

LANDSCAPE CONTRACTORS BOARD
Minutes of the March 21, 2014
Board Meeting
Salem, Oregon

PRESENT

Board Members

John Gawlista, Chair
Annie Lee, Vice Chair
William Bumgardner
Larry Hoekman
Molly Dunston
Larry Thomas

Others

Katharine Lozano, Assistant Attorney
General, by phone

Staff

Shelley Sneed, Administrator
Kim Gladwill-Rowley, Program Manager
Michael Hintz, Investigator

EXCUSED

Christine Hollenbeck

1. PROCEDURAL

A. Call to Order

The meeting was called to order at 8:33 am by the Chair.

B. Approval of Agenda and Order of Business

Board Action: Moved by Mr. Thomas and seconded to approve the March 21, 2014 agenda. Vote: 5-0.

The Board added Master Gardener to a qualification for licensure and remove Item 6 (Exceptions) from the agenda.

C. Approval of January 16, 2014 Minutes

The Board made minor edits to the January 16, 2014 minutes.

Board Action: Moved by Mr. Thomas and seconded to approve the January 16, 2014 minutes with the minor edits. Vote: 5-0.

D. Approval of January 17, 2014 Minutes

The Board made minor edits to the January 17, 2014 minutes.

Board Action: Moved by Mr. Thomas and seconded to approve the January 17, 2014 minutes. Vote: 5-0.

2. Administrator's Report

A. Office Update

The Board reviewed Ms. Sneed's report, which is attached and made a permanent part of these minutes. Ms. Sneed reported the CCB Administrator suddenly retired last month. There is an interim person acting as Administrator, but she is unsure how long this will be. She also reported that she spoke to the Portland OLCA chapter about the legislative work group and that it was a nice discussion. She appreciated being invited and being part of the panel for that meeting. Ms. Sneed will be sure to give a report at the next OLCA meeting regarding the Board's budget and how things have improved.

Mr. Hoekman stated he has found there is confusion between the Landscape Contractors Board and the Oregon Landscape Contractors Association. Also, some do not understand how to read financial statements/reports and that it is ok to operate in the red. It is important to look at assets & liabilities along with the Profit & Loss Statement. He believes these things need to be kept in back of one's mind when discussing with others whether these items are understood. Ms. Sneed will put an article in the next newsletter regarding the difference and Mr. Gawlista will discuss this with the President of OLCA. Ms. Sneed stated she believes OLCA does a good job of attempting to educate its members about the difference in the two agencies and most of the confusion comes from those that are not part of the association.

With the budget improving the board does not want to give the impression that fees will go down. OLCA has been stating to members that they are keeping a close watch on the LCB's budget, but no one from OLCA attended the meeting today. Ms. Sneed will write a newsletter article regarding where the LCB's financial information can be found and if anyone has any questions or concerns, they should discuss them with Ms. Sneed.

Ms. Sneed reported the attendance was low for the High Desert Industry Conference in Redmond. She will be keeping an eye on that to determine if the Board should continue to attend the conference. Ms. McDowell stated the contractors in the Bend area do not believe there is anyone in that area since Mr. Salomone retired. Mr. Hintz will look into attending the next OLCA Chapter meeting in that area and bring the contract investigators to introduce them to the OLCA members.

Ms. Sneed reported the licensing desk is very busy and she hired a part-time temporary staff person to help with that area. This person is less than half time, so there are no benefits for that position. She plans to keep this position for another two months. She is keeping her eye on the increase in licensees to determine if this position needs to be full time or half time on a permanent basis.

Ms. Sneed reported the Oregon State Landscape Architects Board (OSLAB) has discussed scheduling a conference call meeting for May 15, 2014 with representatives from the two boards. OSLAB requested this be a private meeting due to the members from their side being new. Once these individuals are brought

up to date, the meetings will be public and notice will be issued. Ms. Sneed will e-mail the talking points that were formed about nine months ago to Board members who will respond back via e-mail only to her.

B. 2013-2015 Financial Report

The Board reviewed the updated unreconciled financial report as of February 28, 2014. Ms. Sneed reported the board's cash position has stayed stable during January and February. Current assets in February were down about \$2,000, but the accounts payable were about \$15,000 less, so the agency was able to use the excess cash to pay bills.

The Profit & Loss Statement previous year comparison shows the overall net income is \$10,000 more than last year. The application/exam income is up over \$8,600 and licensing fees are up nearly \$6,000. Civil penalty collections are \$4,000 less than last year, which is offsetting the other income improvements.

Employee costs are all lower than last year due to the budget decreasing one position to half time and then later realigning to a four person staff instead of 4.5 FTE. Unemployment costs are \$5,213 and that reflects the total anticipated billing for that line item. Overall there is \$17,000 less than last year in employee wages and benefits.

When the Planting license was approved, but before it went into effect, staff began notifying applicants or potential applications about this license. There have been four people apply specifically for the Planting license.

Postage and printing costs are great than last year, as expected. Almost 10,000 postcards were mailed notifying pesticide applicators, nurseries, yard maintenance businesses, current applicants and irrigation only phase licensees about the planting license.

Investigator expenses are lower than last year at this time, but we have found two new investigators interested in working with us (one in Roseburg and one in Portland). Staff is hoping to be more proactive on unlicensed landscaping activity in the metro area.

Overall, direct costs are \$40,000 less than last year at this time. That's an 11% decrease in expenses. The primary driver of that is the \$17,000 in employee costs that have been eliminated. The net income is \$35,000 better than last year at this time due to increased income combined with expense management. Total expenses are \$84,000 under budget and net income is \$82,000 over budget.

