TEXAS BOARD OF ARCHITECTURAL EXAMINERS
Minutes of August 21, 2018 Board Meeting
William P. Hobby Jr. Building, 333 Guadalupe Street
Tower III, Conference Room 102
Austin, TX 78701
9:00 a.m. until completion of business

AGENDA ITEMS

1A. Call to Order

1B. Roll Call

Ms. Walker called the roll.

Present Board Members
Debra Dockery
Michael (Chad) Davis
Jennifer Walker
Charles (Chuck) Anastos
Chase Bearden
Robert (Bob) Wetmore
Chair, Architect Member
Vice-Chair, Landscape Architect Member
Secretary-Treasurer, Architect Member
Architect Member
Public Member
Architect 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; Glenn Garry, Communications Manager; Glenda Best, Operations Manager; Christine Brister, Human Resources Specialist; Kenneth Liles, Finance Manager; Jack Stamps, Managing Investigator; Dale Dornfeld, IT Manager; Mike Alvarado, Registration Manager; Julio Martinez, Network Specialist; Katherine Crain, Legal Assistant, and Donna Vining, Executive Director for the Texas Association for Interior Design. Tim Bargainer, Texas Landscape Architect #1787 arrived later during the meeting.

1F. Chair’s Opening Remarks

Ms. Dockery thanked the Board and welcomed the audience. She began by discussing the keynote speech at the recent NCARB annual meeting in Detroit. This year the keynote speaker was futurist Jack Uldrich and his presentation was titled “The Big AHA – Regulating the Future of Architecture.” Ms. Dockery noted that many have been contemplating impending changes in the design profession in light of the development of building information modeling and a 3D virtual world. For example, where and when in a 3D environment, in which a contractor, an engineer, an
architect and an owner are all feeding in information at the same time, do you sign and seal a drawing? Ms. Dockery asked, in a true integrated project delivery approach where it is agreed to share liability at the beginning between the parties, does it matter?

According to Ms. Dockery, Mr. Udrich discussed a number of topics with the audience, including artificial intelligence, robotics, 3D printing, and block chain technology, and how these issues might affect the regulatory environment. For one example, Ms. Dockery noted that architects regularly utilize software programs to determine whether building envelopes meet code requirements, but who is checking the program to make sure it is right? She said that she has heard of programs that are being developed now to scan BIM models to see if it is code compliant. If the AI is doing that, what is the architect’s role? She was recently made aware of a program that if you plug in a given set of parameters, it will produce an ideal design solution, which she thinks is a little scary.

The “A H A” in Mr. Udrich’s speech refers to awareness, humility and action. She concluded her remarks by noting that, though this was a discussion of the “future” of architecture, these issues are very much becoming a part of current events, and it is likely we will be dealing with the implications for regulation sooner than we may have expected. Overall, she thought it was a very enlightening discussion.

1G. Public Comments

None.

2. Approval of Board Meeting Minutes

A MOTION WAS MADE AND SECONDED (Davis/Wetmore) TO APPROVE THE MAY 22, 2018 BOARD MEETING MINUTES. THE MOTION PASSED UNANIMOUSLY. (Mr. Anastos abstained from voting as he was absent from the May meeting.)

3. Executive Director’s Report

Ms. Hildebrand stated that her report begins on page 14 of the notebook, but first she directed the Board to page 26 to discuss a letter from the Governor’s Office.

3C. Review of Agency’s Notice of Proposed Rule by the Governor’s Office

She stated that several agencies received a letter from the Governor’s Office which introduces a new procedure for the Governor’s review of proposed rules. Under this procedure, for any proposed rule, the Governor will review the Notice of Proposed Rulemaking, as well as the agency’s internal analysis of the rule, prior to publication of the rule in the Texas Register. Previously, the agency was doing this informally with the Governor’s liaison; however, this is now a mandate from the Governor’s office.

Ms. Hildebrand noted that this procedure may result in an increase of the amount of time required to propose and adopt rules. However, this is a
new procedure, and it is unclear what the effect will be on agency rulemaking actions. Our agency does not have any rulemaking actions to consider at this meeting, but we will be keeping an eye on the experiences of other agencies to learn more about the process, and she will keep the Board updated.

