

TEXAS BOARD OF ARCHITECTURAL EXAMINERS
Minutes of December 1, 2016 Board Meeting
William P. Hobby Jr. Building, 333 Guadalupe Street
Tower III, Conference Room 350-L
Austin, TX 78701
1:30 p.m. until completion of business

AGENDA ITEMS

DESCRIPTIONS

1A. Call to Order

Ms. Dockery called the meeting to order at 1:35 p.m.

1B. Roll Call

Ms. Odell called the roll.

Present Board Members

Debra Dockery	Chair
Sonya Odell	Vice-Chair, Registered Interior Designer
Michael (Chad) Davis	Landscape Architect
Jennifer Walker	Architect
Robert (Bob) Wetmore	Architect
Chase Bearden	Public Member
Anthony Giuliani	Public Member

**1C. Excused and
Unexcused absences**

Charles (Chuck) Anastos	Architect
Paula Ann Miller	Secretary-Treasurer, Public Member

A MOTION WAS MADE AND SECONDED (Bearden/Davis) TO APPROVE THE EXCUSED ABSENCES OF CHARLES (CHUCK) ANASTOS AND PAULA ANN MILLER. THE MOTION PASSED UNANIMOUSLY.

**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; Logan Mims, Governor's liaison to TBAE; David Lancaster, Texas Society of Architects; Donna Vining, Texas Association for Interior Design; Matt Ryan, Austin Attorney; Dale Dornfeld, IT Manager; and Katherine Crain, Legal Assistant.

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

Ms. Dockery opened the meeting by stating that as Board members we face the onset of the next Texas Legislative session, and have an overarching issue of responsible regulation. This is a conversation that is happening across the country and not just here in Texas. The crux of the matter is what is the least intrusive and least hindrance necessary to protect the health, safety, and welfare of the public? She urged the Board to always find the appropriate balance.

1G. Public Comments	None.
2. Approval of August 17, 2016 Board Meeting Minutes	A MOTION WAS MADE AND SECONDED (Davis/Walker) TO APPROVE THE AUGUST 17, 2016 BOARD MEETING MINUTES. 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 16 of the Board materials. In addition to the materials discussed on page 16, Ms. Hildebrand stated that Glenn Garry was busy making presentations to a number of organizations in the month of October.
B. Fiscal Year 2016 4th Quarter Operating Budget	<p>Ms. Hildebrand presented information regarding the 2016 4th quarter operating budget as described on page 19 of the Board materials.</p> <p>Ms. Hildebrand presented information on the Scholarship Fund as described on page 20, and noted that the Board would be reviewing the rule regarding the Scholarship Fund at the present meeting.</p>
C. Trend Analysis Presentation of Agency Performance and Operations (Information)	<p>Ms. Hildebrand presented information regarding the annual report on trends, as described on page 21 of the Board materials. Ms. Hildebrand noted that there are currently 12,011 active architects which is the highest number the agency has ever had – a 3% increase from last year. Mr. Giuliani inquired about the number of architects per capita across the country as compared to Texas.</p> <p>Ms. Hildebrand identified a 5% decrease in Registered Interior Designers registrants, which matches the decrease for the previous year. Ms. Hildebrand noted that there are approximately 1,200 registrants who will</p>

be affected by the change in law on September 1, 2017 regarding the exam requirement.

Ms. Hildebrand stated that Landscape Architects registrants are at a historical peak at 1,505 active registrants, which is a 3½ % increase from 2015 to 2016.

Ms. Hildebrand noted that all three professions increased the number of new registrants from 2015 to 2016, and that new registrants are at a post-2009 peak.

Ms. Hildebrand presented figures and discussed the staffing, finance, and administrative trends as described on page 28.

Ms. Hildebrand discussed investigations and enforcement trends as described on page 29.

D. Texas Freedom by Design

The Board engaged in a discussion regarding the program implemented by NCARB – *Texas Freedom by Design*, discussed on page 31 of the Board materials.

3. Report on Conferences and Meetings

A. 2016 CLARB Annual Meeting – September 21-24, 2016

Ms. Hildebrand and Mr. Davis attended this meeting and she made a presentation on TBAE's Strategic Plan, which was well received. Mr. Davis said that the meeting was very informative, especially a presentation from FARB regarding the North Carolina Dental Board case.

