

**TEXAS BOARD OF ARCHITECTURAL EXAMINERS**  
**Minutes of June 8, 2017 Board Meeting**  
William P. Hobby Jr. Building, 333 Guadalupe Street  
Tower III, Room 102  
Austin, TX 78701  
1:00 p.m. until completion of business

**AGENDA ITEMS**

**DESCRIPTIONS**

**1A. Call to Order**

Ms. Dockery called the meeting to order at 1:00 p.m.

**1B. Roll Call**

Ms. Walker called the roll.

Present Board Members

Debra Dockery	Chair, Architect FAIA
Michael (Chad) Davis	Vice-Chair, Landscape Architect
Jennifer Walker	Architect, Secretary/Treasurer
Charles (Chuck) Anastos	Architect
Robert (Bob) Wetmore	Architect
Chase Bearden	Public Member
Sonya Odell	Registered Interior Designer
Paula Ann Miller	Public Member

**1C. Excused and  
unexcused absences**

None.

**1D. Determination of a  
Quorum**

A quorum was present.

**1E. Recognition of  
Guests**

Ms. Dockery acknowledged the following guests and members of TBAE Staff: Julie Hildebrand, Executive Director; Lance Brenton, General Counsel; Kenneth Liles, Finance Manager; Mike Alvarado, Registration Manager; Jack Stamps, Managing Investigator; Dale Dornfeld, IT Manager; Glenda Best, Operations Manager; Christine Brister, HR Program Specialist; Tony Whitt, Continuing Education Coordinator; Katherine Crain, Legal Assistant; Julio Martinez, Systems Analyst; Donna Vining, Texas Association for Interior Design.

**1F. Chair's Opening  
Remarks**

Ms. Dockery welcomed the audience and thanked them for coming to the meeting. She reflected on her recent induction as a FAIA fellow at the AIA Annual Meeting in Orlando, Florida. She stated that the overall theme of the convention focused on diversity in the profession and social responsibility in architecture. She attended a brief presentation which discussed how regulatory bodies have had the most emphasis and success in achieving diversity in the profession. Ms. Dockery believes it is especially appropriate to be thinking about this topic because it has been 50 years since Whitney Young Jr. gave his address to the AIA, which was notable for its criticism of the dismal presence of women and minorities in

the architectural profession. Ms. Dockery expressed hope that the continued review of licensure laws would result in continued growth in the profession, consistent with the public health, safety, and welfare.

**1G. Public Comments**

None.

**2. Approval of  
February 16, 2017  
Board Meeting Minutes**

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO APPROVE THE FEBRUARY 16, 2017 BOARD MEETING MINUTES.

Mr. Anastos requested that a change be made to an item under Section 11 beginning with: "Mr. Anastos asked whether a respondent...." After Board discussion it was determined that the item should read as follows: **"Mr. Anastos asked whether a respondent could construe that he or she had a constitutional right to speak to a Board member on a pending investigation...."**

A MOTION WAS MADE TO WITHDRAW THE MOTION (Anastos/Odell) AND A SECOND MOTION WAS MADE TO ACCEPT THE MINUTES AS MODIFIED (Anastos/Odell). THE MOTION PASSED UNANIMOUSLY.

**3. Executive Director's  
Report**

Ms. Hildebrand provided the Board with the Executive Director's report as follows:

**A. Summary of  
Executive  
Accomplishments**

Ms. Hildebrand presented information regarding executive accomplishments as described on page 13 of the Board materials. In addition to the materials discussed on page 13, Ms. Hildebrand discussed a preliminary report on the post-payment audit and identified two issues, which have been rectified. Once the report has been finalized, she will provide a full report to the Board at the next meeting.

Ms. Hildebrand stated that she applied for and was selected to serve on the NCARB Experience Committee for the 2017/2018 fiscal year. Additionally, she said that NCARB will be assembling a task force to conduct research into the future of architectural practice as impacted by technology and other factors, as well as how the future may require evolved approaches to regulation. She stated she will keep the Board abreast of the findings of the committee and share relevant information.

