

OREGON LANDSCAPE ARCHITECT BOARD
MEETING MINUTES
August 4, 2006

Sunset Center South Conference Room
1193 Royvonne Avenue SE, Salem, Oregon 97302

Members Present: Gladys Biglor, Public Member, Vice-Chair
Paul Kylo, Public Member, Treasurer
Andrew Leisinger, Chair, Landscape Architect
Ron Nichols, Public Member
Mel Stout, Landscape Architect
Timothy Van Wormer, Landscape Architect

Members Absent: David Olsen, Landscape Architect

Staff Present: Susanna Knight, Administrator
Kyle Martin, AAG, Executive Session Only

Chair Leisinger convened the meeting at 8:38 AM and inquired of Board Member Olsen's absence. *Knight* stated that staff had not been contacted about an absence. *Leisinger* then announced:

"The Board will now meet in executive session for the purpose of reviewing documents that are exempt by law from public inspection under ORS 671.338 (1)(b), 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."

Chair Leisinger closed the Executive Session at 9:50 AM and announced that the Board took no action during the Executive Session. During the Compliance Committee Report the Board would address information discussed during Executive Session. The meeting was briefly recessed and reconvened at 10:00 AM.

The following change and additions were accepted to the agenda:

- *Knight* reported that the agenda item 3(B)(1), oral interview, was postponed to the November Board meeting as requested by the candidate [LAC 06 07 163].
- *Knight* requested to add the following items:
 1. LAC 06 07 164 (July 27 Email asking practice questions);
 2. LAC 06 08 170 (Letter regarding business registration fees);
 3. Brochure distributed by Department of State Lands.
- *Biglor* requested to add the following additional items under the Internal Affairs Committee Report: 3) Information regarding pro-bono activities for continuing education; 4) Status on proposal for Board member turnover; 5) Report on Board successes; 6) Consolidation of information coming to the Board for action.

1. **Meeting Minutes:** *Kylo* moved to accept the May 12, 2006, and June 22, 2006, Board meeting minutes as presented. Seconded and passed: *Biglor*, yes; *Kylo*, yes; *Leisinger*, yes; *Nichols*, yes; *Stout*, yes; *VanWormer*, yes.

2. ADMINISTRATIVE MATTERS:

- A. Administrator *Knight* reported the following:
1. Biennial Financial Audit: an email was received yesterday from the Secretary of State's office reporting that a draft of the biennial financial audit would likely be delivered to OSLAB next week. *Knight* stated that following receipt of the draft audit, an exit interview would be convened with Board member representation.
 2. Exam Hardship: The contract with the Counsel of Landscape Architect Registration Boards (CLARB) does allow for exam hardship consideration. Staff received a request for such consideration and will follow the procedures as outlined in the CLARB contract.
 3. CLARB Exam dates are December 4 & 5, 2006. Board members are asked to check their calendar for availability from 7:15 AM to 1:45 PM each day.
 4. Statewide Business Continuity Plan (SBCP): all state agencies must assure that critical functions provided to citizens continue under any circumstances. Two SIBA (Semi-independent Board Association) administrators are currently involved in training for SBCP which will be shared with all SIBA Administrators. Additional information will be presented to the Board when it is available.
- B. Budget Update 2005-07 Biennium:
1. Balance Sheet: *Knight* distributed a Balance Sheet as of July 31, 2006, revealing that the current bank balance is \$180,346.11.
 2. Current Biennium Revenue & Expense Report through July 31, 2006: *Knight* stated that this report of financial activities through the first thirteen months of the biennium reveals that the Board has a net income of \$22,601.29.
 3. Revenue & Expenses, Budget vs. Actual: *Knight* directed the Board to the first column which lists the budgeted amounts for the 2005-07 biennium and then the six additional columns, three columns reporting final information for the first year of the biennium and three columns reporting information-to-date for the second year of the biennium. *Knight* noted the following year two line item budget increases approved at the June 22, 2006, Board meeting:
 - a. under 6300-Services and Supplies, a \$1,000.00 addition in account #4103 to provide meals for Board functions (the original biennial budget provided no funding);
 - b. under 6500-Professional Services,
 - i. an increase of \$12,000 in account #5209 for the addition of .5FTE for year two of the biennium (This amount is matched by the Geologist Examiners Board.); and
 - ii. an increase of \$10,000 in account #5902, Database Design Contract to fund a replacement database for the Board.

