TEXAS BOARD OF ARCHITECTURAL EXAMINERS
Minutes of the Rules Committee Meeting
August 19, 2011
The William P. Hobby, Jr. Building
333 Guadalupe Street, Tower II, Ste. 350L
Austin, TX 78701

1. Call to Order
Brandon Pinson called the meeting to order at 9:09 a.m.

2. Roll Call
Brandon Pinson called roll and a quorum of the Rules Committee was present.

Present
Brandon Pinson, Chair
Charles A. (Chuck) Anastos
Sonya Odell
Diane Streinbrueck

TBAE Staff Present
Cathy L. Hendricks, Executive Director
Scott Gibson, General Counsel
Glenda Best, Executive Administrative Manager
Katherine Crain, Legal Assistant
Michael Shirk, Managing Litigator
Jack Stamps, Managing Investigator
Mary Helmcamp, Director of Registration
James Coffman, IT Manager

3. Chair’s Opening Remarks
The Chair stated that he had no opening remarks other than getting as much done in the committee as possible and be as efficient as possible. He’d also like the committee to receive and consider stakeholder input to assist in making the board meetings run more efficiently.

4. Public Comment
None.

5. Approval of Minutes

The Chair stated that he would like to skip to the last rule listed on the agenda.

10. **Rule §5.201 repealing obsolete provisions relating to repealed “grandfather” classes**

The General Counsel summarized the background on the rules regarding grandfathering. The amendment to Rule 5.201 removes cross-references to provisions relating to “grandfathering” which no longer exist.

A MOTION WAS MADE AND SECONDED (Anastos/Steinbrueck) TO REPORT THE PROSPECTIVE AMENDMENT TO RULE 5.201 TO THE BOARD FOR PROPOSAL.

6. **Rules §1.69/§3.69/§5.79 increasing the number of mandatory continuing education program hours registrants must obtain annually; clarifying substance of acceptable continuing education.**

The General Counsel gave the background on proposed rules 1.69, 3.69 and 5.79 stating that the number of continuing education hours was currently 8 hours and they would increase to 12 hours under these proposed rules. In addition, the rules as amended would require ethics training. Ms. Steinbrueck noted that current economic conditions make this a bad time to increase continuing education requirements. She also noted that the change is being considered largely because NCARB is modifying its model law. She asked if there is any empirical data to indicate the current 8-hour requirement is insufficient. The General Counsel explained that NCARB was increasing the hours because they had done a survey and found most states require 12 hours of continuing education. NCARB seeks to establish uniformity across the jurisdictions. Ms. Steinbrueck reported CLARB’s model law requires 30 hours of continuing education every 2 years. Mr. Anastos stated he favored raising the current continuing education requirement, observing that 8 hours per year is not enough. He noted that some states require greater than 20 hours per year. Ms. Odell favored increasing continuing education requirements for registered interior designers. She indicated both interior design organizations she is a member of is in favor of increasing continuing education hours. She noted that it is important for interior designers to remain current on the changes and updates of the technical aspects of the profession, particularly in light of the number of grandfathered registered interior designers. She also stated there are ways to obtain affordable continuing education.

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO REPORT THE PROSPECTIVE AMENDMENT TO RULES 1.69, 3.69 AND 5.79 TO THE BOARD FOR PROPOSAL.

The Chair noted that the draft rule amendment significantly reduces the time for a registrant to obtain substitute continuing education for hours that have been disallowed. The current rule allows 180 days. The amendment would reduce that time to 30 days. There committee discussed a reasonable amount of time for a person to obtain the additional continuing education hours. NCARB’s model law specifies 60 days.
A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO AMEND THE MOTION TO SPECIFY A 60-DAY DEADLINE RATHER THAN THE 30-DAY DEADLINE IN THE MOTION BEFORE THE COMMITTEE. THE MOTION PASSED BY UNANIMOUS CONSENT.

THE CHAIR CALLED FOR THE VOTE ON THE MOTION AS AMENDED. THE MOTION PASSED WITH THREE MEMBERS VOTING IN FAVOR. (Steinbrueck abstained.)

7. Rules 1.124/3.124/5.134 revising process for the registration and renewal of registration of business entities with the Board.

8. Rule 7.10 adopting a fee for initial business registration, renewal of business registration and late registration fees.