Ms. Dockery discussed the growth of the virtual model as work product, and the Board expressed an intention to follow the progress of the task force on this topic.

Mr. Anastos suggested that the Board would be well-advised to look for white papers and work product from other committees and Boards on this subject, to aid the Board in building additional expertise.

**B. Review of Dismissed Complaints**

Ms. Hildebrand presented the Board with statistics from the Registration and Enforcement Departments as described on pages 14 and 15 of the Board materials. In response to previous Board inquiries, Ms. Hildebrand has included additional columns which will provide information on dismissed complaints.

**C. Operating Budget/Scholarship: Presentation on 2<sup>nd</sup> Quarter Expenditures/Revenues**

Ms. Hildebrand presented information regarding the 2017 2<sup>nd</sup> quarter operating budget as described on page 16 of the Board materials. She also provided an update on the Scholarship Fund, as described on page 17. Ms. Hildebrand noted that instead of drawing from the fund balance at the end of FY 2017, the Board was projected to add to the fund balance. Ms. Hildebrand noted that changes to the ARE as well as IXP may have resulted in greater-than-expected income from application and registration fees. Ms. Hildebrand also noted that the loss of grandfathered RIDs has evened out following adoption of HB 1657.

With respect to expenses, Ms. Hildebrand noted that Board travel expenses have been lower than expected, as a result of NCARB funding of attendance of the annual meeting, Board members living closer to Austin, and shorter Board meetings.

Ms. Hildebrand stated that required server expenses were expected to have been incurred in FY 2017, will actually be incurred in FY 2018. As a result, expenditures were lower in FY 2017, but will be made up in FY 2018.

**D. Legislative Update**

Ms. Hildebrand provided the Board with a summary of the 85<sup>th</sup> Legislative Session and the bills considered during the session, as discussed on pages 18-21.

Mr. Anastos inquired as to whether HB1440 changes the requirement for a quorum of the Board. Mr. Brenton stated that all board members may be together as a group for dinner as long as board business is not discussed.

Mr. Davis followed up on Ms. Hildebrand's discussion of HB 1508, which would require educational programs to inform applicants and students of potential grounds for ineligibility for a professional license based on criminal history issues. Mr. Davis stated that, if the Board conducts outreach to programs about this bill, it may want to provide information about how accreditation may be required in order to satisfy Board educational requirements for registration.

Mr. Davis applauded staff's response to an inquiry from a legislative office on potential legislation relating to the regulation of landscape architects. Mr. Davis complimented the efficient cooperation between the legislative office, Texas ASLA, and TBAE to share full information on the subject matter of the potential legislation.

Ms. Hildebrand referred the Board to the list at page 18 that identified the hearings that Staff attended and registered for resource testimony. Ms. Hildebrand said that her focus was to take a proactive approach to contact legislators and professional organizations in advance of hearings, which she felt was a successful strategy.

**E. Report on  
Conferences and  
Meetings**

Ms. Hildebrand presented information on conferences and meetings as follows:

**I. NCARB 2017  
Regional Summit/MBE  
Workshop – Mar 8-10**

Ms. Hildebrand stated that she and Ms. Dockery attended the Regional Summit/MBE Workshop. Ms. Hildebrand notified the Board that a resolution relating to payment of state dues was withdrawn as unnecessary.

Ms. Dockery stated that she was pleased that NCARB was in a place in which a number of the biggest issues have been addressed, and that it was a good time for NCARB to be looking forward to issues that will be becoming more important in the future.

**II. 2017 Texas ASLA  
Annual Conferences –  
April 25-27**

Ms. Hildebrand stated that she and Mr. Davis attended the 2017 Texas ASLA Annual Conference in Austin along with other staff members. Mr. Garry and Mr. Davis made a presentation at the conference.

Mr. Davis discussed a booklet featured at the conference which included a number of new projects that have been completed, and said that it was exciting to see the quality of the work and types of projects that are being done by landscape architects.