Knight stated that this is the first report prepared from QuickBooks to reflect the budgeted versus actual amount and noted the higher than budgeted income under #1100 Fines and Foreits. *Knight* reported that this reflects late fees paid by registrants. A few revisions will occur, such as the income for Firms, Application Fee which really represents renewal fees for firms. Staff will work to correct that figure before the next Board meeting.
- C. *Knight* reported the following new Business additions since the last Board meeting:
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|---|------------|
| 1. L215, Marianne Zarkin, Landscape Architect | 05/05/2006 |
| 2. L216, Landmark Landscape Architects | 06/09/2006 |
| 3. L217, Environmental Landscape Architecture | 06/09/2006 |
| 4. L218, GGLO | 06/27/2006 |
- D. *Knight* reported one Emeritus request processed for Andrew N. Rice, RLA 136.

3. COMMITTEE REPORTS

A. INTERNAL AFFAIRS SUB-COMMITTEE: *Biglor* reported as follows:

1. The document for Co-Chairs of the Joint Legislative Audit Committee, presented as a draft document at the May Board meeting, has not yet been distributed. Staff will be asked to distribute the document when complete.
2. The Bend Workshop titled "Board of Director & Governance Workshop" was awesome and provided what OSLAB needs. Much information was packed into three hours. The presentation included: what influences the future of the Board; reviewing mission and vision; revising policies; connecting to registrants. *Biglor* stated that he workshop would be well worth the time at a Board Meeting. Board Members supported the recommendation and suggested that staff contact the SIBA group about jointly participating.
3. CLARB's position, regarding the recognition of pro-bono activities for continuing education, is that such activities represent personal gain rather than health, safety and welfare components. *Biglor* is not yet convinced that pro-bono activities should be recognized for continuing education credit. *Stout* suggested that if a registrant provides pro-bono information for the Continuing Education Committee, it may be difficult to evaluate.
4. The Governor's office provided a timeline for appointment to the positions currently held by *Biglor*, *Kyllo* and *Leisinger*. As noted by the Governor's staff, assistance is needed in soliciting applications for the Public Member positions. Current Board Members are asked to provide names to *Knight* for forwarding to the Governor's staff to make contact with those individuals.
5. In response to recent comments heard by *Biglor* about the Board doing nothing over the last years, *Biglor* distributed a report titled HISTORICAL PERSPECTIVE ON SUCCESSFUL BOARD ACTIVITIES [See Appendix 1]. The report focuses on the successes of the Board from 1992 through 2005. *Biglor* noted that she identified dozens of hours spent at the Legislature working on the successful passage of a practice act but that her report failed to include information about another huge effort by the Board, continuing education. *Stout* stated his appreciation of *Biglor*'s document and other Board members concurred.
6. *Biglor* relies on the Board meeting packet that arrives before the meeting in her preparation for the meeting. Information arriving after the packets are distributed should be deferred to the next Board meeting, as there is no time to read and prepare for a discussion. Because the Board meets only four times a year, this converts to an extended delay in response to inquiries. Perhaps Board meetings need to increase to every other month as the Board has a litany of agenda items each meeting and there is not enough time. With the change from a title to a practice act and the addition of continuing education, much information is coming before the Board. *Van Wormer* offered that adding more meetings is not necessarily going to make changes but rather the Board needs more discipline about agenda items. *Kyllo* offered that the nature of any Board is to expand into whatever additional time is added so increasing meetings might not solve the concern. *Biglor* inquired about continuing education availability for serving on Board sub-committees and proposed a major marketing campaign with the registrants. *Biglor* requested that these items be added to the next Board meeting agenda. *Knight* suggested that the Board establish an Outreach Committee. *Stout* offered that our plates are currently full and that the Board has added both a newsletter and a web page in the past eighteen months for outreach. *Stout* suggested that such a committee be as vision for the future.

