

TEXAS BOARD OF ARCHITECTURAL EXAMINERS
Minutes of February 23, 2023 Board Meeting
Centennial Building, 505 E. Huntland Dr., Ste. 350
Austin, TX 78752
10:00 a.m. until completion of business

<u>AGENDA ITEMS</u>	<u>DESCRIPTIONS</u>														
1A. Call to Order	Ms. Dockery called the meeting to order at 10:00 a.m.														
1B. Roll Call	<p>Mr. Bargainer called the roll.</p> <p><u>Present Board Members</u></p> <table> <tr> <td>Debra Dockery</td><td>Chair, Architect</td></tr> <tr> <td>Tim Bargainer</td><td>Vice-Chair, Landscape Architect</td></tr> <tr> <td>Jennifer Walker</td><td>Architect</td></tr> <tr> <td>Rosa Salazar</td><td>Registered Interior Designer Member</td></tr> <tr> <td>Joyce Smith</td><td>Public Member</td></tr> <tr> <td>Fernando Trevino</td><td>Public Member</td></tr> <tr> <td>Vacant</td><td>Public Member</td></tr> </table>	Debra Dockery	Chair, Architect	Tim Bargainer	Vice-Chair, Landscape Architect	Jennifer Walker	Architect	Rosa Salazar	Registered Interior Designer Member	Joyce Smith	Public Member	Fernando Trevino	Public Member	Vacant	Public Member
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1C. Excused and Unexcused Absences	<p>Ms. Dockery called for a motion on the absences of Mr. James and Mr. Wetmore.</p> <p>A MOTION WAS MADE AND SECONDED (Walker/Smith) TO EXCUSE THE ABSENCE OF MR. JAMES AND MR. WETMORE.</p> <p>THE MOTION PASSED UNANIMOUSLY.</p>														
1D. Determination of a Quorum	A quorum was present.														
1E. Recognition of Guests	Ms. Dockery acknowledged the following members of TBAE staff and guests in the audience: Becky Walker of the Texas Society of Architects; Julie Hildebrand, Executive Director; Lance Brenton, General Counsel; Glenda Best, Operations Manager; Dale Dornfeld, IT Manager; Pim Mayo, Assistant General Counsel; and Jessica Ramirez, Legal Assistant.														
1F. Chair's Opening Remarks	Ms. Dockery began the meeting by noting that, under normal circumstances, the board would hold officer elections and receive committee appointments at this, the first meeting of the calendar year. However, because three appointments were expiring, she decided to wait for appointments or reappointments before holding elections and making assignments.														

	<p>Additionally, Ms. Dockery noted current trends relevant to the regulatory environment, including an aging population of TBAE registrants and a reduction in the number of exam candidates (potentially due in part to NCARB moving to a new exam vendor). She emphasized the importance for the board to think strategically about these factors and how they might impact the board's ability to protect the public health, safety, and welfare. Because of absences at the meeting, the board would delay addressing strategic planning until the next meeting.</p>
1G. Public Comments	None
2. Approval of November 17, 2022 Board Meeting Minutes	<p>A MOTION WAS MADE AND SECONDED (Salazar/Walker) TO APPROVE THE NOVEMBER 17, 2022, BOARD MEETING MINUTES.</p> <p>THE MOTION PASSED UNANIMOUSLY.</p>
3. Executive Director Performance Review Committee Update	<p>Ms. Dockery asked committee chair Joyce Smith to provide an update on the work of the Executive Director Performance Review Committee.</p> <p>Ms. Smith noted that the committee met earlier in the day. The purpose of the meeting was to review and discuss the form used during the executive director's annual performance review and make recommended changes. Ms. Smith noted that she was joined on the committee by Mr. Wetmore and Mr. Trevino.</p> <p>Ms. Smith provided the board with a copy of the executive director's evaluation form that included the committee's recommended changes. In explaining the committee's recommendation, Ms. Smith noted two points that guided the committee's consideration. First, that the board should not micromanage the executive director. Second, that the board should only rate the executive director on matters that it is able to observe.</p> <p>Based on these factors, Ms. Smith identified the following rating criteria that the committee recommended be removed from the evaluation form: "organizes workload and personnel for maximum efficiency," "recruits and assigns best available personnel in terms of competence," "conducts an effective staff evaluation and counseling program," and "appropriately assigns tasks to subordinates."</p> <p>Additionally, Ms. Smith shared the committee's recommendation that Item 6d be amended to read: "Conducts workforce and succession planning."</p> <p>Ms. Smith noted that these changes had been reduced to writing in the document that staff provided to the board members during the meeting.</p>

