TEXAS BOARD OF ARCHITECTURAL EXAMINERS
Minutes of August 23, 2012 Board Meeting
William P. Hobby Jr. Building, 333 Guadalupe Street
Tower II2, Conference Room 2-225
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 9:02 a.m.

B. Roll Call
Vice-Chair, Chuck Anastos, called the roll.

Present
Alfred Vidaurri, Jr. Chair
Charles H. (Chuck) Anastos Vice-Chair
Bert Mijares, Jr. Member
Brandon Pinson Member
Diane Steinbrueck Member (arrived @ 9:10 a.m.)
Debra Dockery Member
Sonya Odell Member

C. Excused and unexcused absences
Chase Bearden (excused) and Paula Miller (excused)

D. Determination of a quorum
A quorum was present.

TBAE Staff Present
Cathy L. Hendricks Executive Director
Scott Gibson General Counsel
Glenda Best Executive Administration Manager
Katherine Crain Legal Assistant
Glenn Garry Communications Manager
Mary Helmcamp Registration Manager
Ken Liles Finance Manager
Julio Martinez Network Specialist
Michael Shirk Managing Litigator
Jack Stamps Managing Investigator

E. Recognition of Guests
Guests were as follows: Ted Ross, Assistant Attorney General, Donna Vining,
Executive Director for Texas Association for Interior Design, David Lancaster,
Texas Society of Architects, Joe Walraven, Assistant Director, Sunset Advisory
Commission, Carrie Holley-Hurt, Policy Analyst, Sunset Advisory Commission
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. The Chair stated he has been reading an intriguing
book entitled "Drive" by Daniel Pink about what motivates people. He said the premise of the book is that there are different ways people are energized to act upon things. Some people have an internal drive and some are motivated by external rewards and motivations. As the Chair reflected upon the eight years he has served on the Board and worked with all the different members who have come and gone, it has been interesting to see the different ways they were motivated. And how all those members with different drives always kept in mind the overarching motivation of the Board to protect the health, safety and welfare of the public.

G. Public Comment
Jeri Morey, architect from Corpus Christi, approached the Board and stated that she had read the last set of minutes and noted that an engineer seeking placement on the exempt engineer list was rejected because he misclassified a multi-purpose room resulting in a project design with inadequate fire protection. She stated she had filed a report in 2007 in which she had found an architect had done the same thing and would like to make that portion of her report a formal complaint against that architect.

2. Approval of Minutes
A. May 17, 2012 Board Meeting
A MOTION WAS MADE AND SECONDED (Anastos/Pinson) TO APPROVE THE MAY 17, 2012, BOARD MEETING MINUTES. THE MOTION PASSED UNANIMOUSLY.

B. May 18, 2012 Board Member Training Meeting
A MOTION WAS MADE AND SECONDED (Pinson/Anastos) TO APPROVE THE MAY 18, 2012 BOARD MEMBER TRAINING MEETING MINUTES. THE MOTION PASSED UNANIMOUSLY.

3. Confer with legal counsel regarding recent developments in pending litigation in the cases
A. TSPE and Winton v. TBAE and Cathy L. Hendricks in her official capacity as Executive Director
B. Richardson, Rogers, and Winton vs. TBAE

At 9:11 a.m., the Board convened in closed session, pursuant to Section 551.071(1), Government Code, to confer with legal counsel on pending litigation and proposed settlement of pending litigation. The Chair adjourned the closed session at 10:00 a.m. The Board adjourned closed session at 9:55 a.m.

The Board reconvened in an open meeting at 9:55 a.m.

The Chair reported that the other side had withdrawn its appeal in the case TSPE v. TBAE. At its last meeting, the Board approved a proposed settlement of both cases. With the withdrawal of the appeal, the amendment of rules, and other implementation of recent legislation, there are no longer any viable issues to litigate or to settle. The terms of a proposed settlement have been met independent of settlement.
A MOTION WAS MADE AND SECONDED (Dockery/Mijares) TO RESCIND THE PROPOSED SETTLEMENT AGREEMENT APPROVED AT THE LAST BOARD MEETING. THE MOTION PASSED UNANIMOUSLY.