**F. Report on upcoming  
conferences and  
meetings**

**I. NCARB Annual  
Business Meeting –  
June 22-24**

Ms. Hildebrand stated that she would attend the NCARB Annual Business Meeting in Boston, MA with Ms. Dockery and Mr. Bearden.

**II. Building Officials  
Association of Texas  
(BOAT) Conference –  
August 8-10**

Ms. Hildebrand stated that normally Jack Stamps attends the BOAT Conference, but it has been determined that he should attend every other year instead of yearly. Therefore, he will be attending next year's conference.

**III. METROCON17 –  
Aug 10-11**

Ms. Hildebrand stated that she and Sonya Odell would attend the upcoming METROCON Conference scheduled for August 10-11 in Dallas, Texas.

**4. General Counsel Report**

Mr. Brenton provided the general counsel's report to the Board, as follows:

**A. Proposed Rule for Adoption – Adoption of Proposed Rule 7.11, relating to enhanced contract and performance monitoring**

Mr. Brenton presented information on the proposed rule for adoption as described on pages 22 and 23 of the Board materials.

A MOTION WAS MADE AND SECONDED (Davis/Bearden) TO APPROVE PROPOSED 22 TEX. ADMIN. CODE § 7.11 FOR FINAL ADOPTION. THE MOTION PASSED UNANIMOUSLY.

**5. Enforcement Cases**

The Board considered the following enforcement cases:

**B. Registrant Cases**

**Cosme, Frank C. (#159-17A)**

The Chair recused herself from voting on this case. The Vice Chair assumed the position as Chair and requested that staff provide information on this matter to the Board.

Mr. Brenton presented a summary of this matter as described on page 24 of the Board materials.

A MOTION WAS MADE AND SECONDED (Bearden/Wetmore) TO ACCEPT STAFF'S RECOMMENDATION OF A \$1,000 ADMINISTRATIVE PENALTY IN THE CASE AGAINST FRANK C. COSME (#159-17A). THE MOTION PASSED UNANIMOUSLY WITH THE CHAIR ABSTAINING FROM THE VOTE.

**Garrison, David L. (#096-16L)**

Ms. Dockery resumed as the Chair. Mr. Davis recused himself from voting on this case because he participated in an informal conference in this matter.

Mr. Brenton presented a summary as described on page 25 of the Board materials.

A MOTION WAS MADE AND SECONDED (Odell/Walker) TO ACCEPT STAFF'S RECOMMENDATION OF A \$1,000 ADMINISTRATIVE PENALTY IN THE CASE AGAINST DAVID L. GARRISON (#096-16L).

Mr. Wetmore inquired as to whether the engineer was sanctioned and Mr. Brenton stated no because he was not subject to TBAE laws. Mr. Anastos asked whether the matter involving the engineer was referred to TBPE and Mr. Brenton stated that he did not believe that the engineer violated any laws of TBPE in this matter; therefore, TBAE did not refer it to the PE Board.

THE MOTION PASSED UNANIMOUSLY WITH MR. DAVIS ABSTAINING FROM THE VOTE.

**Keller, Michael R. (#112-16A)**

Mr. Brenton presented a summary of this matter as described on page 27 of the Board materials.

A MOTION WAS MADE AND SECONDED (Anastos/Bearden) TO ACCEPT STAFF'S RECOMMENDATION OF A \$1,000 ADMINISTRATIVE PENALTY IN THE CASE AGAINST MICHAEL R. KELLER (#112-16A). THE MOTION PASSED UNANIMOUSLY.

**McCrery, James C. (#029-17A)**

Mr. Brenton presented a summary of this matter as described on page 28 of the Board materials.

A MOTION WAS MADE AND SECONDED (Walker/Davis) TO ACCEPT STAFF'S RECOMMENDATION OF A \$3,000 ADMINISTRATIVE PENALTY IN THE CASE AGAINST JAMES C. MCCRERY (#029-17A). THE MOTION PASSED UNANIMOUSLY.

