

OREGON LANDSCAPE ARCHITECT BOARD
MEETING MINUTES
February 8, 2008

Members Present: Robert Edwards, Public Member
Ron Nichols, Public Member, Treasurer
David Olsen, Landscape Architect
John Pellitier, Landscape Architect
Mel Stout, Landscape Architect, Vice Chair
Timothy Van Wormer, Landscape Architect, Chair

Members Excused: Susan Wright, Public Member

Staff Present: Susanna Knight, Administrator
Kyle Martin, AAG [8:30 AM to 10:10 AM]

Guests Present: Ryan Carlson, candidate for registration [10:15 AM to 10:40AM]
Richard Schultz [11:00 AM to 1:00 PM]
Rex Miller, candidate for examination [1:40 PM to 2:15 PM]

The quarterly meeting of the Oregon State Landscape Architect Board (OSLAB) was convened in the Conference Room of the Board office, 1193 Royvonne Avenue SE, Salem, Oregon, by *Chair VanWormer* at 8:30 AM. *Olson* requested to adjourn by 2:30 PM to allow his safe return to Bend due to the record setting snowfall in the pass. *Knight* requested the addition of LAC 08 01 015 to agenda item 5. Correspondence.

Chair Van Wormer then read the following statement:

“The Board will now meet in executive session for the purpose of reviewing documents that are exempt by law from public inspection under **ORS 192.660(2)(f)** to consider information exempt by law from public inspection. Representatives of the news media and designated staff shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced. No decision will be made in executive session. At the end of the executive session, we will return to open session and welcome the audience back into the room.”

The Board returned to open session at 10:12 AM and *Chair VanWormer* announced that there would be a 5-minute break. The meeting reconvened at 10:18 AM.

The Board welcomed Ryan Carlson, applicant for initial licensure as a Landscape Architect present for the oral interview. Carlson shared both his education and experience background. He summarized his understanding of the Code of Conduct. Additional discussion with the Board covered current registration responsibility; continuing education expectations; and the quarterly Board newsletter.

Stout moved to approve Ryan Carlson for registration in Oregon as a Landscape Architect. *Seconded and passed unanimously: Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; and VanWormer, yes.*

Chair VanWormer awarded Carlson his letter of registration and his wall certificate. Board members offered their hand of congratulations and Carlson departed.

Nichols noted that the identification/SS# number on the documents presented in the Board packet must be removed. *Knight* confirmed that this was previously determined by the Board and will remind staff to pay attention to the distribution of any ID numbers.

1. **MINUTES:** *Stout* moved to approve the minutes of the November 16, 2007, Board meeting as presented in the packet. *Seconded*. There was no discussion of the content of the minutes. Motion passed unanimously: *Edwards*, yes; *Nichols*, yes; *Olsen*, yes; *Pellitier*, yes; *Stout*, yes; and *VanWormer*, yes.

2. ADMINISTRATIVE MATTERS:

A. *Knight* distributed a copy of her Board Administrator Report (Appendix I). The preliminary procedure for examination applicants for LARE A, B, and D is now posted on the home screen of the Board's web page. Thirteen candidates have been approved for the March 11, 12, & 13, 2008, CLARB administered examination. *Knight* then directed the Board to the ACTION LIST prepared following the November 16, 2007 Meeting. Five action items have not yet been completed. *Knight* also directed the Board to the letter addressed to Legislative Counsel regarding Administrative Rule corrections.

At 11:07 AM, Board Chair *VanWormer* acknowledged the attendance of Richard Schultz and invited him to sit before the Board per his pre-arranged request. Schultz stated his remembrances of contact with the Board over the past three years and acknowledged receiving a certified letter from the Board on December 19, 2007, which he set aside until after the holidays. Upon opening the letter, he called the Board office and was informed that he had failed to meet the Board's timeline as required per the Notice but he should immediately put a response in writing to the Board. The submitted letter was included in the Board members' meeting packet. Schultz informed the Board that he chose not to maintain his bond and license with the Landscape Contractor's Board (LCB) when he moved away from contracting and into only landscape design. He stated that he has now suspended doing any design specifications until he has reinstated his LCB license. Schultz informed the Board of his background in design education and experience, neither of which meet the education or experience requirement for Landscape Architect registration.