B. LICENSURE REVIEW COMMITTEE:

1. The oral interview for initial registration by examination for Justine Lovinger was postponed to the November Board meeting as requested by the candidate. The Board discussed the

history of the oral interview and *Stout* stated that one-on-one interviews by assigned Board members can cover the basic interview questions as has recently occurred in “emergency” situations. *Biglor* stated that, by attending a meeting, new registrants become familiar with Board Members and the Board office and there is value in the Board answering questions of new applicants for registration. *Stout* offered that perhaps it is time to consider streamlining the process as candidates rely on benevolent employees or vacation time to travel to the Board meeting. *Chair Leisinger* delegated research on this discussion to the Rules Chair *Nichols* directing that information be provided for the next Board meeting. OAR 804-020-0055 currently requires oral interviews for initial registration.

2. *Van Wormer* stated that the following two individuals were approved for LA registration by reciprocity since the last Board meeting and reported that staff Marilou Arrobang is doing a good job in preparing the review documents:

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|----------------------|--------|-----------|
| a. Underwood, Marlys | LA 602 | 5/22/2006 |
| b. Runco, R. Joseph | LA 603 | 6/16/2006 |

4. ADMINISTRATIVE RULES COMMITTEE: *Nichols* stated that many rules are in need of updating and reported the following:

- New Division 35 regarding the regulation of Landscape Architect businesses is now complete.
- OAR 804-001-005 and OAR 804-001-0014 have been noticed in the Oregon Bulletin and the final paperwork is pending.
- Division 10 and Division 20 are the next rules to be revised. A meeting with staff is scheduled for August 16, 2006, to clarify issues.
- All draft language will be presented to the Rules Advisory Committee prior to appearing on a Board meeting agenda.

5. CONTINUING EDUCATION COMMITTEE: Chair *Stout* distributed a report and shared the following information with the Board:

- The committee learned from the practice audit of Board Members’ continuing education submissions that back-up documentation must be received as part of each audit.
- Three registrants’ paperwork was reviewed; two are recommended for renewal; one registrant’s materials failed to provide sufficient documentation as it was lost in an office move.
- Back-up documentation is very important for determining the eligibility of the course. The burden of proof is on the registrant to provide support documentation.
- The Board’s approved form for logging CEU coursework needs revisions to assist with the audit process. Staff was directed to make those changes.
- ORS 671.408 (5) is the law that empowers action by the Board with regard to complying with continuing education.
- The Continuing Education Committee has changes for the Rules Committee.

At 12:15 PM, *Chair Leisinger* recessed the meeting for a working lunch in the conference room. The board discussed the need for an expert Registered Landscape Architect to assist with a compliance case and the need for names of Public Members to replace Board Members *Biglor* and *Kyllo*.

At 12:45 PM, *Chair Leisinger* reconvened the meeting.

Stout requested action from the Board regarding the three continuing education audits.

- *Kyllo* moved that the Board issue a request to one candidate for back-up documentation for support of continuing education units submitted to the Board through the audit process.

Seconded and passed: *Biglor, yes; Kyлло, yes; Leisinger, yes; Nichols, yes; Stout, yes; Van Wormer, yes.*

- *Kyлло* moved that the Board accept the recommendation from the Continuing Education Committee to approve the submissions of two audited candidates. Seconded and passed: *Biglor, yes; Kyлло, yes; Leisinger, yes; Nichols, yes; Stout, yes; Van Wormer, yes.*

Stout directed staff to inform any future audited candidates that they should provide information in their continuing education submissions about upcoming planned activities in support of a current continuing education audit if they are relying on those courses for the current audit.

Stout asked the Board to consider the inquiry about the application of continuing education requirements with regards to Emeritus status if returning to active status. A discussion continued about emeritus and inactive registrants' responsibility with regards to continuing education.

