

TEXAS BOARD OF ARCHITECTURAL EXAMINERS
Minutes of November 8, 2017 Board Meeting
William P. Hobby Jr. Building, 333 Guadalupe Street
Tower III, Room 102
Austin, TX 78701
9:00 a.m. until completion of business

AGENDA ITEMS

DESCRIPTIONS

1A. Call to Order

Ms. Dockery called the meeting to order at 9:00 a.m.

1B. Roll Call

Ms. Walker called the roll.

Present Board Members

Debra Dockery	Chair, Architect FAIA
Jennifer Walker	Architect, Secretary/Treasurer
Charles (Chuck) Anastos	Architect
Robert (Bob) Wetmore	Architect
Chase Bearden	Public Member
Sonya Odell	Registered Interior Designer

**1C. Excused and
unexcused absences**

Paula Ann Miller	Public Member
Michael (Chad) Davis	Landscape Architect

A MOTION WAS MADE AND SECONDED (Odell/Bearden) TO APPROVE THE EXCUSED ABSENCE OF PAULA ANN MILLER AND CHAD DAVIS. 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; Kenneth Liles, Finance Manager; Glenn Garry, Communications Manager; Jack Stamps, Managing Investigator; Dale Dornfeld, IT Manager; Glenda Best, Operations Manager; Christine Brister, HR Program Specialist; Katherine Crain, Legal Assistant; Julio Martinez, Systems Analyst; Jeri Morey, Architect from Corpus Christi, Texas; and David Gordon, OAG Representative.

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

Ms. Dockery welcomed the audience and thanked them for coming to the meeting. She stated that in September she had participated in disaster rapid assessment training sponsored by the Texas Society of Architects, which is exclusively for licensed architects. She said she had not yet been called upon to provide rapid assessments following the training, but that it was a worthwhile experience.

Ms. Dockery noted that, given recent events, we will be hearing a lot about resiliency and designing buildings to withstand natural disasters and recover quickly. With all the events that can threaten buildings, there are many things that architects can do in the built environment to protect health and safety. She stated it was important for the agency to ensure that our registrants are properly trained to mitigate natural disasters and other threats and protect public safety.

1G. Public Comments

None.

2. Approval of August 16, 2017 Board Meeting Minutes

A MOTION WAS MADE AND SECONDED (Bearden/Walker) TO APPROVE THE AUGUST 16, 2017 BOARD MEETING MINUTES. THE MOTION PASSED UNANIMOUSLY.

3. Consideration of Proposal for Decision in SOAH Docket No. 459-17-3036, Matthew Waters Oualline, Jr. (TBAE Case No. 115-16A)

Mr. Brenton stated that this is a case that went to the State Office of Administrative Hearings. Mr. Brenton introduced TBAE's OAG Representative David Gordon, who was present to advise the Board on any questions relating to acceptance of the ALJ's Proposal for Decision (PFD). Mr. Brenton directed the Board to the PFD beginning on page 19 of the Board materials. Mr. Brenton presented the ALJ's Findings of Fact and Conclusions of Law, and recommended that the Board adopt the proposed order on page 17 of the Board materials, which incorporates all of the ALJ's Findings of Fact and Conclusions of Law, and implements an administrative penalty in the amount of \$950, as recommended by the ALJ.

A MOTION WAS MADE TO ACCEPT STAFF'S RECOMMENDATION (Wetmore/Anastos) IN SOAH CASE NO. 459-17-3036, TEXAS BOARD OF ARCHITECTURAL EXAMINERS VS. MATTHEW WATERS OUALLINE, JR. THE MOTION PASSED UNANIMOUSLY.

4. 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 and discussed the summaries of executive, registration, and enforcement accomplishments as described on pages 30-34 of the Board materials.

Mr. Anastos noted that over 5,265 exam scores had been received and asked how many of those were passing scores. Ms. Hildebrand stated that she would have to get this information from NCARB, CLARB, and CIDQ.

B. Operating Budget/Scholarship Fund: Presentation on 4th Quarter 2017 Expenditures/Revenues

Ms. Hildebrand presented the Board with information on the budget as described on pages 35 and 36.

**5. Trend Analysis
Presentation on Agency
Performance and
Operations**

Ms. Hildebrand presented and discussed the agency trend report, which begins on page 37 of the Board materials. Ms. Hildebrand also discussed the FY 2017 Annual Report, as presented on page 47 of the Board materials.

Mr. Anastos stated that he had been asked about the options for an architect and RID registrant to surrender or place on inactive the RID registration. Ms. Hildebrand provided a response, and stated that voluntary surrender or inactive status would grant the individual a longer window to retain the registration without re-taking the examination. Ms. Hildebrand stated that Mr. Alvarado and the registration department are available to walk registrants through the process.

Ms. Dockery commented that the emeritus/retired numbers continue to increase, but noted that new registrants are more than making up for that loss, for the time being.

