

OREGON LANDSCAPE ARCHITECT BOARD
MEETING MINUTES
November 16, 2007

- Members Present:** Robert Edwards, Public Member
Ron Nichols, Public Member, Treasurer
John Pellitier, Landscape Architect
Mel Stout, Landscape Architect, Vice Chair
Susan Wright, Public Member
- Members Excused:** David Olsen, Landscape Architect
Timothy Van Wormer, Landscape Architect, Chair
- Staff Present:** Susanna Knight, Administrator
Kyle Martin, AAG [10:00 AM to 12:30 PM]
- Guests Present:** Laura Antonson, candidate for registration [9:00 AM to 10:00AM]
John Galbraith, LA [9:00 AM to 11:30 AM]
Steve Roelof, candidate for registration [9:00 AM to 10:00AM]
Michael Snyder, Administrator, OLCB [10:00 AM to 11:30 AM]
Norman Ziesmer, candidate for registration [9:00 AM to 10:00AM]

CALL MEETING TO ORDER:

The quarterly meeting of the Oregon State Landscape Architect Board (OSLAB) was called to order by Vice-Chair *Stout* at 9:15 AM (Note: The meeting start was delayed due to discussion on the Code of Professional Conduct during the Public Rule Making Hearing that convened at 8:30 AM.) *Stout* informed the group that both *Olsen* and *Van Wormer* are ill and that he will chair the meeting.

ORAL INTERVIEWS FOR INITIAL LANDSCAPE ARCHITECT REGISTRATION:

Stout invited the three candidates for initial Landscape Architect registration, Laura Antonson, Steve Roelof, and Norman Ziesmer, to introduce themselves. *Stout* informed the candidates that the Board appreciates their accomplishments to date in acquiring the knowledge of the profession and began the oral examination. *Stout* inquired about the candidates understanding about the laws and rules that govern the Board. *Pellitier* encouraged the candidates to read the quarterly newsletter, as ongoing information about continuing education will be included. *Stout* offered that new registrants must keep up on Administrative Rule changes and annual renewal fees, even if the company is paying. Lapsed registration issues can cause problems for registrants and to prevent a problem, registrants must be proactive about their personal registration status. The group also discussed the following: the difference between ASLA and OSLAB; when an LA can stamp the work; and the role of CLARB. Following the question and answer period, *Nichols* moved to approve for registration Laura Antonson, Steve Roelof, and Norman Ziesmer. *Seconded and passed. Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; Wright, yes.* The new registrants were congratulated by the Board Members before their departure from the meeting.

Stout inquired about changes or additions to the meeting agenda. *Wright* stated that in the absence of two of the four Landscape Architect (LA) Board Members due to illness, she is concerned about decisions that might affect the LA practitioner. No additional agenda items were added.

Stout welcomed *Robert Edwards* as the newest member of the Board and invited *Edwards* to share his background information. *Edwards* stated that he serves part-time as co-pastor of Faith Lutheran Church, Keizer, Oregon. He is also a part-time paid staff person with Habitat for Humanity. He has been an ordained minister for 9 years and received his Master of Divinity from Wartburg Seminary, Dubuque, Iowa. Prior to the career change, he was a journeyman for 20 years as an electrician but has had no work experience with either a Landscape Architect or an Architect. Members welcomed *Edwards* to the Board.

1. **MINUTES:** *Wright* moved to approve the minutes of the August 10, 2007 Board meeting as published in the Board packet. *Seconded and passed. Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; Wright, yes.*

2. ADMINISTRATIVE MATTERS:

A. *Knight* directed the Board to the Quarterly Board Administrator Report, Appendix I. *Knight* indicated that she was impressed with the integration of Board members and Board Administrators at the national CLARB (Council of Landscape Architect Registration Boards) meeting convened September 6, 7 & 8, 2007, in Cleveland, Ohio. Both she and Chair Van Wormer were present for a first trip to represent the Oregon Board. The new Executive Director of CLARB had only been on the job two weeks and was also in a learning mode.