Stout moved that continuing education requirements commence, for an Emeritus or Inactive registrant, upon re-entering or reactivating their registration. Seconded and passed: *Biglor, yes; Kyлло, yes; Leisinger, yes; Nichols, yes; Stout, yes; VanWormer, yes.*

6. COMPLIANCE COMMITTEE: *Kyлло* moved to direct staff to issue to the respondent in compliance case #05-05-005 a NOTICE OF INTENT TO ISSUE A CIVIL PENALTY of \$5,000.00 for the practice of landscape architecture without registration and a Civil Penalty of \$500.00 for using the title "Landscape Architecture" to represent that respondent or respondent's business was authorized to practice landscape architecture when respondent was not registered to do so in Oregon for a proposed civil penalty of \$5,500.00. The Board discussed the use of the title of landscape architect on a business card by a non-registrant and past enforcement practices. *Biglor* stated that it is time for the Board to be more diligent about the responsibility for enforcing the law. Seconded and unanimously passed: *Biglor, yes; Kyлло, yes; Leisinger, yes; Nichols, yes; Stout, yes; VanWormer, yes.*

Kyлло distributed an advertisement for a Stonework Symposium to be held in Hood River, Oregon, prepared by a company out of Sante Fe, New Mexico. An individual from Oregon is listed as a presenter with the title Landscape Architect. Discussion centered on the law that requires registration for Oregonians using the title Landscape Architect in Oregon. *Biglor* moved to direct staff to contact the Symposium Company about the acquisition of participant's information for their brochure. Discussion clarified that staff would seek the requested information, and staff would also educate the company if the answer mandated. Seconded and passed: *Biglor, yes; Kyлло, yes; Leisinger, yes; Nichols, yes; Stout, yes; Van Wormer, yes.* *Stout* stated that the Board is obligated to contact the individual about the Oregon law and any other individual using the title without registration. *Nichols* asked the staff to contact ASLA also.

Discussion ensued about the responsibility of a company to rein in the use of the title Landscape Architect by their staff. *Stout* stated that California requires that all Landscape Architects place their registration number on very document i.e. letterhead, business cards, etc. [Vision: Use of registration number.] He also inquired if the General Contractor license in Oregon allowed work as a Landscape Contractor and as such, to advertise for landscape work. If landscape contractors are advertising such work, the Landscape Architect Board cannot do anything. But *Stout* questioned where General Contractors fit in this scheme. Staff was asked to research the scope of practice of a General Contractor as it relates to work identified as Landscape Contracting work.

7. OLD BUSINESS

- A. *Leisinger* reported that the Oregon Landscape Contractor Board legislative committee has not convened so no additional information is available.
- B. The Board discussed the disbursement/investment of the Department of Administrative Services/Risk Management Division insurance payout. *Biglor* stated that the Board should have 6 months operating expenses available in liquid and suggested the Board could get the best return from a Money Market account with the remainder in a long term account, such as Certificate of Deposits. Members concurred that the checking account should not be shaved to closely. *Biglor* and *Leisinger* will do additional research and advise staff as to the investment decision.