**Reibenstein, Charles A. (#066-17A)**

Mr. Brenton presented a summary of this matter as described on page 29 of the Board materials. Mr. Brenton noted that the next two cases involve late TDLR submittals.

A MOTION WAS MADE AND SECONDED (Bearden/Davis) TO ACCEPT STAFF'S RECOMMENDATION OF A \$1,000 ADMINISTRATIVE PENALTY IN THE CASE AGAINST CHARLES A. REIBENSTEIN (#066-17A). THE MOTION PASSED UNANIMOUSLY.

**Rogers, Mason S. (#118-16A)**

Mr. Brenton presented a summary of this matter as described on page 30 of the Board materials.

A MOTION WAS MADE AND SECONDED (Bearden/Wetmore) TO ACCEPT STAFF'S RECOMMENDATION OF A \$1,000 ADMINISTRATIVE PENALTY IN THE CASE AGAINST MASON S. ROGERS (#118-16A). THE MOTION PASSED UNANIMOUSLY.

**C. CE Cases**

Mr. Wetmore recused himself from the following two cases:

Linehan, Paul F. (#040-16L)

Randolph, Hugh J. (#175-17A)

Mr. Brenton stated that the Board would hear the following cases with the exception of the above-referenced two cases (Linehan and Randolph) regarding continuing education violations and vote on them together.

Gallagher, Charlye (#225-17I)  
Garrett, Valerie J. (#095-17A)  
Grish, Michael W. (#160-17A)  
Hughes, Barbara L. (#165-17A)  
King, Palmer F. (#099-17A)  
Mayfield, Kelie A. (#161-17I)  
Nash, Patricia B. (#097-17I)  
Pena, Mario A. (#100-17A)  
Reedy, Frank B. (#094-17A)  
Sheats, Patricia T. (#078-16I)  
Tang, Albert L. (#089-17I)  
Walker, Michael D. (#207-17A)

A MOTION WAS MADE AND SECONDED (Davis/Walker) TO APPROVE STAFF'S RECOMMENDATION AND PENALTIES FOR THE FOLLOWING CASE NUMBERS: (#225-17I), (#095-17A), (#160-17A), (#165-17A), (#099-17A), (#161-17I), (#097-17I), (#100-17A), (#094-17A), (#078-16I), (#089-17I), AND (#207-17A). THE MOTION PASSED UNANIMOUSLY.

Mr. Anastos asked a procedural question about whether it is advisable for a Board member to participate in an informal settlement conference (IFC). Mr. Brenton gave an explanation of the process regarding IFCs. Ms. Hildebrand gave a further explanation on board member participation in the IFC process. The Chair indicated that she would like this topic included on the August agenda, with information about previous informal conference practices by TBAE, what TBAE's rules say regarding informal conferences, practices by other boards, and an analysis of the benefits of informal conferences.

The Chair noted that the Board still needed to vote on the two remaining continuing education cases.

A MOTION WAS MADE AND SECONDED (Davis/Odell) TO APPROVE STAFF'S RECOMMENDATION AND PENALTIES FOR THE CASES INVOLVING PAUL W. LINEHAN (#040-16L) AND HUGH J. RANDOLPH (#175-17A). THE MOTION PASSED UNANIMOUSLY WITH BOB WETMORE ABSTAINING FROM THE VOTE.

#### **6. Update on Cases Received from the Texas Department of Licensing and Regulation (TDLR)**

Following up on a Board request at the February meeting, Mr. Brenton presented information regarding disciplinary cases involving a failure to submit plans to TDLR as required under the Architectural Barriers Act. Mr. Brenton explained that the Board follows a standard progression for TDLR violations: issue a warning for a first violation, assess a penalty of \$1,000 for a second violation, and impose an additional penalty plus a requirement to complete the TDLR Accessibility Academy for a third violation. Mr. Brenton noted that the agency has experienced a significant



increase in TDLR caseloads, having gone from about 30 TDLR referrals per year to 30 TDLR referrals per month. This has resulted in a massive increase in agency investigations. Year to date for FY 2017, the agency has opened 289 cases. At the same time last year, the agency had opened 89.