**6. General Counsel
Report**

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

**A. Proposed Rules for
Adoption relating to
Registration as
Registered Interior
Designer by
Examination –
Implementation of
Senate Bill 1932, 85th
Regular Session (2017)**

Mr. Brenton provided information on the proposed rulemaking action, as summarized on page 62 of the Board materials. Mr. Brenton provided staff's recommendation that the Board adopt the proposed rules as published in the Texas register.

**Amendments to Rules
5.5, 5.31, 5.32, 5.33,
5.35, 5.36, 5.37, 5.51,
5.52, 5.53, and 5.55,
and Repeal of Rules
5.54, 5.201, 5.202, and
5.203 Relating to
Eligibility Requirements
for Registration as an
Interior Designer**

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO APPROVE THE PROPOSED AMENDMENTS TO 22 TEX. ADMIN. CODE §§ 5.5, 5.31, 5.32, 5.33, 5.35, 5.36, 5.37, 5.51, 5.52, 5.53, AND 5.55 AND THE REPEAL OF §§ 5.54, 5.201, 5.202, AND 5.203. FOR FINAL ADOPTION. THE MOTION PASSED UNANIMOUSLY.

**B. Review of Informal
Conference Procedures**

Mr. Brenton explained that the Board had asked Staff to draft a policy governing informal conference (IFC) procedures based on the discussion that had occurred at the August meeting. Mr. Brenton stated that during that

discussion, consensus emerged on the following grounds: (1) Board member participation could bring value to the process; (2) the Board Chair should participate in appointing a member to participate in IFCs; (3) it may be advisable, in certain circumstances, for more than one Board member to participate in the IFC, at the Board chair's discretion; and (4) the Board expressed preference that a Board member who participates in an IFC would have the opportunity to answer questions and be part of the discussion on a case brought to the Board, but that the Board member must recuse himself/herself from voting on the case. Based on these points, Staff had drafted revisions to Board policy LE-001, which was presented to the Board for approval. Mr. Brenton presented a summary of the proposed changes to the policy.

Mr. Anastos asked whether participation by three members of the Board in a mediation might prevent a quorum of the Board from being available at the time that matter was addressed by the full Board. Mr. Brenton responded that a Board member who recuses himself from the consideration of a matter before the Board is still considered present for the purposes of quorum determination, and therefore, such a situation would not affect the Board's ability to consider the matter. Ms. Dockery inquired whether it was necessary to have three Board members present at a mediation. Mr. Brenton stated that this determination would be made by the Board chair, but shared his opinion that this was not always necessary. Ms. Dockery stated that was good to hear, because it required Board members to provide more time to Board activities. Mr. Anastos reminded the Board that mediations could be stressful and adversarial, and exert a lot of pressure on Board members. Mr. Anastos stated that he hoped the Board chair and staff would keep that in mind when considering the appropriate number of Board members to send to a mediation, specifically.

A MOTION WAS MADE AND SECONDED (Bearden/Wetmore) TO APPROVE THE AMENDMENTS TO BOARD POLICY LE-001. THE MOTION PASSED UNANIMOUSLY.

C. Review of New Board Member Training Manual

Mr. Brenton stated that, during the August discussion of informal conference procedures, the Board members had requested to see the Board Member Training Manual. Mr. Brenton referred the Board to the Board Member Training Manual on page 107 of the Board materials. Mr. Brenton noted that the new informal conference procedures would be incorporated into the training manual.

7. Enforcement Cases

The Board considered the following enforcement cases:

A. Registrant/Non-Registrant Cases

Ahearne, Patrick M. (#341-17A)

Mr. Brenton presented a summary of this matter as described on page 139 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 PATRICK M. AHEARNE (#341-17A). THE MOTION PASSED UNANIMOUSLY.

Chu, Pui-Lam (#224-17A)

Mr. Brenton stated that a proposed agreed order had been agreed to by the Respondent and is located on page 141 of the Board materials. Mr. Brenton presented the proposed findings of fact, conclusions of law, and sanction, which includes a \$10,000 administrative penalty and a two-year probated suspension with conditions, including Board audits of projects and the required completion of NCARB's monograph course "Professional Conduct." Mr. Brenton provided Staff's recommendation that the Board approve the proposed agreed order.

Mr. Bearden asked what would happen if the Respondent failed to comply with the order or the Respondent committed an additional violation during the probationary period. Mr. Brenton provided an explanation of the compliance terms of the Order, as contained on page 145 of the Board materials.

A MOTION WAS MADE AND SECONDED (Bearden/Anastos) TO ENTER THE PROPOSED AGREED ORDER IN THE CASE AGAINST PUI-LAM CHU (#224-17A). THE MOTION PASSED UNANIMOUSLY.

Grauke, Olie Chadwick (#215-17N)

Mr. Brenton presented a summary of this matter as described on page 148 of the Board materials.

A MOTION WAS MADE AND SECONDED (Wetmore/Bearden) TO ACCEPT STAFF'S RECOMMENDATION OF A \$2,000 ADMINISTRATIVE PENALTY IN THE CASE AGAINST OLIE CHADWICK GRAUKE (#215-17N). THE MOTION PASSED UNANIMOUSLY.

