TEXAS BOARD OF ARCHITECTURAL EXAMINERS  
Minutes of June 13, 2019 Board Meeting  
William P. Hobby Jr. Building, 333 Guadalupe Street  
Tower III, Conference Room 102  
Austin, TX 78701  
10:00 a.m. until completion of business

<table>
<thead>
<tr>
<th>AGENDA ITEMS</th>
<th>DESCRIPTIONS</th>
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<tbody>
<tr>
<td><strong>1A. Call to Order</strong></td>
<td>Ms. Dockery called the meeting to order at 10:00 a.m.</td>
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<td><strong>1B. Roll Call</strong></td>
<td>Ms. Smith called the roll.</td>
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<td><strong>Present Board Members</strong></td>
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<tr>
<td>Debra Dockery</td>
<td>Chair, Architect Member</td>
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<td>Robert (Bob) Wetmore</td>
<td>Vice-Chair, Architect Member</td>
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<td>Joyce J. Smith</td>
<td>Secretary-Treasurer, Public Member</td>
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<td>Jennifer Walker</td>
<td>Architect Member</td>
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<tr>
<td>Chase Bearden</td>
<td>Public Member</td>
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<tr>
<td>Michael (Chad) Davis</td>
<td>Landscape Architect Member</td>
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<tr>
<td>Rosa G. Salazar</td>
<td>Registered Interior Designer</td>
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<td>Fernando Trevino</td>
<td>Public Member</td>
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<td><strong>1C. Excused and Unexcused Absences</strong></td>
<td>A MOTION WAS MADE AND SECONDED (Bearden/Davis) TO APPROVE THE EXCUSED ABSENCE OF MR. ANASTOS. THE MOTION PASSED UNANIMOUSLY.</td>
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<td>Charles (Chuck) Anastos</td>
<td>Architect Member</td>
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<td>A quorum was present.</td>
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<td><strong>1D. Determination of a Quorum</strong></td>
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<td>Ms. Dockery acknowledged the following members of TBAE staff: Julie Hildebrand, Executive Director; Lance Brenton, General Counsel; Glenn Garry, Communications Manager; Glenda Best, Operations Manager; Christine Brister, Human Resources; Kenneth Liles, Finance Manager; Jack Stamps, Managing Investigator; Dale Dornfeld, IT Manager; Julio Martinez, Information Security; Mike Alvarado, Registration Manager; and Katherine Crain, Legal Assistant.</td>
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<td>Additionally, the following guests were recognized: Donna Vining, Texas Association for Interior Design; and Becky Walker, Texas Society of Architects.</td>
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<td><strong>1E. Recognition of Guests</strong></td>
<td>Ms. Dockery thanked the Board and welcomed the audience. She stated that Missy Sutton from CLARB was on the telephone and wanted to share the following proclamation with the Board:</td>
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“Good Morning. My name is Missy Sutton and I’m the CLARB Member Engagement Manager. I appreciate the opportunity today to recognize your Board Executive, Julie Hildebrand, for her outstanding and significant volunteer work with CLARB.

CLARB, as you know, is the Council of Landscape Architectural Registration Boards. Our members are the regulatory boards and agencies that regulate landscape architecture in the U.S.; Washington, DC; Puerto Rico; and the Canadian provinces of Alberta, British Columbia and Ontario.

Julie is a member of the CLARB Board of Directors and Chair of our Board Executive Committee. Through her work with our organization, she is helping ensure the future of landscape regulation and protection of the public.

Her strategic contributions and probing questions to our Board of Directors as well as her use of foresight has helped the Board have robust discussions and make board decisions regarding the future of CLARB’s governance and how CLARB serves, works with, and learns from its members, customers and other stakeholders.

