TEXAS BOARD OF ARCHITECTURAL EXAMINERS  
Minutes of August 18, 2011 Board Meeting  
William P. Hobby Jr. Building, 333 Guadalupe Street  
Tower I, Conference Room 225  
Austin, TX 78701  
9:00 a.m. until completion of business  

1. Preliminary Matters  

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

B. Roll Call  
Secretary/Treasurer, Chase Bearden, called the roll.  

Present  
Alfred Vidaurri, Jr. Chair  
Charles H. (Chuck) Anastos Vice-Chair  
Chase Bearden Secretary/Treasurer  
Bert Mijares, Jr. Member  
Brandon Pinson Member  
Diane Steinbrueck Member  
Debra Dockery Member  
Paula Miller Member  
Sonya Odell Member  

TBAE Staff Present  
Cathy L. Hendricks Executive Director  
Scott Gibson General Counsel  
Glenda Best Executive Administrative Manager  
Christine Brister Staff Services Officer  
James Coffman IT Manager  
Katherine Crain Legal Assistant  
Steve Franz Investigator  
Glenn Garry Communications Manager  
Mary Helmcamp Registration Manager  
Kenneth Liles Accounting Manager  
Julio Martinez Network Specialist  
Michael Shirk Managing Litigator  
Jack Stamps Managing Investigator  

C. Excused and unexcused absences  
None.
D. **Determination of a quorum**
A quorum was present.

E. **Recognition of Guests**
Guests were as follows: Ted Ross, Counsel to the Board from the Attorney General's Office; Donna Vining, Texas Association for Interior Design; Sherry Sewell, State Auditor's Office, and Jeri Morey, Architect from Corpus Christi.

F. **Chair's Opening Remarks**
The Chair thanked everyone including Board members and the audience for attending the Board meeting. He stated that this was the last Board meeting for the fiscal year. He said that it was a new day for a new opportunity. Our thoughts determine our destiny and our destiny determines our legacy. He urged the Board to be cognizant of time and move through the agenda as quickly as possible. The Chair moved on to Public Comment.

G. **Public Comment**
The Chair recognized Jeri Morey of Corpus Christi, Texas, who registered for public comment.

Ms. Morey introduced herself to the Board and said that she would like to make a recommendation to the Board. She stated that last November or December she made a public information request to the agency regarding a case involving an architect whose back porch collapsed. She stated the agency's response was that there were no documents responsive to her request but she later heard we had received a complaint against the architect. She stated that if staff has a practice of getting rid of documents when it is determined a case will not be opened, that's a bad practice which must end.

2. **Approval of the June 16, 2011 Board Meeting Minutes**
A MOTION WAS MADE AND SECONDED (Anastos/Dockey) TO APPROVE THE JUNE 16, 2011 BOARD MEETING MINUTES. THE MOTION PASSED UNANIMOUSLY.

3. **Confer with legal counsel regarding recent developments in pending litigation in the case Richardson, Rogers, and Winton vs. TBAE**

The Board went into a closed session for a briefing on the pending litigation with Assistant Attorney General, Ted Ross at 9:12 a.m. and adjourned the closed session at 10:24 a.m.

The Board took a 10 minute recess after the closed session and reconvened in an open meeting at 10:35 a.m. Vice Chair Anastos presiding in Chair's absence.

4. **Audit Findings of the Accounting Management Review**
(This section was postponed until later in the day.)

5. **Presentation of Budget**
A. Presentation of 2011 end-of-year expenditures/revenue through June 30, 2011

B. Presentation of 2012 proposed budget for consideration of the Board

The agency's accounting manager, Kenneth Liles, outlined the difference in items in the 2011 budget and the proposed 2012 budget. Mr. Liles noted there were items added to the 2011 budget in January that were not expended. The scholarship fund had been added to the budget and the budget as presented in January was portrayed as being out of balance. The budget as presented extracts the scholarship fund and is in balance.

Ms. Steinbrueck noted that in years past, the budgets appeared to be inflated. They would show reductions in the surplus when at the end of the year the surplus increased. Ms. Steinbrueck expressed an interest in having a realistic budget. Ms. Hendricks noted that a lot of expenditures budgeted for 2011 were not made. They were either deferred or canceled in light of legislation that might have abolished the agency.

Ms. Dockery observed that in light of the revenue collections for 2011, the proposed 2012 budget might be ambitious. Mr. Liles responded that it is difficult to make projections in the current economic climate but he anticipated the agency would make its $510,000 payment to the General Revenue Fund, make payroll and end the fiscal year with a surplus of $150,000.

