TEXAS BOARD OF ARCHITECTURAL EXAMINERS
Minutes of January 22, 2015 Board Meeting
William P. Hobby Jr. Building, 333 Guadalupe Street
Tower II, Conference Room 225
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
   Paula Ann Miller called the roll.
C. Excused and unexcused absences
   Chase Bearden (excused)

Present
Alfred Vidaurri                Chair
Debra Dockery                 Vice-Chair
Paula Ann Miller             Secretary/Treasurer
Charles H. (Chuck) Anastos     Member
Bert Mijares, Jr.            Member
Sonya Odell                  Member
Michael (Chad) Davis         Member
William (Davey) Edwards       Public Member

TBAE Staff Present
Glenn Garry                Interim Executive Director and
                           Communications Manager
Scott Gibson                General Counsel
Glenda Best                 Director of Operations
Christine Brister          Staff Services Officer
Kenneth Liles              Finance Manager
Jack Stamps                Managing Investigator
Dale Dornfeld              IT Manager
Katherine Crain            Legal Assistant
Matthew Le                 Programmer/Web Developer

D. Determination of a quorum
   A quorum was present.
E. Recognition of Guests
   The Chair recognized the following guests: Melissa Juarez, Assistant
   Attorney General and Derek Haese, Assistant Director of Member Boards
   of NCARB. Donna Vining, Executive Director for Texas Association for
Interior Design arrived at 9:08 a.m. and David Lancaster, Senior Advocate for Texas Society of Architects arrived at 9:40 a.m.

F. Chair's Opening Remarks
The Chair opened the meeting by remarking that this was the first meeting of the new calendar year and he was excited about a new year with a blank slate. He stated that there were major changes happening within the State and its lawmakers as well as at TBAE. The Board met yesterday for several hours to find a new Executive Director for the agency which has not occurred in at least 20 years. A small group of candidates were chosen yesterday to be interviewed. He thanked staff and the Board for all the hard work that had gone into the Executive Director search. He opined that with change and opportunities, some people react differently — some are pessimists and some are optimists. He admitted that he has always been somewhat of an optimist. There is an interesting scientific ratio of 3-1 when it comes to optimism and pessimism. We tend to tell stories that are negative rather than positive ones. Those are just easier stories to tell. Rarely, do we focus on positive stories. The 3-1 ratio says that for every one negative encounter or experience, it takes three positive ones to overcome the negative. He emphasized focusing on the positive and letting go of the negative in times of transition and change. The Chair directed the Board to public comment.

G. Public Comments
None.

2. Introduction of the newly assigned OAG attorney to TBAE, Ms. Melissa Juarez (Information)
Ms. Juarez introduced herself to the Board and the audience and stated that she had been with the OAG for more than 20 years and had provided counsel to big and small agencies on rulemaking, board meetings, enforcement cases, and general matters. The Chair thanked her for attending the meeting and introducing herself and was excited to work with her in the future.

3. Approval of the October 20, 2014 Board Meeting Minutes (Action)
The Chair put the draft minutes of the last Board meeting before the Board. A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO APPROVE THE OCTOBER 20, 2014 BOARD MEETING MINUTES. THE MOTION PASSED UNANIMOUSLY.

4. Interim Executive Director Report (Information)
A. 1st Quarter 2015 Operating Budget
The Interim Executive Director began his report with the revenues on the first quarter of the 2015 Operating Budget and stated that the business registration fees were low right now at 18% where we would expect 25% for a normal quarter. Due to the way that we started the program, it just so happens that we have fewer
businesses registered that quarter as opposed to other quarters. It should be back on track next meeting or the following meeting. He stated that the late fees are at 34% whereas they should be around 25%, but he was not sure why the numbers had shifted. The Interim Executive Director expressed his wish for a better explanation as to why TBAE’s late fees were consistently high.