B. *Knight* also updated the Board on the following seven new Landscape Architects registered by reciprocity since the last meeting: Nancy Fleming, Chad Nielson, Robert Bedell, Jennifer Kiusalaas, Jessica Green, and Arthur Seidel. In addition, four new business registrations were also processed: LOAM Studio Landscape Architecture; SWA Group; Fertile Ground; and Nakano Associates. The following requests were processed for Inactive registration: Daniel Pearson, William D. Roth JR, Paul G. Edgecomb, and TJ Newman. No registrants requested to appear before the Board for reinstatement of their registration.

At 10:10 AM, the Board invited John Galbraith, LA, forward to share questions with the Board. Those questions dealt with practice issues including questions about a city's use or nonuse of Landscape Architects in the bidding and construction process. He questioned if Public Works projects as defined in ORS 671.412 could be completed by a Landscape Contractor per the exemption in ORS 671.321. A discussion about the "plan to install" process was discussed. Snyder indicated that the Boards need to work together on this and thanked the Board for including him in the discussion. He provided a bit of history:

- The initial statute for "landscape work" and the origin of the Oregon Landscape Contractor Board (OLCB) was approved in 1971;
- OLCB now has a two license system;
- early 1980's, it appears as though the word "plant" changed to "plan" in the statute and there is no discussion in legislative history about how this change occurred; originally the language was "plant and install", now the language is plan and install;
- a restructure of government for consumer/business consolidation in 1985 led to the 'Advisory Board of Landscape Contractors' being administered by the Construction Contractors Board as a policy board;
- AAG advised OLCB that designers fall under OLCB because they 'plan', so exemptions for designers were made at that time;
- Originally landscape contractors were allowed to do drawing with the intent of installing; but movement evolved to "plan" only without installing;

- Currently there is no interest in the landscape contracting industry to remove planning as landscape contractors have grown accustomed to planning (designing) as part of their business;
- The whole design issue plagues OLCB because the designers have unknown qualification;
- Need to find a way for designers to demonstrate a level of competency;
- Design becomes an issue when the designer begins consulting on how to install;
- 2007 statute changed title from Landscape Contractor to Landscape Contract Professional;
- Looking at rewriting statutes to clean up issues; current exam includes how to read a design, not how to design it; exam covers all sectors i.e. residential, public, and commercial; and
- Now there is a need to look at the big picture and see where changes can be made.

There was additional discussion about the possibility of a Joint Committee comprised of members of OSLAB and OLCB looking at these concerns. *Stout* offered that a thorough understanding is needed of why the dropped ‘t’ cannot come back. *Knight* stated that Legislative Concepts for the 2009 session are due by April 15, 2008. *Edwards* offered that the concern is possibly a city versus contractor issue. *Galbraith* offered that the city is playing “owner”; going through the Landscape Contractor to do designing of a plan; and communication is the big problem. He stated that the issue was raised earlier in the year to OSLAB and still there is no answer. *Stout* indicated that the Board endeavors to answer questions. *Pellitier* believed that ‘design work vs landscape architectural design work’ was nailed down, but perhaps the interpretation was fuzzy. He inquired as to when the last time an LA came to the Board asking hard questions. *Gallbraith* offered that he understands what the Board is going through, especially since the practice act is brand new. *Pellitier* offered concern about public health, safety and welfare when the extensive education of a Landscape Architect is overlooked. He is concerned about similar issues occurring in his area. *Stout* offered that the Board is building a track record in the enforcement arena. *Knight* reminded those present that regulatory boards are about protecting the public, not professions. *Wright* offered that it is not in the public’s best interest if all Landscape Architects go out of business. *Nichols* questioned if individuals have become involved in their community.

At 11:39 AM, *Stout* thanked *Gallbraith* for his attendance at the meeting and then announced the following:

“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(f)**. 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 12:28 PM, *Vice-Chair Stout* announced that the Executive Session had ended and no decisions were made. Consultation with the Board’s attorney will provide for decision making on agenda items to follow.