	<p>A MOTION WAS MADE AND SECONDED (Smith/Bargainer) TO ADOPT THE PROPOSED REVISIONS TO THE EXECUTIVE DIRECTOR'S PERFORMANCE EVALUATION FORM.</p> <p>THE MOTION PASSED UNANIMOUSLY.</p>
<p>4. Executive Director's Report</p> <p>A. Summary of Executive Accomplishments</p> <p>B. Operating Budget/Scholarship Fund: Presentation on 1st Quarter Fiscal Year 2023 Expenditures and Revenue</p>	<p>Ms. Dockery invited Ms. Hildebrand to deliver the Executive Director's report.</p> <p>Ms. Hildebrand discussed the summary of staff accomplishments as described on page 16 of the board materials and referred the board to those materials as a supplement to her verbal presentation.</p> <p>Ms. Hildebrand spent considerable time addressing the ongoing routine audit by the State Auditor's Office (SAO). She identified areas that had been addressed by the SAO thus far, her expectations regarding the results, and the timeline for completion of the audit.</p> <p>Mr. Bargainer asked whether there was dialogue between the agency and SAO during the audit.</p> <p>Ms. Hildebrand noted that there was interaction, but that it generally consisted of questions or requests from SAO, with responses by TBAE. She was hopeful that, as the audit wound down, she would be able to have input or dialogue on findings.</p> <p>Mr. Bargainer asked how many agencies are subject to SAO audit at one time.</p> <p>Ms. Hildebrand did not have an exact answer on the number of audits per year. She suggested it would be around 25 and shared information about the timing of audits for similar agencies.</p> <p>Ms. Dockery said the SAO had reached out to her and she had provided responses to questions.</p> <p>Ms. Hildebrand directed the board to the report on agency trends beginning on page 18 of the board materials and provided a summary of the information.</p> <p>Ms. Hildebrand referred the board to the FY 2023 budget on page 20 of the board materials and provided an update of the current state of the agency's finances and budgetary line items.</p> <p>Ms. Dockery asked why the agency had nearly expended the line item for agency expenses, "Operating Expenses - Other," so early in the year.</p>