Her leadership on and work with the Board Executive Committee has helped the organization greatly advance its "rethink regulation" initiative. The goal of this initiative is to streamline the licensure process for landscape architects across North America. When landscape architecture licensure and regulation come under attack, it’s often because the profession is not well understood nor the value of licensure or regulation. Inefficient and subjective requirements, processes and fees are often questioned as well. Julie and her fellow Committee Members are helping CLARB gather data and better understand opportunities for future improvements.

In addition to all of this, I feel the need to state the obvious: Julie is smart, kind, thoughtful and generous. She is a joy to be around and her smile and laugh light up any room she is in.

On behalf of the CLARB Board of Directors and staff, it is my pleasure to recognize Julie Hildebrand on this day, Thursday, June 13, 2019. Julie, thank you for all you do in Texas and at the North American level. We are ALL lucky to know and work with you.

Sincerely,
Missy Sutton, Member Engagement Manager”

Ms. Dockery thanked Ms. Sutton and stated that the Board couldn’t agree with her more.
None.

2. Approval of February 21, 2019 Board Meeting Minutes

A MOTION WAS MADE AND SECONDED (Wetmore/Smith) TO APPROVE THE FEBRUARY 21, 2019 BOARD MEETING MINUTES. THE MOTION PASSED UNANIMOUSLY.

3. Executive Director's Report

Ms. Dockery invited Ms. Hildebrand to deliver the Executive Director’s report.

A. Summary of Executive Accomplishments

Ms. Hildebrand provided a report and explanation of executive accomplishments as summarized on page 11 of the Board materials. She discussed recent changes to the format of the summary and invited feedback from the Board. Ms. Hildebrand highlighted and discussed the following items from her report:

- CLARB’s Foresight First Certification program;
- NCARB’s Model Law Task Force meeting;
- CLARB’s CEO Search Committee Meeting;
- Austin will host the 2020 NCARB Annual Business meeting; and
- Discussion regarding appointments from the Governor’s office.

Ms. Hildebrand directed the Board to a summary of enforcement division accomplishments on page 12 of the Board materials.

Ms. Hildebrand directed the Board to page 13 and provided a report on registration department accomplishments. She noted that she included more information on the chart than what had been presented in the past. Ms. Hildebrand remarked upon a continued increase in total registrants over the previous year, and suggested that this may have resulted from architects becoming registered as interior designers through the ARE prior to the expiration of Rule 5.31(b) on January 1.

Ms. Smith asked how the ratio of out-of-state registrants to in-state registrants compared to historical levels. Ms. Dockery noted that historically, about 30-35% of registrants are out-of-state, which is consistent with the current level. Ms. Dockery also explained that Texas, California, and New York have some of the highest numbers in the U.S. for in-state registrants.

Ms. Salazar asked how many RID registrants have qualified for registration through the ARE prior to the deadline. Mr. Alvarado estimated that it was about 500.

Ms. Dockery expressed her preference for continued use of the new format for the executive report, especially the registration statistics.
B. Operating Budget/Scholarship Fund: Presentation on 2nd Quarter Fiscal Year 2019 Expenditures/Revenues

Ms. Hildebrand directed the Board to page 14 of the Board materials and provided a report and explanation of the actual revenues and expenditures through second quarter of the FY 2019 budget. Specifically, Ms. Hildebrand discussed postage and printing expenditures that exceed the budgeted amounts. She explained that this was primarily due to the need to print and deliver registration documents for new registrants and that these expenditures were exceeded by associated increases in revenues resulting from registration fees. Ms. Hildebrand also discussed the numbers for the scholarship fund, as summarized on page 15 of the Board materials.

Report on Conferences and Meetings

Ms. Hildebrand then provided an update to the Board on conferences and meetings.

C. NCARB Regional Summit/MBE Workshop – Mar 8-11

Ms. Hildebrand stated that she had been unable to attend the NCARB Regional Summit. However, Ms. Dockery, Mr. Brenton and Ms. Smith were able to attend the conference.