Greico, Tom (#024-17N)

Mr. Brenton presented a summary of this matter as described on page 150 of the Board materials.

A MOTION WAS MADE AND SECONDED (Anastos/Walker) TO ACCEPT STAFF'S RECOMMENDATION OF A \$1,000 ADMINISTRATIVE PENALTY IN THE CASE AGAINST TOM GREICO (#024-17N). THE MOTION PASSED UNANIMOUSLY.

B. CE Cases

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

Banwo, Olamide A. (#255-17A)
Fleming, Christine (#292-17I)
Hines, Mary-Katherine (#377-17A)
Liles, Scott C. (#376-17A)
Plattner, Donald E. (#297-17A)

A MOTION WAS MADE AND SECONDED (Anastos/Wetmore) TO APPROVE STAFF RECOMMENDATIONS ON CASE NOS. 255-17A, 292-17I, 377-17A, 376-17A, AND 297-17A. THE MOTION PASSED UNANIMOUSLY.

The Board took a break at 10:30 a.m. and reconvened at 10:45 a.m.

**8. Board's Review of
the Council for Interior
Design Qualification
(CIDQ) Bylaws**

Ms. Hildebrand directed the Board to the CIDQ amendments and current bylaws beginning on page 159 of the Board materials. She stated that these proposed amendments were mostly housekeeping matters, and would be considered on Friday. Ms. Hildebrand reviewed the information with the Board and stated that the Board needed to approve a delegate to vote on behalf of the Board at the meeting.

Ms. Hildebrand discussed the proposed amendments to Article VIII, Section 7 of the NCIDQ Bylaws on page 161 of the Board materials. Ms. Hildebrand shared the concern that if the amendment was adopted, Board members would be prohibited from serving as CIDQ president unless he or she resigned as a Board member. This is not how the other national organizations operate.

Ms. Odell was in favor of state Board members retaining eligibility to serve as CIDQ president. Ms. Dockery commented that it was standard for NCARB leadership to be comprised of state Board members, and shared her opinion that this should also apply to CIDQ. Mr. Anastos commented that he could foresee situations in which an individual simultaneously serving as a state Board member and CIDQ president could be presented with a conflict.

A MOTION WAS MADE AND SECONDED (Anastos/Walker) TO APPOINT SONYA ODELL AS THE PRIMARY DELEGATE AND JULIE HILDEBRAND AS THE ALTERNATE DELEGATE TO VOTE ON THE BYLAWS AT THE NCIDQ ANNUAL MEETING ON BEHALF OF THE TBAE BOARD. THE MOTION PASSED UNANIMOUSLY.

The Board engaged in further discussion of the issue of simultaneous service as Board member and CIDQ president. Mr. Bearden noted that a TBAE Board member serving as a president of a national organization is only one vote on the Texas Board, and expressed confidence that the best outcome for Texas would be well represented in Board voting. Ms. Odell shared that she had previously served on the CIDQ nominations Board, and knows how difficult it can be to find qualified candidates. It is a small

pool, and if someone can do both jobs at once, she would support leaving that opportunity open. Generally, the Board comments were in agreement with this position.

Ms. Dockery summarized the conversation by stating that, while there could be some concern about conflict of interest or priorities, it was important for the person coming into the CIDQ presidency to be someone with experience.

9. Board Acceptance of NCARB's Tri-National Mutual Recognition Agreement for International Practice (known as "the Agreement")

Ms. Hildebrand provided information on the Tri-National Mutual Recognition agreement, and addressed the letter of undertaking on page 174 of the Board materials. She explained that individuals who qualify under this program receive an NCARB certificate, and that a certificate enables that person to become registered by reciprocity in Texas.

A MOTION WAS MADE AND SECONDED (Anastos/Bearden) TO ACCEPT NCARB'S TRI-NATIONAL MUTUAL RECOGNITION AGREEMENT FOR INTERNATIONAL PRACTICE. THE MOTION PASSED UNANIMOUSLY.

10. Upcoming Board Meetings

Ms. Dockery announced the proposed 2018 Board meeting dates as follows: February 1, 2018, May 22, 2018, August 21, 2018 and November 15, 2018.

11. Closing Remarks

Ms. Odell stated that she expected this would be her final Board meeting. She said it had been an honor and a privilege to work with such qualified staff and Board members, and that she had enjoyed it thoroughly.

Ms. Dockery thanked Ms. Odell for her service.

12. Adjournment

A MOTION WAS MADE AND SECONDED (Bearden/Odell) TO ADJOURN THE MEETING AT 11:15 A.M. THE MOTION PASSED UNANIMOUSLY.

APPROVED BY THE BOARD:

A handwritten signature in cursive script, reading "Debra J. Dockery", is written over a horizontal line.

DEBRA J. DOCKERY, FAIA

Chair, TEXAS BOARD OF ARCHITECTURAL EXAMINERS