The Board recessed at 10:00 a.m. and reconvened at 10:10 a.m.

4. **Presentation of Budget and Strategic Plan**

A. Presentation of FISCAL YEAR 2012 end-of-year expenditures/revenue

The Executive Director gave a presentation of the end-of-year expenditures and revenue and stated that the total actual revenue is currently at 97.7% of the amount budgeted for the fiscal year. The Executive Director outlined variations between actual and budgeted revenue and expenditures and gave a brief explanation of the cause of the variations.

Presentation of FISCAL YEAR 2013 proposed budget for consideration of the Board. The Executive Director explained that the Executive Committee had reviewed the staff proposed 2013 budget and directed modifications to it. The Chair outlined the changes made by the Committee report. The Committee added $100,000 in expenditures for the agency to employ an information resource manager, $3,000 to cover the cost of public outreach to building officials on recent legislation, and $18,000 to enhance staff training. The method of finance for the added expenditures is from the fund balance. The Board discussed cost-savings that could be realized by holding paperless meetings with materials in electronic format. The Board directed staff to prepare materials for the next meeting in electronic format only.

The Board also discussed the cost to the agency to cover the fee charged by credit card companies to process charges made through the agency’s Web site. The Executive Director reported that the Department of Information Resources issued a directive to agencies which prohibited them from recovering that cost from end users. The Executive Director noted that the agency has realized cost-savings through electronic payments in lieu of using the resources necessary to process checks. The Chair asked staff to present to the Board annually the amount of this cost is and the percentage of registrants who renew online and the trends of the cost over time.

The Executive Director stated the agency’s self-evaluation report to the Sunset Commission proposed transferring enforcement penalties to the General Revenue fund in accordance with the Sunset Model Law which ensures agencies do not actually or appear to impose penalties for improper purposes. If adopted by the Sunset Commission, the transfer would have a fiscal impact beginning in fiscal year 2014. The Board deliberated on the potential effect of the proposal.

A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO APPROVE THE FISCAL YEAR 2013 BUDGET AS REPORTED BY THE EXECUTIVE COMMITTEE. THE MOTION PASSED UNANIMOUSLY.

The Executive Director briefed the Board on the architectural scholarship fund. At the start of fiscal year 2012 the fund balance was $191,681. During the year $27,500 was expended from the fund. At the end of the year it is projected that the fund balance will be $164,181. The Executive Director covered the history of the fund from its enactment and the method of finance for the fund over the years. The cost of the Architectural Registration Examination has gone up over the life of the fund but there is a statutory cap on the amount the agency can pay to each scholarship recipient. The Board discussed possible modifications to the fund during the
upcoming legislative session. The Chair delegated discussion of the scholarship fund the Board’s Executive Committee to consider trends regarding the number of scholarships awarded from the fund, re-imposing the surcharge on registration renewals to increase the balance of the fund, and making the surcharge voluntary. Ms. Steinbrueck asked that the Committee also consider expanding the fund to provide financial assistance to landscape architect and interior design candidates for registration.

B. FISCAL YEAR 2013-2017 Strategic Plan for approval

The Executive Director made a presentation of the 2013-2017 Strategic Plan for the agency which she explained is required by all agencies every 2 years. The proposed strategic plan includes the agency’s revised performance measures which were evaluated and approved by a third party vendor. The measures are accurate and valid.

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO APPROVE THE 2013-2017 STRATEGIC PLAN. THE MOTION PASSED UNANIMOUSLY.

The Chair directed the Board to skip to item number 9.