The General Counsel summarized the background for the proposed rules. He stated that the proposed rules shift the burden to register from one individual at each firm to the firm or association, itself. Also, the proposed rules include a fee for business registration. The agency will automate the business registration process which is not currently a part of the agency’s database but is maintained separately and is not automated. The General Counsel stated that there had been a cost analysis and the $50 fee in the draft amendment to the Rule 7.10 fee schedule is based upon that projection. Ms. Steinbrueck indicated that in her profession the fee is perceived as a means for the agency to gain additional revenue from registrants and return no value to them. The Managing Investigator noted that business registration does hold value to registrants to the extent that it provides a means for the agency to detect businesses and firms that are not validly offering the professions regulated by the Board. In addition, business registration provides a means for the public to identify properly licensed businesses. Ms. Steinbrueck also noted that the cost to program the business registration process by agency personnel is a cost the agency would incur without programming business registration. It is unclear why the agency must recover personnel costs for this discrete function. Mr. Anastos stated he would like to see business registration automated to provide greater ease of use for the registrants and better information to the general public.

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO REPORT PROPOSED RULES 1.124, 3.124, 5.134, 7.10, 1.232, 3.232, AND 5.242 TO THE BOARD FOR PROPOSAL.

The Committee took a break at 10:20 a.m. and reconvened at 10:40 a.m.

The Committee resumed discussion regarding the cost for business registration and whether the agency should recover those costs. The Chair suggested reevaluating costs at a later date and reconsider fee amounts based upon the actual costs of business registration.

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO REPORT THE AMENDMENTS TO RULES 1.124, 3.124 AND 5.124 TO THE BOARD FOR PROPOSAL. THE MOTION PASSED UNANIMOUSLY.

There was additional discussion of the motion on the table regarding the prospective amendment to the fee schedule in Rule 7.10 to add a business registration fee.

A MOTION WAS MADE AND SECONDED (Steinbrueck/Odell) TO AMEND THE MOTION TO AMEND RULE 7.10 TO REDUCE THE ANNUAL BUSINESS REGISTRATION FEE TO $25 WITH CORRESPONDING LATE FEES. THE MOTION WAS WITHDRAWN (Steinbrueck/Odell).

A MOTION WAS MADE AND SECONDED (Steinbrueck/Odell) TO AMEND THE MOTION TO AMEND RULE 7.10 TO REDUCE THE ANNUAL BUSINESS REGISTRATION FEE TO $30.00 PER YEAR WITH LATE FEES BEING $45.00 AND $60.00, RESPECTIVELY. THE MOTION PASSED UNANIMOUSLY.

9. Rules 1.232(j)/3.232(j)/5.242(j) correcting cross-references in the penalty matrix to conform to amendments to business registration processes.

A MOTION WAS MADE AND SECONDED (Anastos/Odell) TO REPORT THE PROSPECTIVE AMENDMENTS TO RULES 1.232, 3.232, AND 5.242 TO THE BOARD FOR PROPOSAL.

The committee debated the appropriate sanctions for infractions of the business registration rules. The committee requested the General Counsel include the offense of a business offering or practicing regulated services without registration. The committee accepted the General Counsel’s suggested amendment to the main motion.

THE COMMITTEE ADOPTED A MOTION TO AMEND THE MOTION BY UNANIMOUS CONSENT. THE MOTION PASSED AS AMENDED BY UNANIMOUS CONSENT.

THE COMMITTEE ADOPTED A MOTION TO RECONSIDER (Steinbrueck/Anastos) THE PREVIOUSLY ADOPTED MOTION TO REPORT AMENDMENTS TO RULES 1.124/3.124/5.134.

A MOTION WAS MADE (Steinbrueck/Anastos) TO AMEND THE MOTION TO REPORT AMENDMENTS TO RULES 1.124/3.124/5.134 TO ADD A REQUIREMENT THAT BUSINESSES POST A CERTIFICATE OF REGISTRATION
AT EACH PRINCIPAL PLACE OF BUSINESS AND TO DISPLAY A COPY OF THE CERTIFICATE AT EACH ADDITIONAL PLACE OF BUSINESS. The committee clarified that its intent was not to require businesses to obtain duplicate certificates from the agency, requiring the payment of a fee. THE MOTION AS AMENDED PASSED UNANIMOUSLY.

8. **Adjourn**

A MOTION WAS MADE AND SECONDED (Steinbrueck/Odell) TO ADJOURN THE RULES COMMITTEE MEETING AT 12:22 P.M. THE MOTION PASSED UNANIMOUSLY.

[Signature]

BRANDON PINSON, Chair of the Rules Committee