Ms. Dockery asked whether the agency had already been creating the information requested in the Governor’s letter. Mr. Brenton responded that this information is required to be included in the notice of proposed rulemaking, and that the only difference is that it would be provided to the Governor’s office and reviewed prior to publication.

Ms. Hildebrand provided a summary of Executive Accomplishments as described on page 14 of the Board materials.

Ms. Hildebrand stated that the budget will be reviewed later in the agenda. She discussed the CAPPS transition for HR and payroll, which went live on July 15th. She noted that the transition has gone very well, and recognized Glenda, Christine, Jennifer, Nelly, Ken and Julio for their hard work on the project. Looking forward, it is expected that Finance will go through CAPPS transition in FY20. She directed the Board to page 15 for more information about the CAPPS rollout.

Ms. Hildebrand went on to discuss NCARB items. She noted that former Board chair Alfred Vidaurri was elected as Treasurer at the annual meeting. Additionally, Ms. Hildebrand provided an update to the Board regarding the ARE. She noted that the ARE 4.0 is now completely retired, replaced by ARE 5.0. As such the exam has gone from seven divisions to six. NCARB’s plan is to increase the cost of each division of the exam. But since examinees have one less division to pay for, the overall cost of ARE 5.0 will be lower than ARE 4.0.

Ms. Hildebrand also provided an update on CLARB items. She attended a Licensure Summit with Mr. Garry, which was a joint meeting between CLARB and representatives from each state ASLA organization. She stated that it was great experience that encouraged the development of good working relationships with professional associations in order to understand what their needs and concerns are, and vice versa. She gave a joint presentation with Texas ASLA representative Brent Luck, which discussed Sunset review and the respective roles of the professional association and the Board in that process. She said it was a great meeting.

The CLARB Annual meeting will be in September, which is when she will begin her two-year term as CLARB MBE Director.

Ms. Hildebrand then transitioned to a discussion of department accomplishments, as described beginning on page 22. She began by noting
that this has been a busy and active year for the agency on all fronts, from the CAPPs transition to several audits that the agency has been through over the year. But even with the busy year, she noted that the Enforcement and Registration Divisions have produced numbers that are higher than any we have had before. She attributes this to the state of the economy and the transition to ARE 5.0. For one example, by June FY 2018 we had already surpassed the number of new registrants in all of FY 2017, and in July we doubled the number of new registrants compared to the previous July. She expects to see high numbers continue over the short term, but then to reduce over time.

Ms. Hildebrand then discussed the enforcement data as described on page 23, which has also seen increases over FY 2016 and FY 2017, mostly due to the increase of referrals from TDLR.

Lastly, in the Communications Division the number of impressions have increased from last year. There have been several presentations made by employees throughout the agency.

Ms. Hildebrand then provided an update on the budget for the current year, as described on page 24 of the Board materials. It appears that the agency will not need to make a draw on the fund balance. In fact, due to the increase in revenue and interest collected, the agency will be adding to the fund balance. Ms. Hildebrand stated that registration income was higher than expected.

Ms. Dockery noted that the increased interest received this year was so much more than what the agency has received in the past. Mr. Anastos asked whether the return was interest rate dependent. Ms. Hildebrand stated that the agency had asked the Comptroller’s office about the increase in interest received, but that there has not been a really good explanation for the increase. Mr. Liles said the Comptroller is cautious about discussing how they earn interest.

Mr. Davis asked whether the Comptroller handles the funds, which Ms. Hildebrand confirmed.

Ms. Hildebrand then discussed agency expenditures. Ms. Hildebrand stated that expenditures are in line with previous years. Board travel has been down because there have been vacancies and the presence of local board members who have lower travel costs.

Ms. Hildebrand stated that the IT upgrades are going to be over budget this year due to costs related to servers.

Ms. Hildebrand briefly discussed the scholarship fund balance, as described on page 25 of the Board materials.
Lastly, Ms. Hildebrand informed the Board that new Board members had been appointed by the Governor. She referred the Board to page 28, which includes bios for the new members. She said that she has spoken to all of them and she is planning on having the orientation in October. Ms. Salazar plans to attend the CIDQ meeting and will be trained before then. They all plan to attend the November Board meeting.