9. Report on conferences and meetings
   A. NCARB Annual Meeting, June 20-23, Minneapolis, MN

The Chair, Mr. Mijares, Ms. Dockery and the Executive Director attended this meeting. Ms. Dockery stated she attended the new member orientation and break-out sessions. She reported there is an emphasis on NCARB renewing its relationship with AIA and NAAB. Mr. Mijares reported that he was disappointed in the amount of information provided in the CEO report, a general lack of meaningful information conveyed at the meeting and a lack of effort to expedite the Intern Development Program which, on average, takes five years to complete. The Chair reported that NCARB has put a lot of work into information technology systems and has mined data for statistical and demographic data. Each attendee received a copy of a book on the statistics and demographics of architectural candidates and examinees. He reported that the data reveals that it is a myth that it takes 10 years to get licensed. On average it takes only 7 years. Also, in the 1990’s roughly 10 percent of the people who sat for the Architectural Registration Examination were women and now 40 percent of examinees are women. The Chair reported next year the Southern region will celebrate its 50th anniversary at its meeting in Charleston, South Carolina. The Chair serves as Vice Chair of the region and might become Chair. Ms. Dockery asked if the practice analysis has been released. The Chair reported that the information has been gathered and the Council and NAAB are evaluating survey results but nothing has been published yet.

B. METROCON12 Expo & Conference, August 9-10, Dallas, TX

The Executive Director gave a presentation on the conference and stated that it was a huge success. The classes presented on continuing education were both sold out. In addition to the Executive Director, a number of agency staff attended the conference, made a presentation and distributed information from the agency’s information booth. Ms. Odell and former Board member Ms. Vassberg also were in attendance at the conference. Ms. Odell reported there was a cross section of both interior designers and architects present. Ms. Odell reported the agency’s presentations were good and very well-attended.
10. Approval of the Proposed 2013 Board Meeting Dates
   The Board approved the following dates for next year's Board meetings:
   January 31, 2013
   June 13, 2013
   August 22, 2013
   October 24, 2013

The Board took a lunch break at 12:05 p.m. and reconvened at 1:03 p.m.

The Chair requested the Board direct its attention to item number 6.

6. General Counsel Report
   A. Consideration of public comment and possible adoption of proposed amendments to rules 1.210, 1.211, 1.212, 1.214 and 1.217 relating to the requirement for an architect to design and observe the construction of certain buildings
   The General Counsel gave the Board the background regarding the reasons for amending these rules and stated that they were amended to incorporate provisions of House Bill 2284. They were published for 30 days in the Texas Register and the agency received no public comments.
   A MOTION WAS MADE AND SECONDED (Steinbrueck/Anastos) TO ADD THE WORDS "LISTED AS" ON PAGE 46 AT LINE 19 TO READ AS FOLLOWS:
   '(e) Licensed professional engineers who are listed as permitted to engage in the practice of architecture pursuant to Section 1051.607, Texas Occupations Code, are not restricted from preparing any architectural plans and specifications described in this subchapter.' THE MOTION PASSED UNANIMOUSLY.
   A MOTION WAS MADE AND SECONDED (Anastos/Pinson) TO ADOPT, AS AMENDED, THE PROPOSED AMENDMENTS TO 1.210, 1.211, 1.212, 1.214 AND 1.217 RELATING TO THE REQUIREMENT FOR AN ARCHITECT TO DESIGN AND OBSERVE THE CONSTRUCTION OF CERTAIN BUILDINGS. THE MOTION PASSED UNANIMOUSLY.
   B. Consideration of public comment and possible adoption of proposed amendments to rules 1.5, 3.5 and 5.5 defining the term "sole practitioner" for purposes of business registration rules. The agency received no public comment.
   A MOTION WAS MADE AND SECONDED (Pinson/Anastos) TO ADOPT THE PROPOSED AMENDMENTS TO RULES 1.5, 3.5 AND 5.5 DEFINING THE TERM "SOLE PRACTITIONER" FOR PURPOSES OF BUSINESS REGISTRATION RULES. THE MOTION PASSED UNANIMOUSLY.
   C. Consideration of public comment and possible adoption of proposed amendment to rule 3.69 increasing continuing education requirements for landscape architects. The Chair inquired about the meaning of the term "structured study" as used in the Rule. Ms. Helmcamp, the agency's Registration Manager, explained it is classroom instruction or online class instruction with an examination upon completing the class.
   A MOTION WAS MADE AND SECONDED (Steinbrueck/Mijares) TO ADOPT THE PROPOSED AMENDMENT TO RULE 3.69 INCREASING CONTINUING
EDUCATION REQUIREMENTS FOR LANDSCAPE ARCHITECTS FROM EIGHT HOURS TO 12 HOURS. A MOTION PASSED UNANIMOUSLY.

