

LANDSCAPE CONTRACTORS BOARD
Minutes of the May 17, 2013
Board Meeting
Salem, Oregon

PRESENT

Board Members

Steven Carper, Chair
John Gawlista, Vice Chair
Larry Hoekman
Annie Lee
Molly McDowell
Larry Thomas
Lisa Walter Sedlacek

Others

Katharine Lozano, Assistant Attorney
General
Gayle Dresner

Staff

Shelley Sneed, Administrator
Kim Gladwill-Rowley, Program Manager
Vince Salomone, Investigator

EXCUSED

None

1. PROCEDURAL

A. Call to Order

The meeting was called to order at 8:30 am by the Chair.

Molly McDowell was introduced and is the newest board member. She stated that right out of college she had decided she wanted to be in Oregon and appreciates the licensing requirements in Oregon.

B. Approval of Agenda and Order of Business

Board Action: Moved by Mr. Thomas and seconded to approve the May 17, 2013 agenda. Vote: 6-0.

C. Approval of March 15, 2013 Minutes

Board Action: Moved by Mr. Gawlista and seconded to approve the March 15, 2013 minutes. Vote: 6-0.

The Board made a few minor edits to the March 15, 2013 minutes.

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 that the legislative fiscal office recommended the Semi-Independent agencies go through an Information Technology assessment and the LCB's started yesterday morning. They had access to desktops and looked at configurations of the firewall, database & network. They will write up a report with any recommendations to changes to our processes and systems. This will be brought to the July board meeting.

Ms. Sneed reported there was a staffing change and the Administrative Specialist II position is vacant. She stated she recommends the board continue to consider budget scenario 4A to give the agency the flexibility to fill the Administrative Specialist II position next year, if needed. Staff has been able to operate so far with less staff, but work loads are increasing. She will continue to monitor the workload in the office.

B. 2011-2013 Financial Report

The Board reviewed the updated unreconciled financial report as of April 30, 2013. The balance sheets for March and April show the agency transferred \$20,000 from checking to savings in April. The transfer is slightly earlier this year than in previous years, which is an indicator of increased licensing activity. One of the agency's CD's matured on April 30th, so the May financial statements will show that the money was deposited in the money market account at Washington Federal.

The May balance sheet will reflect a \$3,000 decrease in the agency's compensated absence liability due to the staff change. The petty cash fund increased from \$100 to \$200 to use the petty cash to pay minor incidentals.

The Profit & Loss previous year comparison report show income is up \$12,000 over last year at this time. We were seeing LCP applications and exam materials increasing, but now business licensing income has improved. Enforcement income is also higher than last year at this time. Staff believe that settling cases is helping that number with more respondents willing to pay the settlement amount. The respondent's like the flexibility of getting the discount to pay within 30 days or to have additional time to make payments.

Employee costs are over \$7,000 lower than last year at this time due to implementing furlough days and employees paying 5% of their health care costs. Other costs that are different than last year's: Ms. Clark has applied for unemployment and it has been approved. The weekly benefit was estimated at about \$540.

- Printing is down \$3,000 primarily by emailing the quarterly newsletter. About half of the newsletters are going out by e-mail and the other half by regular mail.

- Postage is up \$2,000 and some of that is the additional mailings we've been doing for licensee meetings, etc.
- Staff car expenses are down over \$3,000.
- Hearing costs are down \$3,000 due to less hearing requests due to being able to settle cases.
- DOJ expenses are up about \$3,000 due to having several complicated cases this year.
- Board expenses are down about \$4,000, which is primarily the cost savings in having our AAG attend the meetings half time instead of full time.

Overall, the total expenses are down about \$30,000 from last year at this time due to several factors:

- Several large biennial expenses paid in the first year of the biennium;
- Implementing furlough days and employee's paying 5% of their health care costs during the second year of the biennium;
- Other budget decisions, e.g. reducing the AAG board meeting attendance to half time instead of full time.

The Profit & Loss Budget vs. Actual report reflects positive income trends. The budget has been trended, so the numbers aren't as meaningful as the previous year comparison.

Board Action: Moved by Mr. Gawlista and carried to approve the unreconciled financial report. Vote 6-0.

C. 2011-2013 Financial Review Offer

Valerie Wicklund, CPA, LLC has offered to perform the agency's 2011-13 financial review. The contract includes the services performed for the last biennial review and a not to exceed price of \$7,000. The board's other option is to have a financial audit, but that does not look at process and procedures. The cost of an audit would be between \$9,500 and \$12,000 according to the Audit Division of the Secretary of State. An audit tests financial statement validity and compliance.