Board Action: Moved by Mr. Thomas and carried to approve the unreconciled financial report. Vote 5-0.

C. 2011 – 13 Financial Review Report

The Board reviewed the January 13, 2014 financial review prepared by Valerie A. Wicklund, CPA, LLC. The Board reviewed Ms. Sneed's draft response to the findings. One minor edit was made to the detailed budget finding and this response will be sent to Valerie A. Wicklund, CPA, LLC.

D. Cengage Book Purchase

Ms. Sneed reported that in May 2013 the agency purchased 125 of the David Sauter *Oregon Landscape Construction* books to take advantage of a sale price. As of March 2014 there are only 40 of those books left. 85 books have been sold in 10 months, which is about 8 books a month. With the Spring licensing season and the new Planting license, staff believes more books may be needed before the May board meeting in order to meet increased demand. The sales representative stated they were anticipating a sale in May or June. Staff would like to wait until then, if possible. In case books need ordered prior to the sale, Ms. Sneed would like the board to approve a purchase at this meeting.

Board Action: Moved by Mr. Thomas and carried to allow the Administrator to make a one time purchase of the Landscape Construction book up to a maximum of \$22,000. Vote 5-0.

3. PROGRAM REPORTS

A. Examination Report

The Board reviewed the examination statistics from 2003 through February 28, 2014. The number of tests taken in January & February 2014 is higher than the same months last year. The passing rate for some of the exam sections has increased, but not to the 70% goal.

B. License Count

The Board reviewed the license counts as of March 1, 2014. The number of licenses has remained steady for the last two years.

C. Enforcement

The Board reviewed a listing of final actions taken from January 1, 2014 through February 28, 2014. Ms. Gladwill-Rowley & Mr. Hintz reported on Eric Strickland, a repeat violator of landscaping laws. Mr. Strickland has a judgment against him for operating without a license. Since that judgment was issued, Mr. Strickland has been cited three more times for operating without a license. Staff have put together a packet of information and forwarded to the District Attorney to show a violation of his judgment. Mr. Hintz reported he has received information that Mr. Strickland has currently been attempting to coordinate work in the Hillsboro and Grants Pass areas.

D. Claims (Dispute Resolution)

The board reviewed a listing of closed claims from January 1, 2014 through February 28, 2014. There were seven claims closed.

E. Education

The Board reviewed the CEH audit statistics from January 1, 2010 through the present.

4. OLD BUSINESS

A. Delegated Authority Listing

The Board reviewed the Delegated Authority Listing. Staff reviewed some recommendations for changes that were suggested by legal counsel.

Board Action: Moved by Mr. Thomas and carried to amend the Administrative Authority Delegated to the Administrator as recommended by staff and legal counsel. Vote 5-0.

B. 2014 Strategic Plan Draft

The Board reviewed the 2014 Strategic Plan with amendments drafted by the Administrator. Ms. Sneed will update this plan and bring to a future meeting.

C. Vineyard Discussion

The Board reviewed revised draft rule language regarding the installation of vineyards, Christmas trees, grass seed and food products being landscaping work if done within or as part of a landscape job. Legal counsel had some minor edits. Board members discussed reforestation and requested staff review other agency's definition of reforestation, agriculture, and forestry. If these concepts are already defined elsewhere, the LCB would like to reference those cites. Ms. Lozano will put up to two hours into this and discuss with the Board at a future meeting.

D. Landscape Work Group Update

Mr. Thomas reported there is a small group of licensees – mostly from OLCA, that are formulating a position and have asked the Senator to allow them some time to come up with a consensus from their group which involves OLCA Board approval. This means the timing is not fast. The last work group meeting was postponed. The OLCA group wants to put together a package to be presented to the group. In April the small group is hoping to have something ready for the next OLCA meeting.

Mr. Thomas also stated he has been in contact with the Ethics Commission regarding his participation. He has been told he can go beyond representing the board and express his own personal opinions and not be subject to a law suit as long as he clearly states they are his not the boards.

5. NEW BUSINESS

A. Training for Exceptions Process

Removed from this meeting. Postponed until May 2014.

6. EXCEPTIONS FILED BY RESPONDENT (Case #13-08-252)

Removed from this meeting. Postponed until May 2014.

7. PUBLIC COMMENT

There were no public present.

8. LICENSURE QUALIFICATIONS

Ms. Sneed reported an applicant submitted documentation for qualifications for licensure, but she does not meet the current qualifications. The applicant does have a certificate from the OSU Master Gardener's program. Ms. Sneed checked into this program and found that on average those who go through this program have 60 hours of training prior to an exam. After certification, they require 10 hours of continuing education every year. Per OAR 808-003-0025(8) this applicant could be approved by the Board.

This applicant's credentials are:

- Since January 2013 was an owner/operator of educational gardening service.
- Strong science background and practical related work experience
- Completed November 2012 the OSU Master Gardener program in Bend (60 hours).
- From June 2012 through 2013 she documented maintenance services.

The Board encourages her to stay on track and she should qualify as early as June 2014.

9. ADJOURNMENT AND NEXT MEETING SCHEDULE

Board Action: Moved by Ms. Dunston and seconded to adjourn the meeting. Vote: 5-0. The meeting adjourned at 12:05 p.m. The next meeting of the Landscape Contractors Board will be April 17, 2014 by conference call. The following meeting will be held on May 16, 2014 in Salem.

Respectfully Submitted,

Kim Gladwill-Rowley
Program Manager