B. LRGV-AIA BCC Conference – Sep 29-Oct 1, 2016

Mr. Stamps attended and made a presentation at this course which he does on an annual basis. His class on enforcement cases is always well received by the registrants.

C. TDLR – Texas Accessibility Academy – Oct 11-12, 2016

Ms. Hildebrand and Mr. Stamps attended this two day conference. Ms. Hildebrand stated that the presentation was full of great information regarding accessibility and noted that she made a lot of networking contacts at TDLR.

D. Biennial Legislative Communication Conference – Oct 13

Ms. Hildebrand attended this conference and spoke with Lance Kinney, the Executive Director of the Professional Engineering Board, and other executive directors.

E. NCARB Member Board Chairs and Member Board

Ms. Dockery and Ms. Hildebrand attended this conference which is only held every 2 years. There was discussion regarding the ARE 5.0 effective November 1st.

**Executives Summit Oct
28-29, 2016**

**F. TxA Conference –
Nov 3-5, 2016**

Ms. Hildebrand stated that she attended the Texas Society of Architects Conference in San Antonio as well as Glenn Garry, Jack Stamps and Mike Alvarado. Jennifer Walker, Bob Wetmore and Debra Dockery also attended the conference and attended Jack Stamps' presentation. Mr. Stamps did a wonderful job on his presentation.

**G. 2016 Annual CIDQ
Council of Delegates
Meeting – Nov 11-12,
2016**

Ms. Hildebrand and Ms. Odell attended this meeting. She stated that CIDQ is amending their bylaws which is on the agenda for later this Board meeting. Ms. Odell stated that the two days were well-spent.

**3. Report on Upcoming
Conferences and
Meetings**

**A. NCARB Committee
Summit – Dec. 9-10,
2016**

Ms. Hildebrand stated that she would attend the upcoming meeting because she was on the procedures and documents committee and will be reviewing the organizational bylaws.

**B. Texas Legislature
Convenes – Jan. 10,
2017**

Ms. Hildebrand noted that the Texas Legislature convenes on January 10, 2017.

**4. General Counsel
Report**

Lance Brenton provided the General Counsel's report to the Board, as follows:

**A. Proposed Rule for
Adoption (Action)**

Amendments to Rule 7.10, relating to approval of surcharge to fund the Architect Registration Examination Financial Assistance Fund and changes to online payment fees charged by Texas.gov.

Mr. Brenton presented information on the proposed rule as described on page 33 of the Board materials and Staff's recommendation to approve the proposed rule for adoption.

A MOTION WAS MADE AND SECONDED (Davis/Bearden) TO APPROVE THE PROPOSED AMENDMENTS TO 22 TEX. ADMIN. CODE §7.10 FOR FINAL ADOPTION, TO BE EFFECTIVE JANUARY 1, 2017. THE MOTION PASSED UNANIMOUSLY.

**B. Proposed Rule for
Adoption (Action)**

Amendments to Rules 5.31 and 5.51, relating to elimination of eligibility for interior design registration by architects who pass the Architect Registration Examination.

Mr. Brenton presented information on the proposed rule for adoption as described on page 44 of the Board materials. Mr. Brenton noted that the Texas Society of Architects commented in opposition to the proposed rule. Mr. Brenton encouraged the Board to act in accordance with their understanding of the legislative intent in adopting the amendments to Sec. 1015.351.

A MOTION WAS MADE AND SECONDED (Davis/Odell) TO APPROVE THE PROPOSED AMENDMENTS TO 22 TEX. ADMIN. CODE §§5.31 AND 5.51 FOR FINAL ADOPTION.

Mr. Wetmore inquired what the purpose was to bring the architects under the RID registration. Information was provided that architects are not required to register as interior designers to practice, but are required to register if they use the title "registered interior designer." Mr. Brenton clarified that the rule change will not have any effect on current registrants, and that the ARE will continue to be an acceptable examination until December 31, 2018.

Mr. Lancaster and Ms. Vining provided their recollections of the legislative history of this matter.

Mr. Davis stated that if a Board or state agency states that an individual is uniquely qualified in a discipline, it is important that that individual is qualified by unique education, unique experience, and unique examination. He stated that the consumer can then rely on the registration to show that the registrant is uniquely qualified in the field and has satisfied the specific requirements to become registered in the field. He also pointed out that the rule would not affect the actual work that can be done by an architect, only the communication that the person is or is not registered as an interior designer.