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 The Board recessed for lunch, and during lunch, *Stout* facilitated a discussion about two overlap practice areas: designers (where enforcement is beginning) and landscape contract professional (where ‘plan’ versus ‘plant’ may be an issue). *Stout and Pellitier* agreed to develop strategy in dealing with the overlap with the landscape contract professionals. *Stout* offered that the Board must be holistic about these efforts and reminded the Board that it is getting more seasoned, setting precedent, refining enforcement procedures. OSLAB can work with OLCB. *Pellitier* offered that Board must continue with public education.
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C. Budget Update 2007-09 Biennium: The Board reviewed the financial information provided on the handouts, including the biennial report year to date, the Revenue and Expenses Year to Date and the Balance Sheet. It was agreed that interest from the CD account would not be reflected as income in the biennium, as interest from this fund was not calculated as possible biennial income. Interest from the CD accounts is reinvested in the CD. This money is earmarked for unbudgeted compliance issues or other unbudgeted items that must be funded by the Board. *Nichols* moved to approve the financial report as presented. *Seconded and passed. Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; Wright, yes.*

3. COMMITTEE REPORTS

A. ADMINISTRATIVE RULES COMMITTEE: *Nichols* reported on the following Administrative Rules prepared for the meeting:

a. OAR 804, Division 50, Code of Professional Conduct: Final draft language was presented in the Board packet. An Administrative Rules Hearing was convened at 8:30 AM for purposes of accepting oral comment. Based on oral input, the Board will now review further the following sections of the rule: OAR 804-050-0010 (2); OAR 804-050-0010 (3); OAR 804-050-0010(7) & (9); OAR 804-050-0015 (1) & (3). Pending possible revision of these sections, no final approval of this rule was granted. It was also requested that the word ‘knowingly’ be inserted between not and prepare in OAR 804-050-0005(4) and that PDH be spelled out in OAR 804-050-0001(6).

b. OAR 804-022-0000: The Landscape Architect in Training (LAIT) status is statutorily mandated so the Board can not do away with this registration. Currently, eligibility is based on passing two sections of the examination and meeting the education requirement. The Board concurred that an LAIT should be under supervision until such time as the LAIT is eligible for a Landscape Architect registration. The Board agreed that an LAIT must be working under the direct supervision of a Landscape Architect. The Board also discussed the duties, functions and powers of an LAIT. It was agreed that the duty of the LAIT is to uphold the Code of Professional Conduct. Following additional discussion, the Board concurred that the function of an LAIT is to develop a competence in the practice of landscape architecture leading to passing of the examination for purposes of becoming a Landscape Architect. The Board then discussed the powers of an LAIT and agreed that an LAIT is working under the supervision of a registrant so therefore has no stamping authority. *Wright* inquired about sunseting the LAIT if no LA registration is accomplished within a window of time. *Edwards* suggested that if registrant is no longer working toward registration, then the LAIT status should be forfeited. *Stout* offered that if an LAIT is no longer supervised by an LA, than that person is no longer eligible for the LAIT. *Edwards* requested confirmation for the record that to become registered, an applicant must have a minimum of one year working under the direct supervision of an LA but to be an LAIT, you must be directly supervised by an LA. *Pellitier* offered that the Board needs to have outreach about the LAIT after the rule is revised. Also, the Board suggested that registered professional should be placed in the definition section to clarify just which professionals are eligible to supervise.

c. OAR 804-022-0010: In the language rewrite for this rule, the process is being expanded when applying as a Landscape Architect by reciprocity. At the August Board meeting, the Board approved applying by reciprocity directly to the Board in lieu of providing a CLARB Council Record. This rule revision will implement the decision of the Board. *Edward* moved to approve the rule revision for OAR 804-022-0010 with the following four revisions: in (1), replace ‘has lawfully been issued’ to ‘currently holds a’; in (3)(a) insert ‘from an LAAB accredited university’ following the word transcript; under (3)(b) replace ‘but could’ with ‘work experience may’; (4)

change 'shall' to 'may'. *Seconded and passed. Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; Wright, yes.*

d. OAR 804-022-0015: This rule revision explains the current practice of assigning initial registration dates for registration by reciprocity, registration as an LAIT, and initial registration as an LA. *Wright* moved to approve the revised language for the effective date of registration as presented for OAR 804-022-0015 with two revisions: change shall to will in (4); and remove 'registered' in (6). *Seconded and passed. Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; Wright, yes.*

e. OAR 804-022-0020: This rule change moves information under OAR 804-030-0035 to Division 22. The Board's current practice of requiring attendance at a Board meeting when the registration is lapsed over 60 days is being included in the rule. *Edwards* moved to approve the language as presented with two changes: under (1), change 'shall' to 'will'; change (2)(c) to (3). *Seconded and passed. Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; Wright, yes.*

B. CONTINUING EDUCATION COMMITTEE: *Stout* announced that the Landscape Architect names for the audit of renewals received in July, August, and September will be drawn. Those individuals will be asked to provide the support information for their continuing education. The Compliance Committee will review the information for compliance and report back to the next Board meeting.