The Interim Executive Director directed the Board to the expenditures side of the ledger. He stated that salaries and wages look normal with the exception of the one-time lump sum vacation leave accrual payment that was made to the former Executive Director. Barring that one time lump sum payment, it would be a lot lower. Operating expenditures were at 37% and not the expected 25% because of the renewal of the liability policy. Membership dues were similar as well as IT upgrades. Mr. Anastos inquired as to the $127,500.00 payment to the General Revenue and whether that payment was made in installments. Mr. Garry answered that the Statewide Cost Allocation Plan (SWCAP) payment and General Revenue payment had not been made yet, but will be during the course of the fiscal year. Mr. Edwards inquired about the enforcement penalties and whether these figures represented actual collections or not. Mr. Liles answered affirmatively and stated that these amounts represented the enforcement penalties collected and to be sent to General Revenue.

The Interim Executive Director asked the Board members to turn to page 19 in the notebooks regarding the scholarship fund. He said the Board only gave out 8 awards this year which was low compared to previous years. By the end of the year, the agency should be where we were last year because the agency has received 18 applications. Mr. Davis wanted to know how much one had to earn in order to qualify for a scholarship. Mr. Liles stated that he did not know off the top of his head, but could get that information to him. Furthermore, Mr. Liles stated that the last time the scholarship qualifications were adjusted was in 2008 and incomes have changed since that time. It was noted that the agency has sole discretion on increasing the amount. The Chair inquired as to whether there were state guidelines to establish a new threshold for increasing the amount of income in order to change the amount of the award. The Chair suggested that the Interim Executive Director and the Finance Manager revisit this issue and report on this matter at the next board meeting. Mr. Davis stated that he felt that the Rules Committee needed an architect’s input on this issue so they postponed taking anything up on the matter. Mr. Davis thought it might be prudent to check with AIA and see the range of salaries currently being offered for new licensees in the architectural industry.

B. Report on Action Items assigned at the October 20, 2014 Board Meeting

The Board briefly discussed the items set out in the report. In particular, they questioned whether the continuing education requirements had been met and the fines had been paid by the respondents in the Corpus Christi litigation.
C. Overall analysis of agency finances and related trends
The Interim Executive Director said that the agency had seen a decline in revenues over the years, especially with regard to active status registrants. There has also been a decline in enforcement penalties collected and late fees collected until last year. Ms. Dockery stated that licensees were simply going inactive until they had a project in Texas and then they would change to active status because TBAE’s renewal fees were so high. The Chair asked if a registrant could change from active to inactive and the Interim Executive Director said “yes,” but they are charged a fee every time they change their status. Mr. Davis emphasized that the Board members need to take this information and statistics to their members at the conventions in order to increase registration. In addition, he stated that he would volunteer and encourage other Board members to work with staff to inform the registrants about these declining trends. The Chair agreed.

D. Report on conferences and meetings
NCARB Member Board Chairs/Member Board Executives Conference – October 31 – November 1
The Chair attended this conference by himself even though he usually attends it with the Executive Director. The meeting was held in Indianapolis and there were 49 out of 53 attending the conference. It was a well-structured meeting and they rotated around workshops and Town Hall meetings. Things that were discussed were reporting on IDP and streamlining core hours vs. elective hours. There was also an update on a title taskforce and BEA proposals in addition to a workshop on the concept of licensure graduation. He stated that it would be 2017 before the next meeting will be held for the next Chair and new ED of TBAE.

TxA Conference – November 6-9
Ms. Dockery reported on this conference and stated that it was held in Houston and the keynote speakers were fairly provocative. There was a speaker on legislative affairs, which was very rewarding. Mr. Mijares spoke on the conference as well and said there was a great amount of variety of topics during the conference in addition to interesting keynote speakers. He thought it was well run. The Chair thanked TxA and Mr. Lancaster as well as staff, Scott Gibson, Glenn Garry, and Jack Stamps, for their presentations. He thought they were informative presentations. He stated that he and Mr. Garry were able to participate in the new architect ceremony which was held in a beautiful historic church in Houston.

2014 NCIDQ Annual Council of Delegates Meeting – November 13-15
Ms. Odell reported on the NCIDQ convention held in Albuquerque, New Mexico in November. She said that only half of the states were represented. Also, the Council has a new website which is more appealing. She stated this conference was more educational than in the past.
Ms. Dockery reported that she is on the 5.5 writing committee for the ARE and stated that 80 architects were in Austin to work on the new exam. It was a very productive meeting.

