

MINUTES OF THE DECEMBER 2, 2014 CONSTRUCTION CONTRACTORS BOARD MEETING

The Construction Contractors Board (CCB) met on Tuesday, December 2, 2014, at the Broadway Commons, Peru Room (306), 1300 Broadway St NE, Salem, Oregon.

Attendees:

Board Members present: Board Chair, Kimberly Wood, and Board Members: Mariana Lindsay, Melvin Oden-Orr, Jim Patrick, Sandi Warren, and Rob Yorke.

Excused Board Members: Simone Neall.

Staff: Administrator James Denno, Administrative Services Manager Kimberlee Ayers, Linda Bures (HR), Education Manager Cheryl Martinis, Enforcement Manager Stan Jessup, Licensing Manager Laurie Hall, Education Program Analyst Jennifer Magee, Investigator SIU Terry Roach, Administrative Assistant Brandy Richter, and Board Secretary Catherine Dixon, Assistant Attorneys General Susan Bischoff and Kelly Gabliks.

Guests: Shelly Sneed, Kathy Nishimoto, Judy Beebe, Bonnie Sullivan, Jim Kitchin, Van White, Jerry Schmidt, Mike Eliason, Scott Barrie, and Marri Lamoureux.

A. MEETING CALLED TO ORDER:

Chair Kimberly Wood called the meeting to order at 9:40 a.m.

B. APPROVAL OF AGENDA AND ORDER OF BUSINESS:

The Board made the following motion:

MOTION: Rob Yorke moved to amend the agenda to move item F.3.b (discussion of settlement of American Residential Services LLC enforcement case) to immediately follow public comment and approve the agenda.

VOTE: 6-0, Ayes—Lindsay, Oden-Orr, Patrick, Yorke, Warren, and Wood.

C. APPROVAL OF MINUTES:

The Board made the following motion:

MOTION: Sandi Warren moved to approve the October 28, 2014, Board meeting minutes with a correction to add Mariana Lindsay to the list of Board members present, listed in the first paragraph of the Appeal Committee meeting minutes.

VOTE: 6-0, Ayes—Lindsay, Oden-Orr, Patrick, Yorke, Warren, and Wood.

D. PUBLIC COMMENT:

- 1. Shelly Sneed, Administrator of the Landscape Contractors Board (LCB),** gave a brief overview of the Landscape Contractors Board. Ms. Sneed reported on the work of the Landscape Contracting Work Group, which CCB is participating in. The Landscape Contractors Board is making a variety of recommendations for consideration by the Work Group. Some of the proposed recommendations are:

- Increasing the bond and insurance requirements on projects of \$50,000 or more.
- Recovery of hearing costs.
- Establishing a \$2,000 threshold for written contracts like CCB.
- Revising continuing education requirements.

Ms. Sneed reported that the Landscape Contracting Work Group will be reviewing these and other recommendations and putting them into a legislative concept for the upcoming legislative session.

2. **Bonnie Sullivan** discussed the Oregon Contractor's Reference Manual revisions. She feels that the manual needs to have local people involved with writing the manual.

E. SETTLEMENT ON CONTESTED CASE(S):

Chair Wood called the meeting into deliberations under ORS 192.690(1).

MOTION: Rob Yorke moved to approve the settlement agreement and stipulated final order in the matter of American Residential Services LLC, enforcement case number 98322.

VOTE: 6-0, Ayes—Lindsay, Oden-Orr, Patrick, Yorke, Warren, and Wood.

F. AGENCY REPORTS:

1. Administrator

a. Kelly Gablik's Retirement:

Administrator James Denno thanked Kelly Gabliks, Assistant Attorney General, for her service to the CCB and wished her a long and happy retirement.

Ms. Gabliks stated that it has been a privilege to represent the Board; she has faced some challenging issues and really enjoyed working with the Board and staff.

b. Administrator's Report:

Mr. Denno gave an update on the following:

- IT Strategic Planning
- Stakeholder and Legislator Meetings
- Landscape Contracting Board Workgroup
- Restoration Companies
- CCB Office Space
- Building Codes Division (BCD) Partnership

Mr. Denno is working to refocus the agency on its core mission of appropriate licensing standards, engagement with customers and stakeholders, efficiency in agency operations, , and enforcement.