C. COMPLIANCE COMMITTEE: *Wright* stated that the following two cases are pending for Board action today.

1. LACC #07-01-002: The respondent who is an Oregon resident but not registered with OSLAB provided a letter to the Board in which she identified herself as a Landscape Architect in Illinois. The Board moved to close this case with a letter suggesting that if the respondent wishes to remain only registered in Illinois, that the letterhead also state 'Not Registered in Oregon as a Landscape Architect'. *Seconded. Additional discussion offered that since the respondent cannot be identified as a Landscape Architect in Oregon and cannot practice without supervision, the Board would ask her to register in Oregon so she can legally use the title Landscape Architect. Seconded and passed. Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; Wright, yes.*

2. LACC#05-01-001: *Wright* informed the Board about updated information regarding the issues of this case. Although the advertising brochure contains numerous actions of the practice of landscape architecture, the brochure itself is only one violation of advertising without registration. The Board took action on this case at the August 10, 2007, Board meeting and that action must now be amended. *Wright* moved to amend the previous motion and now assess a civil penalty of \$5000 for one violation of ORS 671 for advertising landscape architecture services without registration. *Seconded and passed. Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; Wright, yes.*

3. *Wright* announced that the Compliance Committee will be reviewing information presented to the Board regarding possible violations by an Oregon city of the Landscape Architecture law.

D. INVESTMENT COMMITTEE: *Nichols* reported that he has no written report but that the interest on the Board's three CDs will be rolled into the base and will not be included as revenue for the biennium as discussed during the Financial Reports.

E. LICENSURE REVIEW COMMITTEE: In the absence of committee Chair *Van Wormer, Knight* directed the Board to the two written requests for Emeritus status. *Edward* inquired about the Emeritus status based on information included in the Board packet regarding legislation for the

2009 Legislative Session. *Knight* explained that the Board's Counsel has advised that the current statute does not empower the Board to implement an Emeritus registration status which the Board established in 2004 through Administrative Rule. The Board is empowered to implement an "inactive" status, and at this time, the Board has determined that the Emeritus registration is a type of "inactive" registration status. However, it was not the intent of the Board that an Emeritus registrant must come back in five years and activate their registration for one year which is statutorily required of an inactive registrants. To develop a special standard for Emeritus will require a statute change. *Knight* reminded the Board of all the implications of opening the statute for a change. *Wright* moved that the Board grant Emeritus status to John Warner, LA of Portland, Oregon and Marty Merlau, LA of Springfield, Oregon. *Seconded and passed. Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; Wright, yes.*

3. OLD BUSINESS

A. REFERENCE MANUAL FOR BUILDING OFFICIALS: *Knight* referred the Board to information in the packet informing them that this publication was just published after being updated jointly by the Oregon Board of Architect Examiners (OBAE) and the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS). *Knight* also displayed a copy of the newest publication. The Board would like to work with OSBEELS and OBAE so that the work of Landscape Architects can also be included in the next publication.

B. Draft Language for Emeritus Addition to Statute for 2009 Legislation: *Stout* explained that the Board's entire statute will be open for change should the Board seek any statute change. *Knight* described both the process and the expense involved in changing the statute through the Legislative process as well as the Board implications whereby the door is open for other statute changes. *Nichols* inquired about just dropping the Emeritus status. *Wright* inquired if the Board could implement a ceremonial LA Emeritus. *Knight* stated that there is no statutory authority for such a title, even if done ceremoniously. *Nichols* offered that the Board needs both *Olsen and VanWormer* to weigh in on this discussion. *Stout* tabled the discussion until the next meeting.

5. CORRESPONDENCE

A. LAC 07 08 270: This individual is seeking information about limitations of landscape design work. *Stout* offered that this individual needs to read ORS 671 again and offered that landscape designers may only do conceptual design, no detailed design work is allowed. A response letter will direct this individual to the information in statute.