Mr. Mijares inquired about enforcement penalties and the percentage of the penalties assessed that is actually collected. Ms. Steinbrueck requested staff to provide a balance sheet on those amounts in future.

The Chair returned during discussion of the budget and resumed his position presiding over the meeting.

A MOTION WAS MADE AND SECONDED (Mijares/Miller) TO ACCEPT THE PROPOSED 2012 BUDGET. THE MOTION PASSED UNANIMOUSLY.

Mr. Pinson asked if the agency budgets on a month-to-month timeline and whether staff could provide projections by month to the Board. Mr. Liles said it is possible. However, there is a large $510,000 payment to General Revenue at the end of each fiscal year which would create the appearance of a false surplus. Mr. Pinson asked if there were any other large one-time payments that would create the same effect. Mr. Liles noted the agency's payment to SWYCAP is a large annual lump-sum payment. Mr. Liles stated the agency can prepare a report showing monthly expenditures and monthly revenue—a cash flow report. But it might be difficult to have such a report by the October meeting.

The Board also requested a final report of all actual revenue and expenditures for fiscal year 2011 at the end of the year.

The Chair asked Board member Paula Miller if she had any suggestions on the format of the budget. She stated that she would prefer that the budget include
percentages to provide context to the amount of changes from year to year. Also, she requested that a projection through the end of the year be added to the budget.

6. Consideration of Future Revenue Stream
The Chair explained that the Executive Committee had requested that the Executive Director to create a list of agency services or products for which costs are not recovered. The Executive Director was requested to identify potential fees for these services. The Chair stated the list of potential future revenue streams is strictly for informational purposes. The Executive Director outlined the following:

1. Agency to put on a low-cost continuing education conference on a Saturday from 10-4 in the Hobby Building;
2. Agency staff to develop a continuing education course on the agency website. Currently, this is being done by a third party vendor;
3. Agency to charge a fee for business registration;
4. Agency to charge a fee to recover the credit card fee the agency currently pays upon electronic renewals; and
5. Agency to increase registration, renewal or other fees as a last resort.

The Chair asked about the charge paid by the agency per credit card transaction. The Executive Director stated the charge is based upon a percentage of the transaction amount which results in a charge as high as $8 for some transactions. The current cost annually to the agency totals roughly $97,000. The Executive Director noted that other agencies which tried to recover the cost learned that licensees began mailing in registration fees in lieu of using the electronic method. Processing hard copy payments increases administrative costs and risks. The Board discussed the value of the convenience to the agency’s licensees, the need to inform them that the charge is to recover a cost paid to credit card companies, and whether such a charge constitutes revenue.

Ms. Steinbrueck suggested that the Board develop a fiscal policy of charging only for services which are optional but not for matters which are mandated. She also expressed concern that there might be a potential conflict of interest for the agency to award continuing education credit for courses it develops and recovers a fee for holding.

7. Adoption of proposed rules
A. Repeal Rule §1.12 relating to the joint advisory committee on architecture, engineering, and landscape architecture. The rule was rendered obsolete by legislation which repealed the enabling law for the committee. No public comment was received on the proposed rule change.

A MOTION WAS MADE (Pinson/Odell) TO REPEAL RULE 1.12. THE MOTION PASSED UNANIMOUSLY.

Proposed repeal of Rule 3.12, relating to the Joint Advisory Committee on architecture, engineering, and landscape architecture. The rule was rendered obsolete by legislation which repealed the enabling law for the committee.
A MOTION WAS MADE (Pinson/Odell) TO PROPOSE THE REPEAL OF RULE 3.12. THE MOTION PASSED UNANIMOUSLY.

B. Amend Rule §7.10 to include an application fee for engineers to apply for exempt status to engage in the practice of architecture under HB 2284.

A MOTION WAS MADE (Pinson/Mijares) TO AMEND RULE 7.10 TO INCLUDE AN APPLICATION FEE OF $150.00 FOR ENGINEERS TO APPLY FOR EXEMPT STATUS TO ENGAGE IN THE PRACTICE OF ARCHITECTURE UNDER 2284.