Mr. Wetmore communicated his belief that there is a different point of view and focus between an architect and an interior designer, and stated that he agreed with Mr. Davis' point regarding the need for a unique examination for the two professions.

Ms. Dockery commented on the overlap between the two exams.

Ms. Dockery called a vote on the motion. THE MOTION PASSED UNANIMOUSLY.

**Adoption of Proposed
Rules Relating to
Review of 22 Tex.
Admin. Code Chapters
1 and 3 (Action)**

- A. Revise Rules 1.5 and 3.5 relating to definitions of "actual signature," "authorship" (repeal), "Architectural Barriers Act," and "E-mail Directory" (repeal).
- B. Revised Rule 1.5 relating to definition of "EPH" and "Architect's Registration Law."

- C. Revise Rule 3.5 relating to definition of "Landscape Architect's Registration Law."
- D. Repeal Rules 1.24 and 3.24 relating to Fees.
- E. Revise Rule 1.148 to replace obsolete reference to "Section 10 of the Act."

Mr. Brenton presented information on the proposed rules for adoption as described on page 85 of the Board materials.

A MOTION WAS MADE AND SECONDED (Walker/Odell) TO APPROVE THE PROPOSED AMENDMENTS TO 22 TEX. ADMIN. CODE §§1.5, 3.5, 1.24, 3.24, AND 1.148 FOR FINAL ADOPTION. THE MOTION PASSED UNANIMOUSLY.

Approval of Agency Review of 22 Tex. Admin. Code Chapters 5 and 7 and Proposal for Rules (Action)

- A. Revise Rule 5.5 relating to definitions of "Actual Signature," "Architectural Barriers Act" (add), "Authorship" (repeal), "Consultant," "E-mail Directory" (repeal), "Interior Designers' Registration Law," and "Registrant."
- B. Repeal Rule 5.34 relating to Fees
- C. Readopt all other rules in 22 Tex. Admin. Code Chapters 5 & 7

Mr. Brenton presented information on the rule review and draft rules for adoption as described on page 102 of the Board materials.

A MOTION WAS MADE AND SECONDED (Davis/Bearden) TO APPROVE THE DRAFT AMENDMENTS TO 22 TEX. ADMIN. CODE 5.5 AND 5.34 FOR PUBLICATION AND PROPOSAL IN THE TEXAS REGISTER, WITH AUTHORITY FOR THE GENERAL COUNSEL TO MAKE EDITORIAL CHANGES AS NECESSARY TO CLARIFY RULE AND BOARD INTEND AND TO COMPLY WITH FORMATTING REQUIREMENTS OF THE TEXAS REGISTER. THE MOTION PASSED UNANIMOUSLY.

A MOTION WAS MADE AND SECONDED (Bearden/Wetmore) TO READOPT ALL OTHER RULES IN 22 TEX. ADMIN. CODE CHAPTERS 5 AND 7, AS AUTHORIZED UNDER TEXAS GOVERNMENT CODE §2001.039(c). THE MOTION PASSED UNANIMOUSLY.

The Board took a break @ 3:00 and reconvened at 3:15 p.m.

Regulatory Case Law Update (Information)

Mr. Brenton noted that FARB provides the agency with a regulatory case update every few months and that in the future, staff will share any pertinent cases with the Board. Mr. Brenton provided information on a case from the Oregon Board of Architect Examiners, as summarized on page 110 of the Board materials.

5. Enforcement Cases

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

A. Licensure Eligibility Determination

Hernandez, Rojelio (#031-17N)

Mr. Brenton presented a summary of this matter and the associated documents on pages 128-144 of the Board materials.

A MOTION WAS MADE AND SECONDED (Bearden/Wetmore) TO ACCEPT STAFF'S RECOMMENDATION AND ACCEPT THE AGREED ELIGIBILITY ORDER.

Mr. Bearden noted that there has been movement on both sides of the aisle to allow people who have made mistakes to get a second chance, and that he supported these opportunities. Mr. Bearden pointed out the responsibility that Mr. Hernandez will take on if he is granted a registration, to be a good example and a success that would allow the Board to make similar decisions in the future.