3E. Report on Conferences and Meetings

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

CLARB/ASLA Licensure Summit | June 22-24
NCARB Annual Business Meeting | Jun 28-30
METROCON18 | Aug 8-10

As she previously discussed, Ms. Hildebrand and Mr. Garry attended the CLARB/ASLA Licensure Summit.

Ms. Dockery and Mr. Bearden attended the NCARB Annual Business Meeting and Mr. Bearden will be serving on a committee for NCARB. Also, Ms. Dockery will be serving on the Continuing Education Committee next year.

Recently, Mr. Garry made a presentation at METROCON, with other employees present at the agency booth. Mr. Bearden also presented at the conference, as well as Alfred Vidaurre.

3F. Report on Upcoming Conferences and Meetings

Ms. Hildebrand discussed the following upcoming conferences and meetings.

2017 CLARB Annual Meeting – Sep 27-29
2017 LRGV-AIA BCC Conference – Sep 28-29
NCARB Licensing Advisors Retreat – Oct 1-2
TxA Conference – Nov 8-10
2017 CIDQ Council of Delegates Meeting – Nov 8-10

Ms. Hildebrand began by stating that the CLARB Annual Meeting is in late September.

She stated that AIA Austin will be having a meeting at the Convention Center in Austin on August 23rd. Jack Stamps will be presenting the Rock Out to TAS concert and she is planning on attending that meeting.

Steve Ramirez, an investigator for the Board, will be presenting at the LRGV-AIA Conference on South Padre Island at the end of September.
An NCARB Licensing Advisors Retreat occurs in early October which Mike Alvarado and Jackie Blackmore are scheduled to attend.

The NCARB Member Board Chair and Member Board Executive Summit will be in October.

The TxA Conference and the CIDQ Council of Delegates Meeting are scheduled for the same dates, so she will not be able to attend the TxA Conference this year, but she will be attending the CIDQ Meeting with Rose Salazar. Therefore, she plans on attending more local AIA Austin meetings.

Ms. Dockery recognized a guest in the audience and welcomed Tim Bargainer, a Texas Landscape Architect.

Ms. Hildebrand directed the Board to page 30 of the Board’s materials to the proposed budget for 2019. Ms. Hildebrand discussed the line items in the budget and explained the projections. Ms. Hildebrand provided specific discussion of the need to replace agency IT servers. In the past, the agency had made such expenditures all at once, in a single fiscal year. Under the current plan, the agency will make the needed improvements over the course of three years.

A MOTION WAS MADE AND SECONDED (Anastos/Walker) TO APPROVE THE FISCAL YEAR 2019 OPERATING BUDGET.

Mr. Davis suggested that the agency should consider making the server upgrades in a single year instead of over three years, given the status of the excess fund balance. He also suggested that this may not require a change to the proposed budget this year, but that it is something that should be considered in the future.

Ms. Hildebrand stated that the state of excess funds is a good problem to have, but it is certainly something that the agency needs to think about. She noted that during the 2008 recession, our revenues fell by 10%. The question is how to tailor our budget to be responsive to the large fluctuations that are inherent to the design services business cycle. She shared the conversations that she had with the Comptroller auditor regarding excess funds and whether the agency should lower fees during spikes in registration numbers, and then increase them when registrations go down. The auditor said that fees should not necessarily be lowered during boom times, but emphasized that any increases in fees need to be carefully justified. Ms. Hildebrand noted that this was good feedback to receive.

Ms. Dockery noted that the first thing that would happen in an economic downturn would be a loss of out-of-state-registrants, and that could have
a significant effect on the budget. She suggested that the Board should stick to the three year plan for IT expenditures, but revisit the issue later in the year and consider increased spending in FY 2019 if revenues have been high again.

Mr. Anastos noted that the upturn in registration numbers probably has a lot to do with the transition from ARE 4.0 to 5.0. He also expressed concern that many baby boomer registrants will be retiring in the next five to ten years, and stressed that the Board should keep this in mind in making future projections.