The agency will offer new board member orientation which will afford new Board members the opportunity to visit the agency offices and spend some time with each section manager learning about the various facets of the agency's responsibilities. Newest Board member Mariana Lindsay will be invited to come to CCB offices for orientation in the near future.

(Staff Action item 12.2.F1)

c. Restoration Companies:

Mr. Denno reported that a legislative concept proposing regulation by CCB of “restoration companies” is being drafted.

2. Licensing

Licensing Manager Laurie Hall reported that the number of new licensees continues to increase slightly. Approximately 50 percent of renewals are now consistently being completed online and are processed the same day or the next day.

Board member Patrick asked that the reports be printed in portrait format which is easier to read online and on mobile devices.

(Staff Action item 12.2.F2)

3. Education

Education Manager Cheryl Martinis introduced Jennifer Magee, Education Program Analyst. Ms. Magee approves education providers and courses. She works on the outreach team for consumers and continuing education for contractors.

Ms. Martinis reported that the new contract for pre-licensure testing has been awarded to PSI Services, LLC. Applicants will be allowed up to three hours to take the test. The cost of the test will decrease slightly, and PSI will provide a direct phone line for education providers to contact them.

a. Contractor Reference Manual:

1) Current Contract – Manual Updated:

Education Manager Cheryl Martinis reported that she just finished the updates for the next version of the manual. A Spanish version of the manual will be coming out next year.

2) Future Manual Options:

Ms. Martinis recommends putting together an advisory committee to look at the content that should be included in the manual. The agency is looking into contracting with NASCLA for future editions of the manual. Currently there are ten other states that use NASCLA’s manual, reporting that the manual is much more user-friendly. NASCLA has a standard manual of contractor business and law, and each state adds their state-specific materials.

Board members discussed asking contractors who work in multiple states for some input; perhaps contact Home Depot, Sears, Lowes, etc. that operate in multiple states.

(Staff Action item 12.2.F3a)

Board member Melvin Oden-Orr volunteered to be on the advisory committee to work with staff.

b. Home Inspector Test:

The agency recommends going to a nationally developed testing standard for home inspector certification. Education Manager Cheryl Martinis reported that of the 34 states that regulate home inspectors, 26 use the National Home Inspector Examination. The national test is psychometrically validated and periodically updated, unlike the CCB exam, to ensure the test reflects current industry practices.

The cost of the national exam is \$225; CCB's test fee is limited to \$50, regardless of the cost of producing and maintaining it.

Chair Wood asked if there is a discount for those that do not pass the exam the first time. Ms. Martinis will do further research regarding the cost of retakes and bring the matter back to the next Board meeting.

(Staff Action item 12.2.F3b)

4. Enforcement**a. Consent Agenda:**

Enforcement Manager Stan Jessup discussed the consent agenda with Board members. Two of the enforcement actions had incomplete violation information. The Board removed these two enforcement cases from the consent agenda until complete violation information could be gathered.

MOTION: Jim Patrick moved to approve the consent agenda notices of intent and final orders issued, with the exception of file numbers 107678 and 107685 which were removed from the consent agenda.

VOTE: 6-0, Ayes— Lindsay, Oden-Orr, Patrick, Yorke, Warren, and Wood.

b. Redistricting:

Enforcement Manager Stan Jessup reported that he is working on changing the regions that each field investigator covers to obtain better coverage for the state. Mr. Jessup hopes to have the new districts assigned by spring with better coverage in Eugene, the coast, and eastern Oregon areas.

5. Administration/IT**a. Administrative Services Manager Kimberlee Ayers reported that at the end of October CCB's revenue was \$556,653 with expenses approximately \$200,000 under projections. CCB currently has 5.95 months of operating cash estimated ending fund balance.**

Ms. Ayers reported that the agency will be contracting with an IT consultant to develop an IT strategic plan for the agency. The agency will also be entering into an agreement with the Secretary of State for a new records management system, known as the Oregon Records Management Solution. This will take the place of the existing Questys system and provide the agency with a much more robust system at a reduced cost.

b. Board Calendar:

Ms. Ayers asked if Board members had any questions about the 2015 calendar. No changes were made.

c. Fiscal Year 2014 Final Key Performance Measure Reports:

Ms. Ayers asked whether Board members had any questions regarding the key performance measure final report. There were no questions.