Ms. Sneed recommends contracting with Valerie Wicklund, CPA, LLC to perform the 2011-13 LCB financial review and possibly have an audit next year. If approved, the review will begin in August and the final report will be done no later than January 31, 2014.

Board Action: Moved by Mr. Thomas and carried to direct Administrator to proceed with financial review recommendation as presented with Valerie Wicklund. Vote: 5-0 (Hoekman was out of the room).

D. Sauter Book Purchase

Cengage contacted Ms. Sneed regarding the Sauter landscape book because there will be an increase in the cost of the book soon. They offered a 30% discount and free shipping for 100 copies at \$11,800. This is a great savings and Cengage is now allowing orders outside of 100 in quantity. Ms Sneed recommends ordering 125 for an additional \$3,000. This proposal is good until May 31, 2013. Cengage will bill the agency after the books are shipped.

Board Action: Moved by Mr. Gawlista and carried to authorize the purchase of 125 Sauter books for inventory. Vote : 6-0.

3. PROGRAM REPORTS

A. Examination Report

The Board reviewed the examination statistics from 2003 through April 30, 2013. There were 128 exams taken in March 2013 and 71 taken April 2012.

The Board reviewed the number of examinations by site location. From January 1, 2012 through March 26, 2013, there was a total of 494 exams taken to obtain a landscape construction professional license with 255 of them taken in Portland, 71 in Bend, 65 in Independence, 45 in Medford, 44 in Eugene, 11 in Baker City and 3 in another state. There were 38 exams taken to obtain a probationary license and 10 to obtain the owner/managing employee designation.

EXAM COMMITTEE REPORT

The Board reviewed the history of the exam and the exam committee prepared by Ms. Sneed. The exam is designed to test the minimum competency of new licensees coming into the field. The exam is the tool to ensure that licensees have a basic knowledge of all aspects of landscaping work and business, knowledge of the legal framework to keep their business in compliance, and to protect consumers and their property from harm and damage.

The board reviewed a listing of proposed exam committee tasks and goals prepared by Ms. Sneed. Ms. Sneed recommends the Exam Committee be comprised of three LCB board members, selected subject matter experts to write specific new questions when there is a gap or a new need identified in a section, and to limit the use of non-board members to review or write specific questions related to their specific field of interest or specialty.

The end result of whether or not the question was changed would be decided by the three LCB Board members. This draws a line between industry consultants and those making the final decisions. The committee continues to need a firm foundation of dedicated industry consultants. Ms. Sneed will discuss with legal counsel protecting the current exam committee and making sure the final decision making provides that protection.

Ms. Lee stated that she believes the passing rate goal should be higher than 55%-60%. Also, in the committee goals "ensure" should be replaced with

“strive”. The board discussed the pass rate and determined it should fall within the 65-70% rate.

Ms. Sneed also proposed that if the pass rates aren't within the targeted range, the exam committee meet every six months to review pass rates of each section and modify questions. The committee should also meet every other year to review the entire test bank, unless there is a reference or source change that would require a meeting outside of the biennial schedule.

The next scheduled review is in September/October, which is 6 months after the implementation of the recent exam changes. Ms. McDowell is interested in being on the Exam Committee.

B. License Count

The Board reviewed the license counts as of May 1, 2013. The individual count has been holding steady for a while and now the business count appears to also be holding steady.

C. Enforcement

The Board reviewed a listing of final actions taken from March 1, 2013 through April 30, 2013.

Mr. Hoekman reported he is seeing more people hiring unlicensed businesses to build drip systems off a hose bib. The current rules show this is considered an irrigation system.

Scott King, Cascade Collections

Mr. King from Cascade Collections attended the board meeting and discussed the collection process for outstanding civil penalties.

The accounts are assigned to Cascade Collections and given 30 days to “validate” the debt. This means that phone calls and written notices are sent informing the respondent the account has been assigned to a private collection company. Mr. King has observed that over the last six months the LCB cases have been assigned quicker, so the debt is not as old as prior cases. Cascade Collections does not consider the collection process finished until there are no alternatives, i.e. death or receiving disability. Cascade Collections has several software programs to allow them to find people. Recently Cascade Collections and LCB staff have been working to find a way to turn the order into a money judgment, and then bank accounts may be garnished.