Mr. Brenton reported that the regional meeting consisted of regional breakout sessions as well as plenary sessions. In the regional session, Alabama shared an interesting case law update regarding the non-exempt status of condominium projects, and Mr. Brenton discussed that case with the Board. Mr. Brenton also shared his takeaways from discussions about what other states were experiencing in their legislative sessions. He noted that common legislative topics included deregulation efforts and limiting the use of criminal history in licensing decisions. Mr. Brenton also reported discussions in both regional and plenary sessions about the lack of diversity on the NCARB Board and how that issue may be remediated. Ms. Smith enjoyed the discussion of NCARB’s history approaching the 100-year anniversary and was pleased with the connections she made. Ms. Dockery noted that it was a very good meeting.

E. 2019 Texas ASLA Annual Conference – Apr 24-25

Ms. Hildebrand discussed her presentation, with Chad Davis and Brent Luck, to the Texas ASLA Annual Conference. The format included moderated questions posed to the participants by Glenn Garry addressing the various duties of TBAE vs. ASLA and how the organizations interact. Ms. Hildebrand was very pleased with the presentation and shared her intention to make similar presentations to the architect and interior design professions.

Report on Upcoming Conferences and Meetings

Ms. Hildebrand discussed upcoming conferences and meetings.
4. Enforcement Cases

Review and possibly adopt Executive Director’s recommendation in the following enforcement cases:

4A. Registrant/Non-Registrant Cases

**Chang, Robert T. (#284-18A) and (#187-18A)**

Mr. Brenton provided a summary of this matter as described on page 16 of the Board materials.

A MOTION WAS MADE AND SECONDED (Bearden/Walker) TO ENTER THE AGREED ORDER DATED MARCH 22, 2019, INCLUDING THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ADMINISTRATIVE PENALTY OF $10,000 WITH A TWO-YEAR PROBATED SUSPENSION OF RESPONDENT’S ARCHITECT REGISTRATION, WITH CONDITIONS.

Mr. Bearden inquired about what would happen if Staff identified violations during the probation period.

Mr. Brenton responded that, in the event of a finding that a violation had occurred during the probationary period, the suspension would be enforced for the remaining duration of the order and the balance of the administrative penalty would come due immediately, in addition to whatever penalties were appropriate for the underlying violation.

Mr. Wetmore asked whether the Respondent had previous disciplinary action. Mr. Brenton responded that this was the first disciplinary proceeding for Mr. Chang.

Regarding the recommended administrative penalty, Mr. Brenton explained that, though there are fewer cases involving incompetent or reckless practice compared with unregistered practice, the $5,000 penalty per project was consistent with recent precedent. Mr. Brenton also remarked that the probated suspension constituted an opportunity for the Respondent to correct his substandard practices or face the risk of future suspension or revocation of registration.

THE MOTION PASSED UNANIMOUSLY.

**Garcia, Mario T. (#296-18N)**

Mr. Brenton provided a summary of this matter as described on page 25 of the Board materials.

A MOTION WAS MADE AND SECONDED (Bearden/Davis) TO ENTER AN ORDER WHICH ADOPTS THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ADMINISTRATIVE PENALTY OF $5,000 AS SET FORTH IN THE REVISED REPORT AND NOTICE OF VIOLATION DATED OCTOBER 31, 2018.
Mr. Wetmore asked whether $5,000 was a sufficient penalty to adequately deter similar behavior and protect the public.

Mr. Brenton addressed a number of points to support the recommendation. First, he referred to previous research finding that penalties imposed by agreement are collected at far higher rates as compared with contested case penalties and those higher rates, even if applied to a smaller administrative penalty, are usually sufficient to result in greater collection of penalties in absolute terms. This can be contrasted with penalties imposed through SOAH, which are more often ignored by Respondents, necessitating collection efforts through the attorney general’s office, resulting in greater costs to the agency. Mr. Brenton also noted that the recommended penalty was consistent with recent precedent for settled cases.