5. Update on Social Media Plan (Information)
The Interim Executive Director stated that the agency had laid out its social media plans during the last Board meeting and there were discussions and research with legal, operations, and HR since that meeting. He reported that they determined that the agency is limited in what it is allowed by law to restrict. The Chair inquired as to whether the agency would be providing training and a policy on best practices. The General Counsel stated that the National Labor Board was the state regulatory agency that issues mandates for employees and what they can put on their social media page. In other words, he stated that if you can't say something in the break room at work you should not post it on your Facebook page. The Interim Executive Director gave an explanation to Mr. Edwards regarding the reasons why the agency is holding off on the LinkedIn page until the new Executive Director takes the position.

The Board took a break at 10:05 a.m. and reconvened at 10:23 a.m.

6. **Update on the Executive Director vacancy** *(Information)*
   The Chair stated that the Board got together yesterday and worked on the Executive Director (ED) search. They reviewed resumes and narrowed down the number of candidates to 5 for consideration. They will be interviewing 5 candidates on February 19, 2015, and will be one step closer to getting a new ED. They will conduct 3 interviews in the morning and 2 interviews in the afternoon and make a decision on a new ED by the end of the day.

7. **Legislative Committee Report** *(Information)*
   Chad Davis, Chair of the Legislative Committee, gave a report to the rest of the Board regarding their meeting on January 21, 2015. He stated that they had a productive meeting with representatives of all 3 professional organizations. It was a great collaborative session and they have a good set of issues ready for the session.

   The Chair directed the Board to number 10 on the agenda as they would be taking up that item rather than the proposed rules.

10. **Proposed Changes to BEA/BEFA and MBC/MBE Conference Outcomes** *(Information)*
    The Chair requested the Board turn to page 74 of the board notebook. He stated that there was a letter from Mr. Dale McKinney dated December 19, 2014 to NCARB Member Boards. He mentioned that it was a long and thorough letter which gives great detail and background.

    The Chair introduced Derek Haese of NCARB and said he could answer any questions from the Board regarding the proposed changes to BEA/BEFA and IDP.

    The Chair began the discussion with a description of the current IDP program which requires architects to acquire 5600 hours. There are 17 different categories of experience. The proposal that the member boards addressed was to eliminate...
the 1860 elective hours and focus on the remaining 3740 core hours required. Essentially, the proposal eliminates the elective portion of the IDP program which is phase one of the proposal. Phase two would be a realignment of the 17 areas of experience to 6 areas of practice similar to the ARE. Therefore, the board has proposed a rule that would allow Texas to reduce its IDP hours to align its rule with the NCARB proposal.

There was ample discussion amongst the Board members regarding the BEA program. The Chair stated that each state had to look at what they needed to change in order to coincide with the model law.

He directed the board to another item discussed at NCARB. He stated that there was a title task force that was dealing with the term “intern.” It appears that the term is of major interest and stakeholders are discussing whether it is appropriate to use that term.

The other item was the Broadly Experienced Architect Program (BEA). More work was done and the Board continued to revise things. Page 75 describes the 5 items and the revised new proposals being offered. Mr. Mijares inquired as to why the system was being changed. The Chair responded that the model law was being changed because of high cost which is approximately $8,000.00. He stated that the numbers were declining because the process was so expensive and unduly burdensome. The changes allow for the elimination of the dossier, the interviews and the evaluation making the process more streamlined. The Chair explained to the Board that this process would enable an architect to get reciprocity in another state through this program.

Furthermore, the Chair added that the group spent a considerable amount of time talking about licensure graduation rates. He explained that educators have been on this committee and have worked on this issue for the last year. Currently, a Request for Information was issued to the schools of architecture around the country in order to see if they were even interested in taking the lead on this new program. There were 32 positive responses out of 137 back from the schools. Then a Request for Proposal or a Request for Qualifications will be issued and the responses will be due at the end of May. The schools will need to work with the professionals and some State boards will need to make some changes. He explained that it was a pretty significant undertaking which was a less traditional path that was not for everyone. Mr. Davis inquired as to whether Academia will have to change something for this program to be successful. Mr. Haese stated that they would not need to make a change because NCARB does not want to interfere in the curriculum of the Universities.