The collection system with Cascade Collections allows the LCB to collect in full as well as the collection fee charged by Cascade Collection. Mr. King stated they will work with anyone on payments and their last resort is to take from their bank accounts. They want them to stay in business. Cascade Collections has 3 bilingual collectors, which has been extremely helpful. The recovery rate for LCB cases is 6.90%. Mr. King hopes to see this increase to 13 or 14%

D. Claims (Dispute Resolution)

The board reviewed a listing of closed claims from March 1, 2013 through April 30, 2013. There were three claims closed.

E. Education

The Board reviewed the CEH audit statistics from January 1, 2010 through the present. The responses to the audit have increased and most licensees are aware of the requirement and are complying.

4. OLD BUSINESS

A. 2013 Strategic Business Plan

That board reviewed talking points for board members to make contact with colleges and universities with education programs in landscaping or related fields. This could also be shared with private educational institutes and other groups offering landscape related education.

B. Review/Update of LCB Bylaws

The Board reviewed the draft revision to the bylaws.

The Board discussed the board chair voting on each motion, but not making a motion. A majority of the members believe the chair should be allowed to vote on all motions.

Board Action: Moved by Mr. Gawlista and carried to adopt the bylaws as edited through today's discussion. Vote 6-0.

C. Report on Joint Meeting with OSLAB

Ms. Sneed reported this meeting did not take place because the dates no longer worked for the OSLAB due to board turnover. The board reviewed the talking points for discussion and these will be sent to the OSLAB.

5. EXCEPTIONS FOR ENFORCEMENT CASE 11-04-189

Ms. Dresner appeared, provided a written document and testified regarding her exceptions.

The agency left public meeting at 11:16 a.m.

The agency returned to public meeting at 11:40 a.m. No action was taken outside the public session.

Board Action: Moved by Mr. Thomas and carried to adopt the ALJ's Proposed Order on 12-06-273. Vote: 6-0.

6. PUBLIC COMMENT

At 1:09 p.m., Chair Carper noted there were no public members in the attendance and closed the public comment period.

7. LEGISLATIVE

A. Review of Legislative Bills being tracked by LCB in 2013

The Board reviewed the listing of legislative bills being tracked by staff.

Ms. Sneed reported that SB 557 has a budget impact to the state due to the task force component. Mr. Cross spoke with a co-chair who stated there are several requests for task forces, so they are waiting for the revenue forecast, which came out yesterday. Ms. Sneed reviewed the process of SB 557 and how the amendments have come about. She reported the Vice Chair (Senator Starr) of the senate committee requested the agency and OLCA work on these amendments together.

The bill that requires landscape maintenance companies to register did not pass through the House committee, so is considered dead.

8. NEW BUSINESS

A. Mission Statement Revision

The Board reviewed the current mission statement and changed it to "The Landscape Contractors Board regulates the landscape construction industry in Oregon for the protection of the public interest through education, licensing, dispute resolution and enforcement."

Board Action Moved by Ms. Lee and carried to adopt the amended mission statement. Vote 6-0.

B. Letter/E-Mail from Kory Knutz

The board reviewed an e-mail from Kory Knutz regarding the CEH program. The board would like to thank Mr. Knutz for his efforts on a regular basis.

C. Proposed Administrative Rule Amendment

Amends Exam Section Titles

The board reviewed the proposed new exam titles for General A, General B, General C, and General D. The new titles are: Plants and Turf; Landscape and Construction; Grading and Drainage; and Safety, Estimating, Soils, and Chemicals.

Board Action: Moved by Mr. Thomas and carried to adopt the amendment to 808-003-0045 and 808-003-0060 as presented. Vote 6-0

D. "Lawn Restoration"

The Board reviewed a copy of a contract for "Lawn restoration work". This contract was submitted along with a claim for negligent work for the lawn restoration. The Board determined if the lawn was sprayed and removed and a new lawn installed, a license is required and this work would be within the jurisdiction of the LCB. However, if only the weeds were sprayed and the lawn reseeded, that would not require a license and the LCB would have no jurisdiction. Staff will further investigate the work that was done, and, using the Board's advice, determine jurisdiction of the claim.

8. ADJOURNMENT AND NEXT MEETING SCHEDULE

Board Action: Moved by Mr. Gawlista and seconded to adjourn the meeting. Vote: 6-0. The meeting adjourned at 1:45 p.m. The next meeting of the Landscape Contractors Board will be June 20, 2013 by conference call. The following meeting will be held on July 19, 2013 in Salem.

Respectfully Submitted,

Kim Gladwill-Rowley
Program Manager