8. CORRESPONDENCE

- A. LAC 06 07 141: Continuing Education for Emeritus LA [See action under Continuing Education Committee report.]
- B. LAC 06 07 154: Continuing Education for Inactive LA [See action under Continuing Education Committee report.]
- C. LAC 06 07 164: The Board concurred that Natural Resource/Wetland Planners do the conceptual plans that incorporate science. They do not design or construct, as these require specialty registrations. Such individuals must acquire registration or be supervised by the appropriately registered professional to do such work. *Biglor* offered that a new field is being pointed out to the Board. *Stout* stated that biologist do not do construction plans. *Van Wormer* asked: what is the threshold for conceptual plans? *Stout* and *VanWormer* concurred that Administrative Rules must further define construction documents. *Van Wormer* indicated that the Board needs further discussion and analysis of this area. *Biglor* concurred with the need to determine the threshold of “conceptual plans”. *Stout* agreed to draft answers to all questions in this correspondence and additional discussion will occur at the next Board meeting.
- D. LAC 06 08 170: The Board discussed the business fee concern raised in this letter. *Nichols* stated that he struggled with this issue in developing the new OAR, Division 35, but the Advisory Committee determined that it was a moot point. Small business is represented on the Advisory Committee. The Board members reflected on previous discussions about this fee, which directly affects two current Board members who are sole proprietors. Staff was directed to draft a response.
- E. Brochure prepared by Division of State Lands (DSL): The Board reviewed this document and clarified to staff that this brochure is about permitting only. *Stout* stated that wetlands are regulated by the DSL and the Corp of Engineers, which looks at enhancement, recreation, satisfactory mitigation, etc. DSL is aware that landscape architects are good at plans.
- F. *Chair Leisinger* reported that he received a letter from an examinee with concerns about noise surrounding the recent examination site. Chain saws were working on land adjacent to the community college property. *Leisinger* called the candidate and explained that the Board’s goal is to provide the best possible environment for the exam, but some things are out of the Boards’ control, such as noise created by adjacent property owners. Staff solicited input at the close of the exam from other candidates at the site. They recognized the noise, but tuned it out and went on with their examination. No further follow-up is planned. *Leisinger* stated that he had also been contacted by an applicant for registration regarding the Administrative Rules in effect for the application. *Leisinger* informed the applicant that when all paperwork is complete in the Board office, the application will be considered by the entire Board.

9. NEW BUSINESS

A. Processing Requests for Inactive Licensure: *Biglor* moved to direct staff to process any Landscape Architect requests for inactive status; issue a confirmation letter when appropriate request is present; and report at the next Board meeting of all new inactive registrants. Seconded and passed: *Biglor*, yes; *Kyllo*, yes; *Leisinger*, yes; *Nichols*, yes; *Stout*, yes; *Van Wormer*, yes. The following will be processed accordingly: Eric Bohard, RLA 300; John Paul Carman, RLA 574; Steve Ross, LA 395; and Alex Schwartz, LA 576.

B. Job Description: ODOT Environmental Program Coordinator 3: The Board discussed the job description as advertised by ODOT and confirmed that the work in the job announcement is that of a landscape architect. *Biglor* moved to issue a letter to ODOT requesting that the candidate hired for the Environmental Program Coordinator 3 job announcement be registered as a landscape architect in Oregon. *Seconded and passed.* *Biglor*, yes; *Kyllo*, yes; *Leisinger*, yes; *Nichols*, yes; *Stout*, yes; *Van Wormer*, yes.

C. Election of Board Officers per OAR 804-001-0015: *Biglor* moved that the Board elect the following slate of officers: *Stout*, Chair; *Van Wormer*, Vice-Chair; *Nichols*, Treasurer. Discussion followed. *Stout* asked to be removed as a candidate due to his current involvement in numerous other Boards. Staff requested that the Board assign someone locally to check signing authority at the Bank. After additional discussion, *Kyllo* amended the motion to the following final slate of officers: *Van Wormer*, Chair; *Leisinger*, Vice-chair; *Nichols*, Treasurer. *Biglor* accepted the amendment. *Seconded and passed.* *Biglor*, yes; *Kyllo*, yes; *Leisinger*, yes; *Nichols*, yes; *Stout*, yes; *Van Wormer*, yes.

10. ANNOUNCEMENTS:

A. The next Board meeting is scheduled for November 17, 2006, at the Board office in Salem. *Nichols* informed the Board that he may not be available on that date.

B. The Compliance Committee drew names for the upcoming Continuing Education audit. Six names were drawn for the audit, two for October's renewal period; three for November's renewal period; and one for December's renewal period. Staff was directed to issue the audit notices immediately so that the review of documentation by the Continuing Education Committee can be completed before an updated renewal is issued for each audited registrant.

11. **ADJOURNMENT:** *Chair Leisinger* adjourned the meeting at 3:27 PM.

Note: An email was received in the Board office at 2:38 PM, August 4, 2006, alerting Board Members and staff that David Olsen had planned to be present but due to a staff emergency, he was required to remain in his office.