<p>C. Legislative Update – Legislative and Rule Committee Updates</p>	<p>Ms. Hildebrand noted that most of this line item was taken up by the agency insurance policy, which is paid in a single installment at the beginning of the year.</p> <p>Ms. Hildebrand referred the board to page 21 of the board materials and addressed the scholarship fund balance. She said the recent agency initiatives to increase use of the program had resulted in overall declines to the scholarship fund balance, after sustained growth over the past 7 years.</p> <p>Ms. Smith asked Ms. Hildebrand to identify the eligibility requirements for a scholarship.</p> <p>Ms. Hildebrand said the applicant must have spent at least \$500 on fees for successfully-passed examinations that have not been reimbursed, be a Texas resident, and attest to meeting financial eligibility requirements regarding income.</p> <p>Ms. Walker noted that the scholarship applies only to architect applicants. She asked whether there had ever been an effort to expand the program to landscape architect and RID applicants.</p> <p>Ms. Hildebrand said the agency occasionally received inquiries from landscape architect and RID applicants about the scholarship fund, but not often. She said any such expansion would require legislative action and that she was not aware of any past effort to do so.</p> <p>Ms. Smith asked whether the legislation for the scholarship fund was adopted when the Board’s jurisdiction was limited solely to architects.</p> <p>Ms. Dockery said no, the legislation was passed in response to an increase in the cost of the examination implemented by NCARB following complaints by registrants. Since the cost increase only applied to architect applicants, the legislation was limited to that group of individuals.</p> <p>Ms. Dockery asked Ms. Hildebrand to update the Board on legislative events.</p> <p>Ms. Hildebrand said the legislative committee would meet only as needed. Since it had been a quiet session, there was no need for the committee to meet.</p> <p>Ms. Hildebrand noted that the agency had had pre-session meetings with TxA and TSLA, which went well. The agency was also in contact with Donna Vining with TAID prior to the session.</p> <p>Ms. Hildebrand said that no bills had been filed to amend the Board’s enabling legislation. Ms. Hildebrand went on to brief the Board about</p>
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	<p>pending bills impacting state agencies generally, including those relating to rulemaking, human resources, information technology and cyber security, agency contracting, state employee pay raises, etc.</p>
<p>5. Enforcement Cases Review and possibly adopt ED's recommendation in the following enforcement cases:</p> <p>5A. Registrant/Non-Registrant Cases:</p>	<p>Ms. Dockery asked Mr. Brenton to present the enforcement cases for board consideration.</p> <p>Fry, Lucas Stewart (#048-20N) Mr. Brenton directed the board to the written materials for the case beginning on page 22 of the board materials and provided a summary of the case as well as staff's recommendation.</p> <p>A MOTION WAS MADE AND SECONDED (Bargainer/Trevino) TO ENTER THE ATTACHED AGREED ORDER, INCLUDING THE FINDINGS OF FACT AND CONCLUSIONS OF LAW, WHICH IMPOSES AN ADMINISTRATIVE PENALTY OF \$5,000, PROHIBITS THE RESPONDENT FROM PRACTICING ARCHITECTURE OR USING ANY FORM OF THE WORD "ARCHITECT" OR "ARCHITECTURE" TO DESCRIBE RESPONDENT OR SERVICES PROVIDED BY RESPONDENT IN THE STATE OF TEXAS UNLESS AND UNTIL RESPONDENT BECOMES REGISTERED BY THE BOARD AS AN ARCHITECT AND RETAINS RESPONDENT'S STATUS AS AN APPROVED CANDIDATE FOR THE ARCHITECT REGISTRATION EXAMINATION AND ARCHITECT REGISTRATION IN TEXAS.</p> <p>THE MOTION PASSED UNANIMOUSLY.</p> <p>Maltby, Randell L. (#072-22N) Mr. Brenton directed the board to the written materials for the case beginning on page 32 of the board materials and provided a summary of the case as well as staff's recommendation.</p> <p>A MOTION WAS MADE AND SECONDED (Walker/Smith) TO ENTER AN ORDER WHICH ADOPTS THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ADMINISTRATIVE PENALTY OF \$3,000 AND WHICH ORDERS THE RESPONDENT TO CEASE AND DESIST ANY AND ALL VIOLATIONS OF OCCUPATIONS CODE CHAPTER 1051 AND BOARD RULES, AS SET FORTH IN THE REPORT AND NOTICE OF VIOLATION DATED DECEMBER 28, 2022.</p> <p>Mr. Bargainer asked whether the Respondent was a contractor with design/build experience.</p> <p>Mr. Brenton responded that he was.</p> <p>Ms. Walker expressed surprised that the project had undergone TAS review without first being sealed by an architect.</p> <p>Mr. Trevino asked whether the county was happy with the building.</p>

