Board approval at its meeting in October. The Chair stated the goal is for the Board to take all the action it must take in order to have the position posted after the October meeting.

The Chair stated that he wanted to go into closed session to deliberate on the appointment of an interim executive director.

B. Appointment of interim or acting executive director pending the appointment of the executive director.

The Board adjourned the open meeting and convened the Board closed session at 2:52 p.m. to deliberate on personnel matters pursuant to Texas Government Code Section 551.074. The Board adjourned closed session and reconvened in open session at 3:26 p.m.

The Chair stated that there was no formal action taken by the Board during closed session. The Chair stated he will appoint a Committee to invite some current individuals on staff to interview for the Interim Executive Director position in order to fill this position within the next 3-4 weeks. The Chair asked if any Board members would like to serve on the Committee. Ms. Dockery and Mr. Anastos volunteered to serve on the Committee. Mr. Bearden volunteered to serve as an alternate. The Chair stated the Committee would interview Ken Liles, Glenn Garry, Glenda Best and Scott Gibson, plus anyone else anyone on the Board would recommend for the position. A MOTION WAS MADE AND SECONDED (Edwards/Odell) TO ADOPT THE CHAIR’S RECOMMENDATION FOR THE COMMITTEE AND ALLOW THE COMMITTEE TO APPOINT THE INTERIM EXECUTIVE DIRECTOR. THE MOTION PASSED UNANIMOUSLY.

The Board took a break 3:30 p.m. and reconvened at 3:45 p.m.
10. The National Council of Architectural Registration Boards (NCARB) Proposed Changes to the Intern Development Program (IDP), the Broadly Experienced Architect Program (BEA), and the Broadly Experienced Foreign Architect Program (BEFA) (Action) – CONTINUED.

The Chair explained that in 1990, NCARB decided to create an alternative to the 5-year degree program in order to obtain an NCARB certificate. In order to qualify under the program a person has to be licensed as an architect. Depending upon the amount of education obtained, the person has to have 6, 8, or 10 years of experience after licensure. The person submits a dossier of his or her work to establish experience. The proposed changes are to require the candidate to meet the member board’s experience requirements, pass the ARE, and maintain the license for one year in good standing. The Chair observed that currently the pass rate is 75%. The changes would allow issuance to all who meet the criteria. The Chair opined that the changes may undermine efforts to emphasize the importance of an accredited 5-year degree. However, there are 17 jurisdictions which do not require the accredited degree for licensure. The Chair stated it is a trust issue – whether each member board trust the other boards to ensure competence to practice. He expressed concern about only 1 year of post licensure experience. Mr. Anastos, Ms. Dockery, and Mr. Mijares noted the changes would allow reciprocal candidates to obtain licensure by meeting lower standards, depending upon the jurisdiction, than required of an in-state candidate. The Chair noted the current BEA process is rigorous and expensive but a candidate can always go back and obtain the degree. The Chair stated he believes he has a sense of the Board’s opposition to the proposed change.

The Chair put the proposed changes to the BEFA process before the Board. The BEFA process allows a broadly experience foreign architect to obtain an NCARB certificate. The Chair outlined the current BEFA process. It requires graduation from a recognized architectural program, licensure in the foreign jurisdiction, at least 7 years of post-licensure experience, and submission of a dossier which shows experience applying practice skills in all seven sections of the ARE. The dossier must show responsible control and comprehensive practice. The dossier must be translated and show the modifications to meet U.S. codes, accessibility laws, and requirements. The proposed changes would require licensure, 2 years of licensed experience, or 2 years working in the U.S. under supervision and control of an architect, and successful completion of the ARE. Ms. Dockery suggested passing the ARE might show competence but there should be 3 years of experience so it more closely resembles the internship program. Mr. Anastos noted the only real difference under the proposed changes is the accredited educational program. But passing the ARE would establish competence by an objective standard. The Chair noted most of the candidates who make it through the BEFA process are very accomplished and talented architects. Mr. Mijares stated it did not seem reasonable to expect architects of that caliber to sit for the ARE. The Chair noted that the sense of the Board seemed undecided about the proposed changes.
The Chair directed the Board back to item number 3 of the notebook.

Report on Conferences and Meetings (Information)
A. NCARB Annual Business Meeting – June 18-21
Ms. Dockery reported that this meeting was held in Philadelphia. The theme of the meeting is the history of NCARB and the build-up of the 100 year anniversary of NCARB in 2019. She reported Texas was one of 13 founding NCARB member boards. Architects in 1919 at an AIA convention in Nashville were invited to serve an organization facilitating the licensure in states. All resolutions were adopted, including the resolution requiring NCARB certification to serve on the NCARB board. She announced the officers elected at the meeting. She stated the workshops were moderately informative but presentations at the resource centers were very good. The keynote speakers were impressive. They spoke on the seven essential elements of innovation. She reported the TBAE Chair was honored as a President Medalist for Distinguished Service. Mr. Mijares reported he followed the meeting as it was streaming on the Internet which he said worked very well.

B. Building Officials Association of Texas (BOAT) Annual Conference – August 5-6
The Managing Investigator outlined the presentation he gave at the BOAT Conference. He spoke to 60 building officials and was asked to give the presentation at two cities.

C. METROCON14 – Aug. 14-15
The Communications Manager stated that he and the Director of Registration gave two presentations at METROCON14 on sealing rules and registration and made 60 impressions the first day and 100 impressions on day two.

13. Chair's Closing Remarks
The Chair thanked the Board for their attention and comments and concluded by stating that the Board covered a lot of ground today.

14. Adjournment
A MOTION WAS MADE AND SECONDED (Mijares/Odell) TO ADJOURN THE MEETING AT 4:30 P.M. THE MOTION PASSED UNANIMOUSLY.

Approved by the Board:

[Signature]

ALFRED VIDAURRI, JR., AIA, NCARB, AICP
Chair, TEXAS BOARD OF ARCHITECTURAL EXAMINERS