The chair called for the vote.

THE MOTION PASSED UNANIMOUSLY.

5. Enforcement Cases
Review and possibly adopt ED’s recommendation in the following enforcement cases:

A. Agreed Eligibility Orders

Barker, Jena K. (TBAE #107-16I)
Mr. Brenton provided a summary of this matter as described on page 31 of the Board materials.

A MOTION WAS MADE AND SECONDED (Wetmore/Bearden) TO ENTER THE PROPOSED AGREED ELIGIBILITY ORDER WHICH IMPOSES A $1,700 ADMINISTRATIVE PENALTY AND REINSTATES THE RESPONDENT’S INTERIOR DESIGN REGISTRATION PENDING PAYMENT OF THE ADMINISTRATIVE PENALTY AND ALL REQUIRED REGISTRATION AND RENEWAL FEES.

In response to an inquiry by Ms. Dockery, Mr. Brenton noted that, under the Board’s rules, a person who surrenders a registration has five years from the date of surrender to reinstate the registration without taking the examination. Because Respondent is within that window, she is not required to re-take the examination.

THE MOTION PASSED UNANIMOUSLY.

Traywick, Keith T. (#091-13A)
Mr. Brenton provided a summary of this matter as described on page 38 of the Board materials.
A MOTION WAS MADE AND SECONDED (Davis/Bearden) TO ENTER THE PROPOSED AGREED ELIGIBILITY ORDER WHICH IMPOSES A $1,700 ADMINISTRATIVE PENALTY AND ALLOWS THE RESPONDENT’S ARCHITECT REGISTRATION TO BE PLACED ON ACTIVE STATUS PENDING PAYMENT OF THE ADMINISTRATIVE PENALTY AND ALL REQUIRED REGISTRATION AND RENEWAL FEES.

B. TDLR Cases:

Howell, David B. (#232-17A)
Mr. Brenton provided a summary of this matter as described on page 45 of the Board materials.

A MOTION WAS MADE AND SECONDED (Bearden/Anastos) TO ENTER AN ORDER WHICH ADOPTS THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ADMINISTRATIVE PENALTY OF $1,000 AS SET FORTH IN THE REPORT AND NOTICE OF VIOLATION DATED JUNE 4, 2018.

Reagan, Charles J. (#181-18A)
Mr. Brenton provided a summary of this matter as described on page 46 of the Board materials.

A MOTION WAS MADE AND SECONDED (Bearden/Anastos) ENTER AN ORDER WHICH ADOPTS THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ADMINISTRATIVE PENALTY OF $1,000 AS SET FORTH IN THE REPORT AND NOTICE OF VIOLATION DATED MAY 3, 2018.

CE Cases:

The Board considered and voted upon the continuing education cases as a group, with the exception of one matter which required recusal.

A MOTION WAS MADE AND SECONDED (Davis/Anastos) 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:

Dietz, Andrea H. (#348-18A)
Lantz, Karen (#293-18A)
LeMaster, Jonathan R. (#351-18A)
Libby, Grant C. (#347-18A)
Martinec, Dinah J. (#297-18I)
Pennoyer, Peter M. (#349-18A)
Ragland, Frank W. (#288-18A)
Sing, Emily E. (#192-18A)
Standefer, Sandra K. (#350-18I)
Taliaferro, Bethany H. (#299-18I)

THE MOTION PASSED UNANIMOUSLY.
The Board then considered Case Number 024-18L, concerning Linda D. Steinbrueck.

Mr. Anastos, Mr. Bearden, and Ms. Dockery recused themselves from consideration of this matter due to a personal relationship with Ms. Steinbrueck relating to Board service.

Ms. Dockery relinquished the Chair to Chad Davis.

Mr. Davis stated that he would entertain a motion to hear the case involving Ms. Steinbrueck.

A MOTION WAS MADE AND SECONDED (Wetmore/Walker) TO ENTER AN ORDER WHICH ADOPTS THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ADMINISTRATIVE PENALTY OF $700 AS SET FORTH IN THE REPORT AND NOTICE OF VIOLATION DATED JULY 19, 2018. THE MOTION PASSED UNANIMOUSLY.