9. Report on conferences and meetings
   A. NCARB Annual Conference, June 22-25, 2011, Washington, D.C. Board member Bert Mijares reported on the NCARB Annual Conference in Washington, D.C. He stated that a new CEO was introduced at NCARB and his name is Michael Armstrong. Also, TBAE Chair Alfred Vidaurri was elected Vice-Chair of Region III. The prize for design went to Virginia Tech on practice and promoting practice. The Chair reported that Region III elected a new executive, Jenny Wilkinson of Mississippi. Also, the fourteen (14) resolutions that came before TBAE at the last meeting were approved and passed by the NCARB Board.

   B. METROCON11 Expo and Conference, August 11-12, 2011, Dallas, TX The Executive Director reported that although she could not make the conference, agency staff members Jackie Blackmore and Tony Whitt gave CE seminars at the conference. In addition, Sonya Odell and former Board member Lew Vassberg attended. Ms. Odell noted there was steady traffic to the TBAE booth and the agency seminars were well-attended.

   The Chair reported CLARB would be having its annual meeting in Chicago in September and that Diane Steinbrueck and Cathy Hendricks would be attending this conference. Also, the 77th Convention for TSA will be held in Dallas on October 27-29, 2011. Cathy Hendricks and Scott Gibson will be attended this conference and will be making a presentation.

   The Board took a 30 minute recess for lunch at 12:00

   The Board reconvened at 12:37 p.m.

8. Review and possibly adopt ED’s recommendation in the following enforcement cases:
The Chair recognized General Counsel to present the enforcement cases. The General Counsel explained to the Board members that the enforcement cases involved proposed Agreed Orders and/or settlements previously entered into with the Respondents.
   A. Non-Registrants:
      Hand, Brian (#108-11N)
      A MOTION WAS MADE AND SECONDED (Mijares/Anastos) TO ACCEPT THE EXECUTIVE DIRECTOR’S RECOMMENDATION IN CASE NUMBER
108-11N IMPOSING A $1,500.00 PENALTY AGAINST BRIAN HAND FOR THE UNLAWFUL ISSUANCE OF SIX SHEETS OF ARCHITECTURAL PLANS. THE MOTION PASSED UNANIMOUSLY.

VALLA Design Group (#074-11I)
A MOTION WAS MADE AND SECONDED (Pinson/Odell) TO ACCEPT THE EXECUTIVE DIRECTOR’S RECOMMENDATION IN CASE NUMBER 074-11I IMPOSING A $10,000.00 PENALTY AGAINST VALLA DESIGN GROUP FOR UNLAWFUL USE OF ARCHITECTURAL TITLE. THE MOTION PASSED UNANIMOUSLY.

B. Registrants:
Carruthers, James (#090-11A)
A MOTION WAS MADE AND SECONDED (Mijares/Anastos) TO ACCEPT THE EXECUTIVE DIRECTOR’S RECOMMENDATION IN CASE NUMBER 090-11A IMPOSING A $4,000.00 PENALTY AGAINST JAMES CARRUTHERS FOR FAILING TO TIMELY SUBMIT PLANS FOR ACCESSIBILITY REVIEW. THE MOTION PASSED UNANIMOUSLY.

Reed, Phillip (#096-11A)
A MOTION WAS MADE AND SECONDED (Pinson/Odell) TO ACCEPT THE EXECUTIVE DIRECTOR’S RECOMMENDATION IN CASE NUMBER 096-11A IMPOSING A $500.00 PENALTY AGAINST PHILLIP REED FOR FAILING TO TIMELY SUBMIT PLANS FOR ACCESSIBILITY REVIEW. THE MOTION PASSED UNANIMOUSLY.

Windle, David (#102-11A)
A MOTION WAS MADE AND SECONDED (Mijares/Pinson) TO ACCEPT THE EXECUTIVE DIRECTOR’S RECOMMENDATION IN CASE NUMBER 102-11A IMPOSING A $8,000.00 PENALTY AGAINST DAVID WINDLE FOR FAILING TO TIMELY SUBMIT PLANS FOR ACCESSIBILITY REVIEW FOR TWO PROJECTS. THE MOTION PASSED UNANIMOUSLY.

C. Continuing Education:
Baum, David (#120-11A)
A MOTION WAS MADE AND SECONDED (Pinson/Odell) TO ACCEPT THE EXECUTIVE DIRECTOR’S RECOMMENDATION IN CASE NUMBER 120-11A IMPOSING A $500.00 PENALTY AGAINST DAVID BAUM FOR TWICE FAILING TO RESPOND TO AN INQUIRY OF THE BOARD. THE MOTION PASSED UNANIMOUSLY.