Ms. Dockery noted that this project was an auto shop and suggested that the appropriate penalty could be greater for a different type of facility, such as a nursing home, where there was a greater potential for harm.

Mr. Brenton agreed with this position. He noted that this project would have been exempt under state law but came under the Board’s jurisdiction due to the Respondent’s unauthorized use of a seal. He noted that, in a case like this where state law authorizes the provision of services on a project and there is no information indicating actual harm, staff’s recommendation would tend to be lower when compared to a project that legally required the services of an architect or actual harm occurred.

THE MOTION PASSED UNANIMOUSLY.

Hillert, Jonathan R. (144-15N)
Mr. Brenton provided a summary of this matter as described on page 26 of the Board materials.

A MOTION WAS MADE AND SECONDED (Bearden/Wetmore) TO ENTER AN ORDER WHICH ADOPTS THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ADMINISTRATIVE PENALTY OF $3,500 AS SET FORTH IN THE REPORT AND NOTICE OF VIOLATION DATED AUGUST 29, 2016. THE MOTION PASSED UNANIMOUSLY.

4B. CE Cases

The Board considered and voted upon the continuing education cases as a group.

A MOTION WAS MADE AND SECONDED (Bearden/Smith) TO ENTER ORDERS WHICH ADOPT THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ADMINISTRATIVE PENALTIES AS SET FORTH IN THE REPORTS AND NOTICES OF VIOLATION FOR EACH OF THE FOLLOWING CONTINUING EDUCATION CASES:
Adams, Paul E. (#217-19A)
Bekat, Ismail B. (#202-19A)
Ferguson, Marcella H. (#229-19A)
Griggs, Jimmy G. (#205-19A)
Norris, Jean D. (#194-19I)
Pobanz, Pamela R. (#005-18I)
Ross, Janet K. (#215-19I)
Rye, Jacqueline R. (#206-19A)
Snyder, Erich D. (#208-19A)
Trimble, Craig N. (#222-19A)

THE MOTION PASSED UNANIMOUSLY.

5. Proposed FY20 Operating Budget Discussion

Ms. Hildebrand provided a report on the development of the FY 2020 proposed budget. Ms. Hildebrand noted that this was a preliminary review, and that the budget would not be approved by the Board until the August Board meeting.

Regarding projected revenues, Ms. Hildebrand noted that the Board had seen significant year-over-year growth in FY 2018 and again in FY 2019, but that she could not project that this would continue. She explained that this process relies upon educated guesswork and that the projections she was working with assumed revenues that would be consistent with FY 2018.

Ms. Hildebrand then addressed projected expenses. She would be requesting a three percent (3%) increase in wages for staff for FY 2020. Also, she included an increase in the budget for professional services because she anticipated more enforcement cases would be filed at SOAH during FY 2020. With respect to Board travel, Ms. Hildebrand noted that the agency did not spend all of what was budgeted in FY 2019, but she wanted to keep the numbers the same as more Board members should be appointed for FY 2020, which would result in increased travel. Ms. Hildebrand projected small increases for staff travel in FY 2020. Ms. Hildebrand also increased the budget for operating expenditures, office supplies, postage, communications and utilities based on preliminary expenditure figures for FY 2019.

Ms. Hildebrand explained that she was creating a new category for the FY 2020 budget, information security, which had previously been included within information technology. Ms. Hildebrand explained that the agency is now required to have an information security officer report directly to the executive director. Mr. Martinez has transitioned into this role and will be responsible for implementing the mandates that have been recently adopted by the legislature regarding information security. Ms. Hildebrand invited Mr. Martinez to provide more information on his role.
Mr. Martinez discussed information security with the Board. He provided basic information regarding what is meant by the term. He identified various forms of attacks on an entity’s information resources, the various types of bad actors, and their motivations for attack. Mr. Martinez also discussed legislative requirements for information security within governmental entities. Mr. Martinez noted that the agency’s ability to effectively identify, protect, detect, respond to, and recover from incidents is maturing, though it is dependent on proper funding. He stated that the additional funding requested in the next budget would be dedicated to security awareness training for general staff, cybersecurity training for technical staff, better tools for threat visibility and alerting, and better hardware for vulnerability and penetration testing, amongst other items. He thanked the Board for the opportunity to provide a briefing on the information security program.