5. Executive Director Report
A. Update on Sunset Review
The Executive Director stated that the Communications Manager was serving as the agency's primary contact with Sunset staff during the agency's Sunset Review. The agency has provided information on agency operations over the past 15 years. Sunset staff has received public input and met with the agency's licensees. Sunset staff will prepare a report in early to mid-October. In mid-October Sunset staff will issue a final staff report. In November the report will be presented to the Sunset Commission at a hearing. Sunset has requested that as many Board members as possible attend the hearing. The Commission will make decisions on the staff recommendations and a bill will be filed during the legislative session beginning in January. She stated the agency has encouraged stakeholders to give their input to the Sunset Commission. The Chair asked Board members to note the prospective scheduled hearing dates of November 13-14 and to attend.

The Board took a recess at 1:53 p.m. and reconvened at 2:07 p.m.

7. Architecture/Engineering Task Force Update
Mr. Anastos briefed the Board regarding the meeting of the Task Force. The Task Force met on June 12, 2012, in San Antonio. The Task Force is made up of six members, two members each from TBAE and TBPE and a practicing architect and a practicing engineer who are not members of either Board. The first meeting's primary purpose was to set out rules by which the Task Force could operate and elect chairs to preside over alternating meetings. Dan Hart was elected as Chair from the architectural side and Gary Raba was elected Chair from the professional engineering side. The Task Force was created to address issues arising from the implementation of House Bill 2284. The Task Force addressed the following issues: (1) the design of industrial plans or an engineering work with some occupancy, referred to as "mixed-use" projects; (2) the meaning of the term "simple foundations" as used in HB2284; (3) the design of surface drainage which is designed by landscape architects and architects but an engineer is required for drainage across more than one site; (4) door, window, and hardware schedules; (5) the design of roofing; and (6) cross-section of buildings. The next meeting is scheduled for September 25, 2012 at TBPE's office.

8. Enforcement Cases
Review and possibly adopt the Executive Director’s recommendations to resolve the following enforcement cases. The Executive Director’s recommendations are to resolve the following cases in accordance with agreements reached with the Respondents. The Chair recognized Mr. Shirk, the Managing Litigator, to present the enforcement cases.
A. Continuing Education Cases
A MOTION WAS MADE AND SECONDED (Pinson/Anastos) THAT THE BOARD APPROVE THE EXECUTIVE DIRECTOR’S PROPOSED AGREED SETTLEMENTS OF THE FOLLOWING CASES:
Atkins, Jack Alan (#207-12A)
Burt, John Vincent (#224-12A)
Butler, Frank Arthur (#209-12A)
Flemons, Jerry Brent (#169-12A)
Guedry, Timothy P. (#213-12A)
Hodgkins, Robin G. (#173-12A)
Hooper, Glenn P. (#215-12A)
Hunt, Eugene Lee (#227-12A)
Levriev, Fulgencio (#210-12I)
Phares, Stephanie M. (#160-12I)
Pickens, David Jackson (#222-12A)
Rogers, Sandra (#212-12I)
Solomon, Phillip R. (#206-12L)
Wilson, Peter R. (#216-12A)

THE MOTION PASSED UNANIMOUSLY.