11. Upcoming Board Meeting
October 20-21, 2011

The following dates were discussed and decided upon for upcoming Board meetings: January 19-20, 2012; May 17-18, 2012; August 23-24, 2012; and October 18-19, 2012. The Board meeting dates will be submitted for Board approval at the October 20 Board meeting.
4. **Audit Findings of the Accounting Management Review**

The Chair directed the Board members to the findings of the Accounting Management Review. He gave a background explanation to the Board members and stated that the review was requested by the Executive Committee. The Committee asked the audit firm to return in August and give an update of their findings to the full Board.

Monday Rufus, and his partner, Robert Gonzales, approached the Board and introduced themselves as the independent auditors that were hired by the agency to conduct a management review of the agency’s accounting procedures. He asked the Board if they had any questions about their findings. Board member Bert Mijares asked if they were provided the letter from the former managing accountant regarding deficiencies she discovered in the agency’s accounting processes. Mr. Rufus said they were not provided with that document prior to conducting the management review. He directed the Board to his written response after reviewing the letter in which he stated if they had been provided that document prior to the review, the population of samples might have been different. Board member Paula Miller asked if the auditors had any concerns. Mr. Rufus stated “yes,” and his recommendations were in his report. He concluded that they could not issue an opinion regarding the document generated by the former accounting manager because the management review did not cover the period which was the subject of the management review. The Board addressed the possibility of retaining the firm to increase the scope of the review and to conduct an audit, not a management review. The General Counsel noted the previous accountant identified issues and errors she had discovered and which she indicated she had corrected and for which she had implemented procedures to prevent future errors. The agency retained the firm to conduct a review of the period after the corrections had been put in place to ensure those errors are not continuing to be committed. The General Counsel also stated the agency had been audited by the State Auditor and the Comptroller only a few years ago.

The Board asked when the State Office of Auditors would be scheduling another audit of the agency. The Executive Director stated that the SOA could order an audit of the agency at any time. The last one that they did was in 2009.

The Chair thanked the auditors for coming to the Board and giving an explanation of their report.

10. **Executive Director Review Committee Report**

A. Report on findings based upon performance evaluation
B. Consider and possibly act upon recommended personnel action that may be proposed by the committee

The Chair gave the Board members the background on the review performed by the Executive Director Review Committee on August 1, 2011. He said that the review was divided into 11 parts. Each member scored every section of the review and those scores were divided to come up with a total. He stated that the Executive Director received a score of 670.85 which was above meets expectations, but below exceeds expectations. Staff Services Officer, Christine Brister, gave the board
members salary history for the Executive Director. The Chair explained that the Executive Director Review Committee had recommended a six percent (6%) raise effective September 1, 2011.

A MOTION WAS MADE AND SECONDED (Pinson/Bearden) THAT THE BOARD ACCEPT THE EXECUTIVE REVIEW COMMITTEE’S RECOMMENDATION OF A SIX PERCENT (6%) RAISE FOR THE EXECUTIVE DIRECTOR EFFECTIVE SEPTEMBER 1, 2011. THE MOTION PASSED UNANIMOUSLY.

12. **Chair's Closing Remarks**
The Chair stated that he thought it had been an extremely successful Board meeting and that he would like to open the opportunity for additional public comment for those who were not present at the start of the meeting.

David Lancaster, Senior Manager of Advocacy from TSA, approached the Board and said that he wanted to introduce himself to the new board members and that he offered himself as an informational resource to them. Furthermore, he stated that he really appreciated the staff of the agency and he appreciated the professionalism that they bring to the agency.

Also, he addressed the case regarding the issue of the collapsed balcony. He stated that the Third Court of Appeals rendered a decision that overturned its earlier decision in the case which he understood had been mentioned in earlier public comment. The agency’s Managing Investigator stated that the agency never received a complaint arising from the case and never destroys documents relating to non-jurisdictional cases.

Ms. Morey stated that she did not say that the agency destroys documents. She clarified that she said if the agency destroys documents, then that would be a practice that should stop.

11. **Adjournment**
A MOTION WAS MADE AND SECONDED (Mijares/Pinson) TO ADJOURN THE MEETING AT 2:17 P.M. THE MOTION PASSED UNANIMOUSLY.

Approved by the Board:

[Signature]

ALFRED VIDAURRI, JR., AIA, NCARB, AICP
Chair, Texas Board of Architectural Examiners