At 11:25 AM, *Chair Van Wormer* thanked Schultz for coming and stated the Board must move on with its agenda. Schultz continued by stating information about the numerous Best of Garden awards he has received. *Pellitier* inquired of Schultz whether he was a LC during that time and Schultz responded that he was not and then inquired as to when he would receive word of the Board's decision. *VanWormer* stated that the Board would make a decision today.

- B. Budget Update 2007-09 Biennium: *Stout* inquired as to why the CD interest income was included as Income for the biennium. The Board previously agreed that interest income would remain with the CDs as it was not budgeted as Income for the biennium. *Knight* confirmed the previous decision and will follow up with staff. With no other questions about the budget figures, *Knight* encouraged members to contact staff should other questions arise after the meeting.
- C. Business Registration Update (See Appendix I): Eleven businesses have been added to the roster since the last Board meeting.

D. Inactive Registrants (See Appendix I): One registrant has become inactive since the last Board meeting.

3. COMMITTEE REPORTS

A. **ADMINISTRATIVE RULES COMMITTEE:** *Nichols* reported that since receiving input from the Board's Assistant Attorney General (AAG) regarding the draft changes to the CODE OF CONDUCT, input is now needed from the Board as to how the Board wishes the language to read. *VanWormer* stated that the Rules Advisory Committee should be asked to respond to the revised language between now and the next Board meeting. *Nichols* offered that a committee meeting can be arranged which would include the Board's AAG. *VanWormer* stated that he would encourage the committee to develop a standard procedure for Administrative Rule review as he has been contacted by a committee member who did not understand the procedure. He also suggested that the AAG be included in the first phase coinciding with seeking input from the Committee. *Olsen* offered that an explanation to the committee as to the intent of the rule change should always be included but the common thread in the Rule-making process is that the Board changes. *VanWormer* suggested going back to the committee after input has been received. *Nichols* stated that this will extend the process.

1. OAR 804, Division 50, Code of Professional Conduct: The Board offered some language ideas for sections of this rule.
2. OAR 804-003-0000, Definitions: No discussion of this rule was held leaving the continuing education definitions in the continuing education rule section is under consideration.
3. OAR 804-022: The Board understands that additional information is needed in Administrative Rules regarding the Landscape Architect in Training (LAIT), as the LAIT is mandated in statute.
3. OAR 804, *New* Division 27, Professional Practice of the Registrant: Division 27 is a new division. Since the Board must define the practice standard of an LAIT, the Landscape Architect standards that are currently housed in Division 30, General, are being moved to this new practice division.

At 11:55 AM, the Administrative Rules' discussion was placed on hold and the Board members recessed for lunch. At 12:05, Chair *Van Wormer* read the following statement and the Board at lunch in Executive Session:

"The Board will now meet in executive session for the purpose of reviewing documents that are exempt by law from public inspection under **ORS 192.660(2)(f)** to consider information exempt by law from public inspection. Representatives of the news media and designated staff shall be allowed to attend the executive session. All other members of the audience are asked to leave the room. Representatives of the news media are specifically directed not to report on any of the deliberations during the executive session, except to state the general subject of the session as previously announced. No decision will be made in executive session. At the end of the executive session, we will return to open session and welcome the audience back into the room."

At 12:37 PM, the Board returned to the open session. *VanWormer* acknowledged the ongoing presence of Richard Schultz and asked if it would be his desire to deal with the Compliance Case now. Hearing a yes, *VanWormer* directed the Board to agenda item C.