The Chair further explained that he failed to mention the other program – the Broadly Experienced Foreign Architect (BEFA). He said that there was not as much push back on the foreign program as there was on the domestic program and that this program would come up for a vote this summer. Mr. Haese explained
that this was a long and expensive process that had been streamlined. The Chair inquired as to whether Mr. Haese had any other information to share with the Board.

Mr. Haese stated that he is the Assistant Director of Member Board Relations. He explained that he has been entrenched in rules and regulations in this position and that it was a great position to be in at NCARB because every program they have at NCARB affects the Boards across the country. He said that he had been at the Council for 6 or 7 years and this was his 4th year in this position. His boss, Kathy Hillegas, and he spearheaded the position and serve as a leadership role. He said he was here to serve the Texas Board and wanted to help them lead as architects. Furthermore, he stated that they do a lot of legal research regarding implementation of programs and they track legislation proposed and passed throughout the country in all of the jurisdictions. They have a mailbox that they receive bills from across the country and they prepare a summary on them for the members section only on their website. He explained to the Board that since Mike Armstrong has come on board at NCARB, the council has made some big changes within its structure. He reiterated the fact NCARB is here to serve the member boards rather than dictate them. Ms. Dockery questioned whether NCARB would track the 5600 hours even if the Texas board did not adopt the rule. Mr. Haese answered affirmatively and said that they will support of their member boards regardless of their decision.

Further discussion was had among the Board members regarding the title “intern” versus “intern architect.” Mr. Mijares suggested that this item be sent to the Rules Committee. Mr. Haese stated that the task force was just assembled this year and they have not made a final decision. They are meeting in San Diego next week where they are going to finalize the suggestions. Mr. Anastos stated that he liked the term “intern” and Mr. Mijares said he never has had a problem with “intern architect” and he has been in the industry for 40 years.

The Board took a break at 11:33 a.m. and reconvened at 11:50 a.m.

8. **Proposed Rules for Adoption (Action)**

Amend Rules 1.65, 3.65, 5.75 to require the Board to send monthly renewal statements to registrants by email instead of U.S. Mail.

The General Counsel explained to the Board that the rule is proposed for adoption after being published for 30 days without public comment.

A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO ADOPT RULES 1.65, 3.65 and 5.75. THE MOTION PASSED UNANIMOUSLY.

The General Counsel stated that the agency would be implementing this change over a period of one year.

**Draft rules for proposal:**

A. Amend Rule 1.191, relating to the Intern Development Program, to reduce the number of hours required to complete an internship by eliminating elective hours.
A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO PROPOSE DRAFT AMENDMENTS TO RULE 1.191. Ms. Dockery moved for discussion of the draft amendments. She stated that she was not totally happy with the reduction in the hours of the IDP program. She expressed her concern regarding the fact that an intern can earn hours upon graduation from high school without even taking a design course in college. Perhaps, it is not an issue for a person to rack up experience before they even take a design course in architecture. The Chair stated that before those hours can be accepted, an architect has to sign off and acknowledge that they got those hours. Mr. Anastos inquired as to whether they have to submit documentation. After further discussion amongst the board members regarding the reduction of hours for the IDP program, the Chair called for the vote.

THE MOTION PASSED UNANIMOUSLY.

B. Amend Rule 7.10, relating to the fee schedule to implement lower charges for certain online transactions.

The General Counsel explained that the agency that collects electronic payments for TBAE is changing the structure of their charges; therefore, this amendment was necessary for their change. The change needs to be effective September 1, 2015. The Board had a general discussion regarding the term “ACH” and it was suggested by Sonya Odell that a more appropriate term would be “direct bank draft.” The Interim Executive Director explained to the board members that this amendment generally would save the registrants some money. The Board decided to postpone this amendment so staff has time to wordsmith the amendment further.

9. Enforcement Cases (Action)

Review and possibly adopt ED's or Interim ED's recommendation in the following enforcement cases:

A. Registrant & Non-Registrant Cases:

The Chair recognized the General Counsel to present the following cases to the Board for their consideration and possible approval of the proposed agreed settlements:

Bishop, Brian Lee (#097-14A)

The General Counsel stated that the Respondent had become delinquent on his registration because he left his employment with a firm and they failed to notify him that his registration had expired. He worked on four projects during his delinquent status. Upon the Board notifying Respondent of his registration status, Respondent immediately renewed his architectural registration and paid all past due fees.