Ms. Dockery noted that she supported Mr. Hernandez's registration because he has provided strong mitigating evidence on every single factor the Board is required to consider in making determinations relating to criminal convictions under the Board's laws and rules.

Mr. Wetmore noted that Mr. Hernandez had a strong letter of recommendation from his employer.

Mr. Ryan expressed his appreciation for the Board's consideration of this matter and stated that his client was grateful for the opportunity. Mr. Ryan provided further discussion in favor of Mr. Hernandez's registration.

THE MOTION PASSED UNANIMOUSLY.

B. Registrant Cases

Barnett, Randolph C. (#076-15A)

Mr. Brenton presented a summary of this matter as described on page 145 of the Board materials. Mr. Brenton noted that Staff's recommendation was partly based on the fact that the Respondent's registration is canceled/non-renewable and will be required to retake the ARE in order to become re-registered as an architect in the State of Texas.

A MOTION WAS MADE AND SECONDED (Bearden/Walker) TO ACCEPT STAFF'S RECOMMENDATION OF A \$10,700 ADMINISTRATIVE PENALTY IN THE CASE AGAINST RANDOLPH C. BARNETT (#076-15A). THE MOTION PASSED UNANIMOUSLY.

C. CE Cases

Mr. Brenton stated that the Board would hear the following cases regarding continuing education violations and vote on them together.

Bell, Matthew M. (#110-16I)

Brannan, Elizabeth Ann (#023-17I)

Dumont, Edward Abdo (#025-17I)

Hyndman, Dennis Emmanuel (#075-16A)
 Jackson, Alana Colleen (#106-16I)
 Jankowski, Paul Brian (#002-17I)
 Landry, Barry Anthony (#093-16L)
 Mendel, Stephen A. (#001-17I)
 Murff, James A. (#003-17A)
 Norman, Stephen T. (#094-16A)
 Powers, Christopher J. (#022-17A)
 Raffa, Anthony (#071-16I)
 Scarborough, David C. (#081-16L)
 Schulz, Cory (#091-16L)
 Sheeley, Candace K. (#105-16A)

A MOTION WAS MADE AND SECONDED (Bearden/Wetmore) TO APPROVE STAFF'S RECOMMENDATION AND PENALTIES FOR ALL OF THE CASES LISTED ON THE AGENDA UNDER CE CASES. THE MOTION PASSED UNANIMOUSLY.

6. Proposed Revisions to the CIDQ Bylaws
(Action)

Ms. Hildebrand directed the Board to page 162 of the Board's materials and presented the proposed revisions to the CIDQ Bylaws. Ms. Hildebrand stated there will be an electronic vote on the revisions on January 20th and that the Board would need to designate Sonya Odell to vote on its behalf.

A MOTION WAS MADE AND SECONDED (Bearden/Davis) TO APPROVE THE CHANGES TO THE BYLAWS AND HAVE SONYA ODELL VOTE ON BEHALF OF THE BOARD. THE MOTION PASSED UNANIMOUSLY.

7. Legislative Committee Update
(Information)

Mr. Davis stated that the Committee met earlier in the day and discussed upcoming topics for the legislative session. He stated that interim report are being submitted and the Business & Commerce Committee published their report yesterday. The agency is currently waiting on the Licensing and Administrative Procedures Committee's report. Mr. Davis said the agency was ready and willing to participate in the process as needed. Ms. Hildebrand explained that the agency will be sending updates to the entire Board if we get any bills that need to be tracked.

8. Upcoming Board Meetings
(Information)

Thursday, February 16, 2017 – *Board Member Training*
 Thursday, June 8, 2017
 Thursday, August 17, 2017 – *FY18 Budget Approval & Executive Director Annual Performance Appraisal*
 Wednesday, November 8, 2017

9. Chair's Closing Remarks

Ms. Dockery thanked the Board for their service. She has also created a budget committee comprised of Bob Wetmore, Anthony Giuliani and Paula Ann Miller. The committee will meet in February to look at trends and discuss their recommendation to the Board at the May meeting.

10. Adjournment

A MOTION WAS MADE AND SECONDED (Davis/Giuliani) TO ADJOURN THE MEETING AT 4:02 P.M. THE MOTION PASSED UNANIMOUSLY.

APPROVED BY THE BOARD:



DEBRA J. BOCKERY, AIA

Chair, TEXAS BOARD OF ARCHITECTURAL EXAMINERS