Ms. Smith asked how the proposed sale of the Hobby building had impacted the budgeting process. Ms. Hildebrand responded that it was still early in the process and she was unable to predict how the process would play out and how long it would take. Ms. Hildebrand acknowledged that moving out of the Hobby building could result in significant costs to the agency. However, those costs had not been considered in the draft budget due to this uncertainty.

Ms. Dockery thanked Ms. Hildebrand for the information and said the Board would look forward to consideration and approval of the final proposed budget in August.

6. Legislative Committee Update

Ms. Hildebrand updated the Board on developments in the legislative session.

Ms. Hildebrand stated that overall the session went very well. Agency staff attended four hearings. She reported that the agency continued with the same approach that worked in the previous session, which focused on being proactive about contacting the legislative offices and professional organizations and providing as much assistance as possible during the early stages of the legislative process. By making ourselves available to the legislators’ offices, the agency was able to provide explanations or background information regarding proposed bills, which helped to eliminate the need to provide testimony during the hearing process.

Ms. Hildebrand began by discussing SB 1349, regarding the sale of the Hobby Building. Ms. Hildebrand reported on early discussions with the Texas Facilities Commission and said was awaiting more information from TFC. She identified options for TBAE. First, TBAE could be relocated by TFC into alternative office space. This could include private space leased by TFC or currently vacant space owned by the state. Alternatively, TBAE could look for private space and negotiate its own lease. Ms. Hildebrand
discussed pros and cons of these options relating to cost, location, and quality.

Ms. Dockery and Mr. Bearden emphasized the importance of considering staff members in making this decision. Mr. Bearden noted that staff have organized their lives around the current location and minimizing the disruption of a move and the possibility of turnover should be a priority.

Ms. Hildebrand stated that she would provide an update on office space at the August Board meeting.

Ms. Hildebrand provided an update on bills affecting interior design. First, she noted that the misdemeanor criminal penalty for violating the interior designer’s registration law had been repealed. Ms. Hildebrand noted that this provision had not been utilized by the Board and that the repeal would have no impact on the Board’s practices. Ms. Hildebrand also discussed the efforts to remove the Board’s ability to impose administrative penalties upon non-registered persons for a violation of the interior designer registration law. It was noted that this provision was introduced in two bills, HB 1894 and HB 2847. The provision was removed from HB 1894 by the Senate Business and Commerce committee, and stakeholders were under the impression that it would be removed from HB 2847 as well. However, it was included in the final conference committee version of HB 2847 that was sent to the governor, so assuming it is signed, the Board would no longer have authority to impose administrative penalties in these cases.

The Board took a break at 11:35 a.m. and resumed at 11:45 a.m.

Ms. Hildebrand then provided discussion and analysis of various other legislative matters identified in the Board materials. She also identified trends that she had observed in reviewing sunset reports that had issued during the biennium.

7. Executive Director Annual Performance Evaluation Discussion

Ms. Dockery discussed the timeline and procedures for the annual evaluation of the Executive Director, which will occur at the August Board meeting.

8. Upcoming Board Meetings

Tuesday, August 13, 2019
Tuesday, November 19, 2019

Ms. Dockery stated that the August meeting date would be on the 13th and the November meeting would be on the 19th.
Ms. Dockery thanked the board members and the staff for a very good meeting. She stated that she was looking forward to attending the NCARB 100-year celebration in Washington.

A MOTION WAS MADE AND SECONDED (Davis/Bearden) TO ADJOURN THE MEETING AT 12:15 P.M. THE MOTION PASSED UNANIMOUSLY.

APPROVED BY THE BOARD:

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