B. CASES INVOLVING TDLR VIOLATIONS:
Shepherd, Phillip (#197-12A)
Respondent failed to file plans for accessibility review within 20 days after the plans were issued. The plans were filed approximately four months late. Ms. Dockery had questions regarding Respondent’s previous violations. She noted Respondent has been sanctioned three times for the same type of violation. Mr. Shirk noted that the agency took his history into account in negotiating the amount of the penalty in the proposed agreed settlement. It elevated the case to a moderate violation. He noted that the period of time which had passed since the prior violations was also considered. Ms. Dockery questioned the amount of the penalty in light of his history of sanctions for this violation. Mr. Shirk stated that the highest penalty that could be assessed would be $3,000.00. Mr. Anastos questioned what other sanctions could be imposed upon the Respondent.

A MOTION WAS MADE AND SECONDED (Anastos/Mijares) TO APPROVE THE EXECUTIVE DIRECTOR’S RECOMMENDATION TO IMPOSE A $2,500 ADMINISTRATIVE PENALTY IN CASE NUMBER 197-12A AND TO ALSO ORDER RESPONDENT TO ATTEND THE ENTIRE ACCESSIBILITY COURSE OFFERED BY TDLR AND TO COMPLETE THE COURSE OFFERED ONLINE BY TBAE REGARDING ITS RULES WITHIN 120 DAYS. THE MOTION PASSED UNANIMOUSLY.

12. Approval of Resolution Honoring
Steve Franz
The Chair read the Resolution into the record honoring TBAE employee, Steve Franz, for his past 31 years of service for the State of Texas and, in particular, the last four and one-half years of TBAE service and congratulating him upon his retirement.

The Chair directed the Board back to item number 10.

10. Executive Committee Report
A. Report on findings based upon Executive Director’s performance evaluation
B. Consider and possibly act upon recommended Executive Director’s personnel action

The Chair explained that this part of the meeting must be convened in a closed session unless the Executive Director elects to have her performance evaluation considered in an open meeting. The Executive Director stated that she had no objection to deliberation of her review in open meeting. The Chair stated that the Executive Committee met on July 30, 2012 for the Executive Director’s annual review. There are three major parts of the review and they are as follows: (1) core competencies – 11 areas reviewed which
equals 60% of the evaluation; (2) five goals that the committee set last year represents 25% of the review; and (3) training goals established by the committee which make up 15% of the review. The Executive Committee’s report scored the Executive Director high scores across the board and is recommending a 6% merit increase to take effect September 1, 2012.

A MOTION WAS MADE (Odell/Pinson) TO ADOPT THE COMMITTEE REPORT AND TO AWARD A 6 PERCENT MERIT INCREASE IN SALARY FOR THE EXECUTIVE DIRECTOR EFFECTIVE SEPTEMBER 1, 2012. THE MOTION PASSED UNANIMOUSLY.

Ms. Steinbrueck suggested that all Board members have the opportunity to fill out the review and then present those to the Committee for recommendation. The Chair noted this suggestion and will incorporate it into future annual reviews for the Executive Director. Ms. Dockery suggested all Board members need not complete the form but should have narrative input in the evaluation. The Executive Director was directed to modify the evaluation process to ensure all Board members have input in the evaluation.

13. **Upcoming Board Meeting**

The Board’s next meeting is on October 17, 2012. The Chair informed the Board that Michael J. Armstrong, the CEO of NCARB, will attend the meeting of the Board in October and he will address the Board. The Chair asked the Board members to let him know of any questions or issues any of them would like Mr. Armstrong to address. Board members suggested some topics for Mr. Armstrong to address. The Chair asked Board members to let him know of any others before the next meeting.

15. **Adjournment**

A MOTION WAS MADE AND SECONDED (Pinson/Anastos) TO ADJOURN THE MEETING AT 3:00 P.M. THE MOTION PASSED UNANIMOUSLY.

Approved by the Board:

[Signature]

ALFRED VIDAUURRI, JR., AIA, NCARB, AICP
Chair, TEXAS BOARD OF ARCHITECTURAL EXAMINERS