Respectfully submitted,

Susanna Knight, Administrator

Minutes as presented here were approved at the November 17, 2006, meeting of the Board.

Respectfully submitted,
Susanna Knight

November 21, 2006

Appendix 1

Report to the Oregon Landscape Architect Board Historical Perspective on Successful Board Activities

Aug 4, 2006

by

Gladys I. Biglor

Public Board Member and Vice Chair of Board

Recently the quality of past Oregon State Landscape Architect Board (OSLAB) activities has come into question along with criticism of past Board action. It appears to me that recent legal activities of the Board, due to illegal activities by a former Board Administrator, have heightened the level of criticism of the Board, specifically past Board actions by existing and former Board members.

I want to ensure that past successful Board work will not be overshadowed nor forgotten as existing and former board members tenure is reached or exceeded and these members are replaced.

SUCCESSFUL BOARD ACTIVITIES FROM 1992 THROUGH 2005:

1. Transform from practice act to title act
2. Successfully investigated, analyzed and resolved dozens of cases brought before the board by the public or landscape architects.
3. Active re-writing of administrative rules by the board which resulted in clarifying the intent of; and simplifying the rules; so as to reduce or eliminate barriers to landscape architects and making it easier for landscape architects to sit for the exam, and to clarify for the public the intent of the rules.
4. Increasing the visibility of the Board:
 - a. Held meetings across the state to provide easy access by the public
 - b. Attended meetings with ASLA to provide easy access to the Board
 - c. In 2004 developed & began publication of a newsletter "The OSLAB Review" for registered LA's, Businesses and others interested in Board business.
 - d. Recent development and use of an OSLAB website
5. Increasing the breath of experience of Board members:
 - a. Past board members have been recruited from academia, natural resource fields, other closely aliened fields, sole proprietorships as well as public entities and corporations.
6. Worked on cost containment with the intent to maintaining the lowest fees possible and yet meet the obligations of the Board. During the last 10+ years, OSLAB fees have risen less than increases in the standard of living. An example of one way the Board did this is by moving the Office location twice for lower rents.
7. Developed and Implemented a Continuing Education program for registered Landscape Architects
8. Finally the Board successfully worked with the State and Law enforcement through an investigation of one of the former Board Administrators. This resulted in successful prosecution of the former administrator, recovery of Board equipment, and most importantly full recovery of stolen Board funds.

INTERNAL CONCERNS OF PAST BOARD ACTIVITIES:

The Board has always operated within in the highest of ethical standards throughout the 1990's and up to today. During my tenure, when reviewing cases that come before the Board, members have thoroughly investigated cases to establish the facts to determine if a violation of Oregon statutes has occurred.

If the facts indicate that there is insufficient evidence to determine that Oregon statutes have been violated by any party, than the Board has always been disinclined to jump to legal action and instead determined what reasonable action was needed to ensure the heath and safety of the public. Most often this resulted in the Board sending letters to individuals involved in the case to ensure their knowledge and understanding of Oregon statutes with regard to the title or practice act. Past correspondence has been sent to lawyers, individuals, city and county government offices/officials, and the news media such as newspapers, magazines, telephone

directories. In the majority of cases this type of action had a positive effect in the education of the contacts and eliminated future violation of Oregon's landscape architecture standards.

The Board must continue to maintain its high standard of deliberately proceeding through the investigation of each every case that comes before the board to first determine factual evidence before proceeding to action. Should the Board fail to do so, it not only could put the credibility of the Board at risk, it could also put the public at risk should the Oregon State Legislature determine that the Board is not meeting its mission.

In summary, I hope this report of past OSLAB activities will prove useful to current new OSLAB members and Administrative staff as well as new members to come. It is my hope that the Board will continue to meet the highest of ethical standards when conducting the work of the Board. After all ensuring the safety and health of Oregon citizens and visitors of this grand state is the reason we have volunteered to be a member of OSLAB.

Sincerely,

/s/ Gladys I. Biglor

Gladys I. Biglor