<p>5B. Continuing Education Cases:</p>	<p>Mr. Brenton responded that the agency had no evidence indicating dissatisfaction with the building.</p> <p>THE MOTION PASSED UNANIMOUSLY.</p> <p>Mr. Brenton directed the board to written materials for the continuing education cases beginning on page 34 of the board materials, which contained summaries of the cases as well as staff's recommendations.</p> <p>Ms. Dockery stated that, unless any board members needed to recuse themselves from any case, she would entertain a motion to accept staff's recommendations for all the continuing education cases. There were no recusals.</p> <p>A MOTION WAS MADE AND SECONDED (Bargainer/Trevino) TO ACCEPT STAFF'S RECOMMENDATION FOR DISCIPLINE IN THE FOLLOWING CONTINUING EDUCATION CASES:</p> <p>Case No. 017-23I Acosta, Olga Lidia RID #10171 Case No. 090-22I Alford, Cassie Deanne RID #11595 Case No. 012-23A Andrews, Jr. Donald Allen Arch. #24304 Case No. 024-23A Bockhorn, Bruce Frederick Arch. #9292 Case No. 001-23I Cochran, John R. RID #689 Case No. 025-23A Dovolis, Dean James Arch. #14979 Case No. 062-23A Duffin, Devon James Arch. #28865 Case No. 060-23A Eckols, Donald E. Arch. #13288 Case No. 097-23A Hernandez, Oscar Arch. #26177 Case No. 222-22I Michels, Christine Petru RID #11172 Case No. 084-23L Smidt, Elizabeth A. L.A. #2184</p> <p>THE MOTION PASSED UNANIMOUSLY.</p>
<p>6. Reports on National Regulatory Boards and Board Member and Staff Committee Service <i>NCARB Rolling Clock Policy Update</i></p>	<p>Ms. Dockery provided an update from NCARB on its planned changes to the rolling clock policy. Ms. Dockery explained the five-year rolling clock policy that had been in place, as well as the new replacement NCARB policy. Under that policy, a passed exam division would remain valid throughout the delivery of the exam version under which it was taken, as well as the next exam version. Ms. Dockery addressed the history of the NCARB rolling clock policy and explained the justification for dropping the five-year requirement.</p> <p>Ms. Dockery noted that the five-year rolling clock policy had been adopted into board rules. Therefore, if the board wanted to implement this change in Texas, it would have to undertake rulemaking action. She voiced her support for the change in policy and suggested the proposed rule should reference the NCARB policy to identify how long a passed section would remain valid.</p>

Mr. Bargainer shared his support for the change in policy on the basis that it increased access to registration and made Texas a more attractive place to work.

Mr. Bargainer asked whether the board would propose rule changes for landscape architect applicants, who are also subject to a five-year rolling clock under board rules.

Ms. Dockery, Ms. Walker, and Ms. Smith expressed support for such action.

Mr. Brenton shared staff's recommendation that the board adopt changes to the rolling clock policy for both architect and landscape architect applicants. Mr. Brenton also briefed the board on how the board rules allowed registrants to request extensions to the rolling clock and whether those extensions would apply under a proposed rule.

Mr. Brenton also addressed the timeline for rulemaking and provided staff's plan for adopting the rule change as soon as possible, with a hopeful adoption date by early September.

Ms. Walker asked how long a version of the ARE examination is in effect.

Ms. Dockery responded it was about ten years.

Ms. Hildebrand noted the purpose of this agenda item was to inquire about whether the board intended to implement changes to the rolling clock rules and what those rules should look like. She summarized the conversation and said staff would work on proposed rules that eliminated the five-year rolling clock requirement and referenced the NCARB and CLARB policies to determine how long a passing score would remain valid.

Ms. Dockery reported on her attendance at the FARB Forum on Professional Regulation. She enjoyed the session on strategic planning and said it would be helpful as the board engaged in its own efforts on that topic.

Mr. Brenton also attended the FARB conference. A highlight for him was a presentation on real-life ethical breaches by regulatory board members. He said he was thankful that he hadn't had to deal with the scenarios described in the presentation.

Ms. Smith said she was on the NCARB credential committee, which had been interesting due to a few contested positions that would be voted upon at the national meeting.

<p>7. Report on Upcoming Conferences and Meetings</p> <p>A. NCARB Regional Summit – March 3</p> <p>B. ASLA Texas Conference – April 25</p> <p>C. NCARB Annual Business Meeting – June 15</p>	<p>Ms. Dockery invited the board members to report on conferences and meetings.</p> <p>Ms. Dockery said the NCARB Regional Meeting would be taking place beginning on March 3.</p> <p>Ms. Dockery previewed the NCARB Annual Meeting, which would include consideration of proposed changes to governance of the NCARB board, amongst other agenda items.</p>
<p>8. Board Member Comments/Future Agenda Items</p>	<p>Ms. Dockery asked if the board members had any comments or suggestions on future agenda items. No suggestions were received.</p>
<p>9. Upcoming Board Meeting</p>	<p>Ms. Dockery noted the following upcoming board meetings:</p> <p>Monday, June 5, 2023 Thursday, August 24, 2023 Tuesday, November 14, 2023</p>
<p>10. Adjournment</p>	<p>The meeting adjourned at 11:29 am.</p>

APPROVED BY THE BOARD:


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