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO APPROVE THE INTERIM EXECUTIVE DIRECTOR’S RECOMMENDATION IN CASE NUMBER 097-14A INVOLVING BRIAN LEE BISHOP TO IMPOSE AN ADMINISTRATIVE PENALTY OF $750.00 PER PROJECT FOR A TOTAL ADMINISTRATIVE PENALTY OF $3,000.00. THE MOTION PASSED UNANIMOUSLY.
Boynton, Jay W. (#008-15A)
The General Counsel explained that this case involved a referral from the Texas Department of Licensing and Regulation for failing to submit plans and specifications on two separate projects for accessibility review no later than 20 days from issuance.
A MOTION WAS MADE AND SECONDED (Mijares/Anastos) TO APPROVE THE INTERIM EXECUTIVE DIRECTOR’S RECOMMENDATION IN CASE NO. 008-15A INVOLVING JAY W. BOYNTON TO IMPOSE AN ADMINISTRATIVE PENALTY OF $750.00 PER PROJECT FOR A TOTAL ADMINISTRATIVE PENALTY OF $1,500.00. THE MOTION PASSED UNANIMOUSLY.

Townsend, Phillip B. (#113-13A)
The General Counsel explained that this case involved a Texas architectural registrant that was sanctioned in Oklahoma for practicing without an Oklahoma license. The Oklahoma Board issued an immediate "cease and desist for practicing or offering to practice architecture in the State of Oklahoma" as well as a $5,000.00 administrative penalty for each project for a total administrative penalty of $15,000.00. As a result of another State’s disciplinary sanction, Respondent is subject to a disciplinary action in the registrant’s state of residence.
A MOTION WAS MADE AND SECONDED (Dockery/Edwards) TO APPROVE THE EXECUTIVE DIRECTOR’S RECOMMENDATION IN CASE NO. 113-13A INVOLVING PHILIP B. TOWNSEND TO IMPOSE AN ADMINISTRATIVE PENALTY OF $5,000.00. THE MOTION PASSED UNANIMOUSLY.

B. Continuing Education Cases:
The General Counsel outlined the cases on the agenda. For continuing education cases, the Interim Executive Director’s proposed agreed orders include a standard penalty of $700 for misstatements to the Board, $500 for failing to complete continuing education during the reporting period, and $250 for failing to timely respond to an inquiry of the Board. The Chair asked if any Board member should be recused. None responded. The Chair stated that he had a conflict of interest and recused himself. 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 (Anastos/Mijares) TO ADOPT THE INTERIM EXECUTIVE DIRECTOR’S RECOMMENDED ADMINISTRATIVE PENALTIES IN THE PROPOSED AGREED SETTLEMENTS OF THE FOLLOWING CASES INVOLVING CONTINUING EDUCATION VIOLATIONS:

Effland, Frank L. (#025-15I)
Elliston, Stacy (#034-15I0
Lorance, Bill (#132-14I)
O’Dell, Carl G. (#028-15A)
Peterman, Cherry J. (#033-15A)
Pope, Lisa G. (#133-14I)
Reibenstein, Charles A. (#024-15A)
Slack, Holt M. (#026-15A)
THE MOTION PASSED UNANIMOUSLY.

11. Upcoming Board Meetings *(Information)*
Thursday, February 19, 2015, Room II-350L
Thursday, May 7, 2015, Room III-102
**Discuss a date for the formal appointment of the Executive Director**
There was discussion amongst board members regarding the February 19th interview date and the actual appointment date of the Board recommendation for the new Executive Director. The Chair proposed the date April 2nd as the Board appointment of the new Executive Director and the board members agreed.

12. Chair's Closing Remarks
None.

13. Adjournment
A MOTION WAS MADE AND SECONDED (Anastos/Davis) TO ADJOURN THE MEETING AT 12:50 P.M. THE MOTION PASSED UNANIMOUSLY.

Approved by the Board:

[Signature]

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