G. NEW BUSINESS:**1. Administrative Rules:****a. Charges for Records (OAR 812-001-0160):**

Administrator Denno reported that there are some problems with this rule and recommended the Board withdraw its approval and direct staff to evaluate whether the rule revision is needed. .

MOTION: Melvin Oden-Orr moved to withdraw approval of OAR 812-001-0160.

VOTE: 6-0, Ayes— Lindsay, Oden-Orr, Patrick, Yorke, Warren, and Wood.

b. OAR 812-009-0330, Rebuttable Presumption:

Administrator Denno reported that concerns have been expressed that unintended consequences may arise from the rule as written and recommends that the agency conduct further research into the issues and look for other solutions. He recommends the Board close the hearing without taking action.

Chair Wood reconvened the rulemaking hearing on OAR 812-009-0330.

MOTION: Jim Patrick moved to close the hearing with no further action.

VOTE: 6-0, Ayes— Lindsay, Oden-Orr, Patrick, Yorke, Warren, and Wood.

2. Annual Meeting with Stakeholders:**Stakeholders were invited by the Board to attend the meeting and discuss their issues and concerns with the Board.**

- a. Mike Eliason, representing Associated General Contractors (AGC), stated that he is impressed with Administrator Denno and Chair Wood. He liked how the rules were handled at the last Board meeting. Mr. Eliason reported that AGC does not have any legislative concepts affecting CCB.
- b. Jim Kitchin, representing Oregon Remodelers Association, stated that CCB staff have been very helpful. Oregon Remodelers Association is working in the Portland, Salem and Eugene areas to engage younger workers. He stated that remodeling contractors are aging and younger workers will be needed in the future.
- c. Judy Beebe, representing Omni (pre-licensure education provider) thanked the Board for hiring Cheryl Martinis who is very patient. Ms. Beebe appreciates that in the near future three hours will be allowed for the pre-licensing test. Ms. Beebe volunteered to participate on the advisory committee for the reference manual and test. She teaches at Western Oregon University and understands the complexity of putting together a test.

- d. Jerry Schmidt, representing Oregon Groundwater Association, reported that his group consists of well contractors, manufacturing, and water treatment contractors. His members carry multiple licenses, some between 7 and 9 licenses with 4 to 6 agencies. Some of his members have a CCB license. Mr. Schmidt reported that CCB education staff have been very helpful. Most of his members are exempt from continuing education because they have a plumbing or electrical license. He feels that a rule committee to work with stakeholders early on in the process will help eliminate future problems.
- e. Scott Barrie, representing Oregon Home Builders Association, stated that he has heard talks of merging CCB and BCD and believes there will be conversations over the upcoming session. Mr. Barrie reported that one of Oregon Home Builders Association legislative concepts will cover crimes that would prevent someone from stealing another contractor's CCB license. They are looking at proposing that type of crime be escalated to a criminal penalty. Other possible legislative concepts include building code and land use issues.
- f. Marri Lamoureaux, representing Oregon Home Builders Association, encouraged Board members to consider a third party verification of online education, that could provide suggestions to the education providers on ways to improve their programs. Ms. Lamoureaux stated that the CCB IT section has made uploads very easy.
- g. Van White, attorney, thanked Board members for their decision on the ARS matter. Mr. White reported that he worked for CCB while attending school and has taught lien laws courses for contractors. He appreciates the effort to streamline the license application, but would like more phone assistance for contractors. He reported that CCB has a good working relationship with the State Bar Association.
- h. Kathy Nishimoto, representing Small Business Development Centers, thanked Cheryl Martinis and Jennifer Magee for working to create a Spanish version of the reference manual. She reported that it has been very hard for Spanish speakers, even with courses taught in Spanish, as the manual and test are in English. The Spanish version of the reference manual will make a big difference to her clients.

H. ADJOURNED:

The meeting adjourned at 12:04 p.m.