B. LAC 07 08 271: *Knight* stated that this information updates the Board on additional available continuing education courses through National ASLA, as they will be certifying courses for continuing education. *Knight* also informed the Board that CLARB announced at the national meeting that they were disbanding the C2ED program and will begin certifying courses for continuing education. This will provide two more opportunities for registrants to locate continuing education opportunities.

C. LAC 07 10 306: *Stout* offered that this letter is another concern about registration fees. This topic has been discussed numerous times in the past year and the Board is actively reviewing the budget figures on an ongoing basis. The Board's intent is to wait through this biennium to see how one complete two-year budget cycle balances out, with funding of compliance review, and adjust as the budget dictates in the next biennium. *Stout* offered that he is aware of the influx of registrants in Washington State which has provided an abundance of money which the Washington Board must return because they have no need in their budget at this time.

D. LAC 07 10 307: This registrant presented questions about continuing education. *Knight* will draft a letter for the Compliance Chair to review.

E. LAC 07 10 313: This communication to the Board regards “double taxation” by requiring sole proprietors to also register their Landscape Architect business. The Board offered that a review of the funding mechanisms will be carried out once the Board has completed one two-year budget process and can therefore evaluate the budget with accurate figures. The Board is aware that this has been a change to initial staff procedure with regard to sole proprietor business registration.

F. LAC 07 10 291: The Board directed staff to write a letter to the company stating that the business is not in compliance with the LA statute. Direct the Landscape Architect business to provide the name of the current LA on record. By checking the web and the letterhead for the business, maybe they are no longer offering the services of landscape architecture and if so, then maybe no LA business registration is required at this time.

G. LAC 07 11 315: *Knight* directed the Board to the information emailed to ASLA Oregon after reading information on the ASLA web page. Oregon has statutory authority over both the title and the practice of Landscape Architecture. This is not properly spelled out in the current language on the ASLA web page.

6. NEW BUSINESS

A. Article titled: “Businesses at Risk of Embezzlement”: The Board directed staff to issue a thank you letter to Ms. Biglor for the articles presented to them.

B. Article titled: “Giving Guidance to the Guides”: *Knight* informed the Board that it previously discussed the possibility of inviting this individual to provide specialized training for the Board, possibly in conjunction with other Boards. *Stout* asked that the Board put off such training or retreat for now until we get through compliance cases and other issues we have at hand. He offered that the Board is making good progress, that the Board needs to work through issues and get them under control, and then the Board can look to loftier things. *Nichols* agreed. *Pellitier* offered that perhaps the Board should take one extra day during the year for purely a discussion of issues, but not in a meeting venue.

C. Application Procedure for Admittance to LARE A, B, or D Sections: *Knight* informed the Board of the current process whereby staff lacks of involvement CLARB with regards to Oregon applicants to the LARE A, B, and D examinations. The Board reviewed a list from CLARB’s website that declares the states that require pre-approval of candidates prior to sitting for LARE Sections A, B, and D. Following discussion, *Nichols* moved that CLARB seek an okay from the Oregon Board for approval of Oregon candidates into Section A, B, and D of the LARE. *Seconded and passed. Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; Wright, yes.*

7. ANNOUNCEMENTS:

A. Set Board Meeting Dates for 2008: *Nichols* offered that the Board previously has used the second Friday of the second month of each quarter as the Board meetings dates for the year. Those present affirmed that a Friday meeting day works best for them. Date were set for Friday, February 8, 2008; Friday, May 9, 2008; Friday, August 8, 2008; and Friday, November 14, 2008.

B. Proctors requested for LARE December 3 & 4, 2007, Salem, OR: *Wright* and *Pellitier* offered that they would check their schedules and report back to staff. Staff will seek assistance from all Board members including those absent today and will notify all members of the proctor

decision. [Note: *Wright* will proctor on Monday, December 3, 2007; *Van Wormer* to proctor December 4, 2007.]

8. **ADJOURNMENT:** *Edward* moved to adjourn the meeting at 3:35 PM. *Seconded and passed.* *Edwards*, yes; *Nichols*, yes; *Pellitier*, yes; *Stout*, yes; *Wright*, yes.

Respectfully submitted,

Susanna R. Knight
Administrator

Minutes of the November 16, 2007, OSLAB meeting were approved as presented at the February 8, 2008, meeting of the Board.

Respectfully Submitted,

Susanna R. Knight, Administrator
February 15, 2008