Mr. Brenton complimented the investigative staff for meeting the challenge of the increased case load. He noted that Mr. Stamps had developed a process for expediting the analysis of the TDLR cases. Additionally, Mr. Stamps has written a newsletter article which provides tips to registrants on how to avoid TDLR referrals. Finally, agency staff have been invited by TDLR to amend the TDLR submission form to provide greater clarity for registrants filling out the form.

**7. Discussion of  
Architectural Intern  
Title**

The Chair stated that she asked staff to present information to the Board regarding this issue.

Mr. Brenton referred to AIA's statement on page 47. In the statement, AIA has advocated for the use of two new titles by emerging professionals, "design professional" and "architectural associate." Mr. Brenton explained that the problem with the AIA position is that it could lead individuals to use a professional title that does not comply with state law. In Texas, for example, the use of the title "architectural associate" would not be consistent with Tex. Occ. Code §1051.801 or Board Rule 1.123.

**8. Delegation of Voting  
Authority to be Acted  
Upon at the NCARB  
2017 Annual Business  
Meeting**

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO ACCEPT DEBRA DOCKERY AND CHASE BEARDEN AS THE VOTING DELEGATES AT THE 2017 ANNUAL BUSINESS MEETING. THE MOTION PASSED UNANIMOUSLY.

**9. Budget  
Development for FY18**

Ms. Hildebrand discussed a handout that was provided to the Board detailing the draft budget for FY 2018. She stated that the Budget Committee had met earlier in the day and tentatively approved the draft budget. Ms. Hildebrand discussed various adjustments and projections which have been applied to the FY 2018 budget based on information from the FY2017 budget.

She stated that construction continues at a healthy pace, and the number of registrants has increased. In addition, the approval of HB1657 enables the grandfathered RIDs to keep their registrations, therefore, which will result in increased projected receipts from RID renewal fees. Additionally, business registration has increased from the previous year as well as late fees.

Overall, the projected draw on the reserve fund is \$93,000 for FY 2018. Ms. Hildebrand reviewed other items on the budget and stated that some projected budget figures could change by the time the final budget is



provided to the Board in August, specifically, IT upgrades and income from licenses and fees. At that time, the Board will meet to approve the full budget.

Mr. Anastos stated that the budget committee was in favor of the draft budget as it currently exists.

A MOTION WAS MADE AND SECONDED (Davis/Walker) TO APPROVE THE GENERAL DIRECTION THE BUDGET IS MOVING IN AND WILL BE FINALIZED AT THE AUGUST MEETING.

There was discussion amongst the board members regarding certain expenses within the budget, without any suggested changes.

The Chair called for the vote. THE MOTION PASSED UNANIMOUSLY (WITH THE EXCEPTION OF BOB WETMORE WHO WAS OUT OF THE ROOM AT THE TIME OF THE VOTE).

**10. Discussion of  
Executive Director  
Annual Performance  
Review**

The Chair stated that the annual review of the Executive Director is due in August. Last year, she convened a committee that developed a form for the process. She intends to use the same form and requested that the Board members return the form by the last week in July.

**11. Upcoming Board  
Meetings (Information)**

Wednesday, August 16, 2017  
Wednesday, November 8, 2017

The Chair stated that the Board would need to convene a rules committee meeting to be held the morning of August 16<sup>th</sup> prior to the board meeting.

**12. Chair's Closing  
Remarks**

The Chair stated that normally the Board would have selected new committee assignments but she has held off because of pending board member assignments. She thanked the Board for their service and stated that all committees will remain the same.

**13. Adjournment**

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO ADJOURN THE MEETING AT 3:43 P.M. THE MOTION PASSED UNANIMOUSLY.

APPROVED BY THE BOARD:

  
DEBRA J. DOCKERY, FAIA  
Chair, TEXAS BOARD OF ARCHITECTURAL EXAMINERS