C. **COMPLIANCE COMMITTEE:** *VanWormer* stated that in Wright's absence the Board would move to compliance case #LACC 05-01-001, Final Order by Default. There was no additional discussion about the Final Order. *Edwards* moved to approve the Final Order by Default. *Seconded and passed.* *Edwards*, yes; *Nichols*, yes; *Olsen*, yes; *Pellitier*, yes; *Stout*, yes; and *VanWormer*, yes.

Schultz inquired what the motion meant. *VanWormer* stated it is the same position the Board took in the previous Notice issued to Schultz. Schultz departed from the meeting.

Knight reported in *Wright's* absence that a letter was issued to the City of Jacksonville informing the city of ORS 671.412, the Public Contracts Requirements of the Landscape Architecture law. *Stout* offered that an inquiry with the City of Medford will occur.

VanWormer then moved the Board back to the Administrative Rules Committee discussion previously in progress.

A. ADMINISTRATIVE RULES COMMITTEE, continued

Pellitier suggested that the Administrative Rules Committee prepare a revised draft of Division 50 which changes Landscape Architect to Registered Landscape Architect and changes 'will' to 'must' and that draft would then be brought back to the Board. *Nichols* stated that after the revisions from today are inputted, he will take the revisions to Division 50 back to the committee members. *Olsen* asked the names of the committee members. The Rules Advisory Committee Members currently include the following Registered Landscape Architects: Hal Beighley, Kathleen Ellis, Jim Figurski, John Lee, Justine Lovinger, Mike Lucker, Brian McCarter, and Eileen Obermiller. *Nichols* inquired if members of the Board knew of others that might serve on this committee and stated that Knight spends quality effort on Rule preparation but he offered the following insights from his experience both in learning about rule development and working as Chair of the Rules Advisory Committee:

- Few understand the Rule and Law process.
- We are asking people to work with something they do not understand.
- It is amazing that we have this many committee participants.
- Need umpteenth committee members to get some feedback.
- To get feed back, quick responses have been requested.
- Deadlines are necessary to keep the Rule process moving just as deadlines are necessary in other areas, for example, by April 4, 2008, we must have legislative concepts submitted that would not become effective (if passed) until January 1, 2010.

Pellitier inquired if all necessary responses from committee members were received and asked when will the rules ever be perfect? *Stout* stated that he supports *Pellitier's* approach. The Committee has been contacted; we have feedback from the AAG; the Board now needs to go with the information. *Nichols* stated that it is difficult for him when he gets a "no response" from committee members. *Pellitier* offered that the committee's information was used. The committee has done its duty. Time is up and the Board should move on. *Nichols* stated he will go back to the committee as they need to know where the "homework assignment" ended up! *Nichols* also reported that a committee member suggested doing away with the LAIT. *Stout* stated that he would rather have the LAIT than go back to the Legislature to remove the requirement from statute. *VanWormer* offered that even if we do away with the LAIT, the Board needs Administrative Rules in place to regulate LAITs until such time as the Legislation occurs.

Stout moved to approve revisions to Division 22 and new Division 27 as presented but inserting the word Registered before Landscape Architect wherever it appears. *Seconded and passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; and VanWormer, yes.*

AT 1:40 PM, *VanWormer* acknowledged the presence of Rex Miller and Miller's request to appear before the Board. Miller was denied entrance into the December LARE because he was unable to validate one year of experience supervised by a Registered Landscape Architect as required per OAR 804-020-0003(2)(b). Miller explained that at age 40 he set two goals for himself: run the Boston Marathon and become a Registered Landscape Architect. He has spent over \$100,000 on school and over \$10,000 on the examination and he wants professional recognition. In 2001, he met his Boston Marathon goal. But the recent letter from the Board felt like getting to mile 25 in the marathon and then having the number pulled. In 1981, he moved back to Coos County where he found his niche as a Landscape Contractor using landscape design. He has a business with four employees so he cannot go to work under an RLA.