Ms. Dockery reassumed the chair.

6. Board’s Review and Consideration of CLARB’s Revised Draft Model Law and Regulations

Ms. Hildebrand presented and discussed CLARB’s Revised Draft Model Law and Regulations, as described beginning on page 63.

Mr. Davis noted that this has been a five year process for CLARB, and that he is in support of the action and appreciates the hard work that CLARB put into it.

A MOTION WAS MADE AND SECONDED (Anastos/Wetmore) TO ALLOW CHAD DAVIS TO VOTE ON BEHALF OF THE BOARD TO APPROVE CLARB’S REVISED DRAFT MODEL LAW AND REGULATIONS. THE MOTION PASSED UNANIMOUSLY.

7. Approval of the Proposed 2019 Board Meeting Dates

Ms. Dockery stated that the following dates are proposed for the 2019 Board meetings:

- Thursday, February 21, 2019
- Thursday, June 13, 2019
- Thursday, August 15, 2019
- Tuesday, November 19, 2019

A MOTION WAS MADE AND SECONDED (Anastos/Bearden) TO APPROVE FUTURE BOARD MEETING DATES. THE MOTION PASSED UNANIMOUSLY.

8. Approval of Resolution Honoring: Sonya Odell and Paula Ann Miller

Ms. Dockery read the proclamation to the Board regarding Sonya Odell.

Be it known that Sonya B. Odell, FASID, RID, AAHID, has distinguished herself through her dedicated and conscious service as a member of the
Board from 2011 through 2018, having been appointed by Governor Rick Perry; and during her term having served as Vice-Chairwoman of the Board, as Chair and a member of the Rules Committee, and as Chair of the Executive Director Performance Review Committee; and

Whereas, Ms. Odell received a Master of Science in Design from The University of Tennessee and a Bachelor of Science in Interior Design from The University of Alabama; and

Whereas, Ms. Odell has served the public and further distinguished herself by serving on the Foundation for Interior Design Education Research (now CIDA – Council for Interior Design Accreditation) committee both as a visitor and as a Chair of the Accreditation Teams; and

Whereas, Ms. Odell has served as a Board of Regent on the American Academy of Healthcare Interior Designers for her volunteer work for the profession and for her mentorship to students and young professionals; and

Whereas, Ms. Odell was elevated to Fellowship in the American Society of Interior Designers and recognized with the Lifetime Award in 2017,

Now, Therefore, Be it Resolved, that the Texas Board of Architectural Examiners, in Formal Meeting assembled the 21st Day of August, 2018, does publicly acknowledge its appreciation of outstanding Board service and has voted unanimously for the Resolution of Commendation to Sonya B. Odell, FASID, RID, AAHID, and has caused a copy of the Resolution to be included within the Minutes of the Board.

A MOTION WAS MADE AND SECONDED (Anastos/Davis) TO APPROVE THE RESOLUTION OF SONYA ODELL. THE MOTION PASSED UNANIMOUSLY.

Ms. Dockery read the proclamation to the Board regarding Paula Ann Miller.

Be it known that Paula Ann Miller has distinguished herself through her dedicated and conscious service as a member of the Board from 2011 through 2018, having been appointed by Governor Rick Perry, and during her term having served as Secretary/Treasurer of the Board, as Chair of the Budget Committee, and as a member of the Executive Director Performance Review Committee; and

Whereas, Ms. Miller received a Master of Science in Accounting and a Master of Business Administration from the University of St. Thomas and a Bachelor of Science in Pre-Law form the University of Houston, is a graduate of the Owner/President Management program at Harvard Business School, and has obtained a Certificate of Educational
Achievement in Business Valuations from the American Institute of Certified Public Accountants; and

Whereas, Ms. Miller has enriched her profession and provided a service to the public through her years as President of P.A. Miller Consulting, Inc., where she provides expert testimony in all types of litigation involving accounting reconstruction, lost profit analysis, financial modeling, damages, forensic investigations and the Foreign Corrupt Practices Act; and