Olsen offered that this supervision requirement is precedent setting and this may or may not be good news for Miller. *Olsen* is confounded as to why Miller has not been successful in passing the test and asked "What is happening in the test?" Miller stated that he has done study groups in Portland and worked with a Landscape Architect. He has purchased study materials and a number of times he thought he passed the test. However, he does not design a lot of grades and it must be rough in his drawing.

Pellitier inquired as to how long Miller has known that he must work under the direct supervision of an RLA. Miller stated that after a study group a few years ago, he was told he must work under an LA before registration could be confirmed. He previously understood that if you were accepted into the test and passed the test, you could register. He had not understood the supervised experience requirement. Whatever the outcome, Miller stated that he likes to finish what he starts which is why he came to see the Board to request the opportunity to continue to sit for the last section he needs to pass.

Olsen commended Miller, but offered that the intent of the law is sometimes different than the heart! The Board can continue to deliberate on this issue and in the spirit of the heart, should have additional discussion. *Edwards* asked if Miller realized that this is a 2-step process and stated that even if the Board were to somehow allow Miller into the examination, what about the registration hurdle of three years supervised experience?

Nichols informed Miller that the LAIT is being changed to require working under an RLA and Miller responded that it wasn't required when he obtained his LAIT. *VanWormer* stated that in the long stretch, things change, and Miller has been sitting for the test over a fourteen year period. *Olsen* offered that this is an injustice; wrong on many levels; and inquired as to how to convince the Board?

Miller stated that he is only asking to sit for the test. *VanWormer* responded that Miller would still need the three years of supervised experience under registered individuals and questioned if Miller would come back and request to also waive that requirement. Miller stated "No; now I only want to take the test."

Pelletier offered that he did not have to meet the same standard of supervised experience for his registration that Miller now faces. Although this is now the process, he offered that it would be difficult for him to deny this person because he did not face such a denial. *VanWormer* acknowledged *Pelletier's* empathy, but questioned "What about the experience part?" Miller should not be misled. What about a plan going forward? What is Miller's expectation? *Pelletier* suggested that the Board needs to have the AAG review this issue, as the Board is a legal entity. *Edwards* asked if a Grants Pass LA could supervise Miller in his business in Coos Bay? *VanWormer* stated that the Board has interpreted "direct supervision" to mean employment. The Board agreed to seek AAG consultation. *VanWormer* closed the discussion by thanking Miller for joining the meeting and offering to take the lead in searching for wiggle room in this issue. Miller departed at 2:17 PM.

The Board recessed for 10-minutes.

B. CONTINUING EDUCATION COMMITTEE: *Stout* reported that the materials submitted by all three audited registrants were approved by the committee members individually and he recommended approval by the Board. *Olsen* stated that he is pleased with the signature line on the renewal form. Knight indicated concern with opportunities for continuing education. *Stout* offered that continuing education can be found if one is at all innovative.

[C. See two separate sections above reporting on the Administrative Rules Committee.]

D. INVESTMENT COMMITTEE: *Nichols* reported that the CDs are earning interest and as of 1/16/2008 there is \$1646.62 in interest.

E. LICENSURE REVIEW COMMITTEE: *Van Wormer* reported that there is a steady trend in new registrations by reciprocity and directed the Board to Appendix II where eight new registration are listed.

F. Liaison to the Oregon Board of Architect Examiners (OBAE): *Olsen* reported that he has been reviewing information sent to him from the OBAE and he has two comments: 1) OBAE is in business to hear complaints. Of 15 pages of minutes, 12 pages are about actions of misrepresentations as an Architect. 2) He will be contacting the OBAE Chair.

G. Liaison to the Landscape Contractor Board (LCB): *Pelletier* reported that he is amazed at the compliance cases reported by the LCB. The practice without a license is going on all over the state. The LCB is currently holding meetings all over the state but he is unsure of the purpose.

VanWormer requested that a report be prepared for the next meeting regarding the need to be working with LCB as he has been hearing the need for this on numerous occasions. *Pelletier* responded that he and *Stout* are working on this and are attempting to develop an approach for working through the overlap. An agenda item for next meeting should include this topic.

2:43 PM: *Olsen* departed for Bend.

4. OLD BUSINESS

A. Legislative Concepts: *Van Wormer* alerted the Board that Legislative concepts must be submitted by April 4, 2008. He asked *Edwards* if he would be willing to serve as Chair of the Legislative Committee. *Edwards* agreed and inquired if the Board wishes to submit Emeritus legislation. *Stout* expressed concern about opening the entire statute for this one change. *VanWormer* directed staff to inquire of our AAG what would happen if we do not go to the Legislature with the Emeritus concept. *Stout* interjected that he would like the Board to have more of a track record before going before the Legislature. *Edwards* inquired as to the difference between Inactive and Emeritus. *Nichols* inquired as to the subject of the LAIT where discussion raised the possibility of doing away with this registration. *Stout* offered that if Emeritus legislation occurs, a decision about the LAIT status could be made also. He suggested that the LAIT encourages graduates to work under an RLA. *Nichols* sees the current LAIT registration as an umbrella to hide under.

B. Update on per diem and mileage: Knight informed the Board that mileage and meal reimbursement when traveling for the Board have increased. Mileage will be paid at 50.5 cents per mile effective 1/1/2008. Without a receipt, breakfast and lunch will now be reimbursed at \$11.25 and dinner at 22.50. These rates are federally set.

5. CORRESPONDENCE

A. LAC 07 12 349: This inquiry asked how many PDH are required when returning from an inactive status. *Stout* stated that moving from Inactive to Active does require the 12 PDH. *Edwards* asked if that meant 12 PDH for each of the five years when one could be inactive. *Stout* stated that it would be 12 PDH to reactivate for the year preceding. Knight noted that this process needs to be documented in Administrative Rules.

B. LAC 08 01 015: This letter expressed that it is difficult to find a supervising RLA outside of large metropolitan areas. *VanWormer* offered that individuals attempting to meet the supervised experience requirement would probably need to be in a metropolitan area to find supervising Landscape Architects. The law is now clear about this requirement and persons would want to get the required experience before settling in a rural area where supervision is not available.

6. NEW BUSINESS

A. OSLAB REVIEW: Knight is seeking to include in the quarterly newsletter an article specifically for citizens, cities, and counties to expand their knowledge about the practice of landscape architecture. Board members are asked to write such an article and Knight is seeking an article for the March newsletter.

B. Supervised experience for registration: *Nichols* stated that the Board requires three years of supervised experience, but only one year under a Registered Landscape Architect is required. He was leaning toward requiring at least two years under an RLA, but since placing this item on the agenda, he has had additional outside discussion which has led him to believe that maybe one year is sufficient. He would rescind this suggestion at this time.

C. CLARB Spring Meeting: Strategic Thinking and Article VII, Officers: *VanWormer* reported that a phone conference call on Wednesday, February 13, 2008, will convene members of CLARB Region V for purposes of receiving reports from all states and establishing agenda items for the March 1, 2008, meeting in Indianapolis, Indiana. CLARB Strategic Planning will be the national meeting topic.

7. ANNOUNCEMENTS

- A. The CLARB Spring Meeting will convene on February 29 & March 1, 2008, in Indianapolis, Indiana. Knight and *Pellitier* will represent the Oregon Board.
- B. The next Board Meeting is scheduled in Salem, Oregon, on May 9, 2008.
- C. LARE Sections C & E will be administered June 9 & 10, 2008, in Salem. Board Members are asked to check their schedule as proctors will be solicited at the May Board meeting.

8. **ADJOURNMENT:** Prior to adjourning the meeting, names were selected for the continuing education audit in a random drawing from all registrants renewing during October, November and December. *VanWormer* adjourned the meeting at 3:25 PM.

Respectfully submitted,

Susanna R. Knight
Administrator

The meeting minutes from February 8, 2007, were approved as presented at the May 9, 2008, Board Meeting.

Respectfully submitted,
Susanna R. Knight