Whereas, Ms. Miller has served as an Advisory Board Member of the World Affairs Council of Greater Houston, a participating member of the Harvard Business School Alumni Forum, and a member of the Board of Directors and President for the Harvard Business School Club of Houston; and

Whereas, Ms. Miller has served her community as an Advisory Board member for the Texas Accountants and Lawyers for the Arts, on the Board of Trustees for the Houston Ballet, as a Board member and Treasurer of Girls Inc., and as an Advisory Board member and member of the Finance Committee, Audit Committee, and Corporate Development Committee for the Alley Theatre in Houston, Texas,

Now, Therefore, Be it Resolved, that the Texas Board of Architectural Examiners, in Formal Meeting assembled the 21st Day of August, 2018, does publicly acknowledge its appreciation of outstanding Board service and has voted unanimously for the Resolution of Commendation to Paula Ann Miller, and has caused a copy of the Resolution to be included within the Minutes of the Board.

A MOTION WAS MADE AND SECONDED (Davis/Bearden) TO APPROVE THE RESOLUTION OF PAULA ANN MILLER. THE MOTION PASSED UNANIMOUSLY.

The Board took a break at 10:23 a.m. and reconvened at 10:40 a.m.

Ms. Dockery stated that the Board would go into executive session to consider the performance evaluation of the Executive Director, under the authority of Texas Government Code §551.074.

A MOTION WAS MADE AND SECONDED (Davis/Walker) TO GO INTO CLOSED SESSION at 10:41 A.M. THE MOTION PASSED UNANIMOUSLY.

The Board reconvened into open meeting at 11:12 a.m.
Ms. Dockery stated that there was no final action, decision or vote in the executive session. A certified agenda on the Executive Session will be made.

Ms. Dockery reported that the Board has been very pleased with Ms. Hildebrand’s performance. They believe she excels at many things and is doing a very good job. Ms. Dockery noted the Board’s appreciation of Ms. Hildebrand’s attendance and participation in national meetings and committees. This brings national exposure and allows the Texas Board to have a voice on matters important to the regulation of our professions. Ms. Dockery also praised Ms. Hildebrand’s efficient management of the agency, and said the Board is very pleased with this aspect of her performance.

She explained that the evaluation tool asks the Board to give Ms. Hildebrand three goals for the following year. First, the Board would like for her to become more involved in the statewide organizations, to seek balance with her participation in the national organizations. Second, the Board would like for her to promote group collaboration amongst the staff, delegate responsibility, integrate the staff and look at conflict resolution. Third, the Board would like her to closely monitor the upcoming legislative session, collaborate and share information with other state agencies and stakeholders, and keep the Board members apprised of legislative developments. Those are the three goals for the Executive Director for next year.

II. Consider and possibly act upon any proposed personnel action that may be proposed by the Board

A MOTION WAS MADE AND SECONDED (Davis/Walker) TO APPROVE A THREE PERCENT (3%) PAY INCREASE FOR THE EXECUTIVE DIRECTOR AND TO ACKNOWLEDGE THE THREE (3) GOALS FOR THE UPCOMING YEAR.

Ms. Dockery asked if any Board member wanted to add anything.

Mr. Bearden thanked Ms. Hildebrand and her staff for all they do for the Board. He noted that NCARB has also been very complementary of TBAE staff.

THE MOTION PASSED UNANIMOUSLY.

10. Upcoming Board Meeting

The next Board meeting is scheduled for November 15, 2018.

Ms. Dockery noted that the next Board meeting is scheduled for November 15, 2018 and stated that the new Board members will be attending that meeting. At that time, she will be seeking volunteers for the committee assignments. New officers will be elected at the February meeting.
11. Chair’s Closing Remarks
Ms. Dockery stated that she is thankful to be reappointed and hopes she is
doing a good job. She thanked the Executive Director and staff on the work
that had been done in preparation for the meetings.

12. Adjournment
A MOTION WAS MADE AND SECONDED (Anastos/Davis) TO ADJOURN THE
MEETING AT 11:20 A.M. THE MOTION PASSED UNANIMOUSLY.

APPROVED BY THE BOARD:

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