

OREGON LANDSCAPE ARCHITECT BOARD
November 14, 2008, MEETING MINUTES

Members Present:	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 Susan Wright, Public Member
Members Excused:	Robert Edwards, Public Member
Staff Present:	Susanna Knight, Administrator
Candidates Present for Initial Registration:	Heather Armstrong Jennifer Bass Maureen Raad Steven Tuttle Rebecca Wahlstrom
Candidate Present for Reinstatement of Registration:	Kathryn Seidenwurm 1:30 PM to 1:40 PM
Guests Present	Pat Carruthers, DAS, RMD, 1:00 PM to 1:30 PM Kevin Moynahan, DSL, 2:00 PM to 2:40 PM

The Board meeting was preceded by a Work Session scheduled at 8:30 AM, both convening in the 2nd Floor Conference Room of The Association Center, 707 13th Street SE, Salem, Oregon 97301. Due to late arrivals, the Work Session began at 8:50 AM with the Board Administrator leading the Board on a tour of the building. In particular, the Board viewed the large conference room which could handle exams. The Board convened in another of the three available conference rooms in the building. Staff is investigating relocating to this building.

At 9:07 AM *Pellitier*, Liaison to OLCB, presented his research about the practice of landscape architecture and the overlap with other professions. His contact with the Council of Landscape Architect Registration Boards (CLARB) revealed that the only overlap issue CLARB is aware of is with Professional Engineers. Landscape Architects (LA) are educated and trained in grading but municipalities are not properly educated as to this role of the LA. *Pellitier* recommended that a letter from the Board's Attorney inform municipalities that an LA can do grading. CLARB will form a committee regarding practice overlap. Overlap with the construction field has not been raised with CLARB. Nothing was located to reveal that any other states regulate landscape contractors. If they are regulated, then they are regulated under the construction side.

Recommendations coming out of the Work Session included the following:

1. Outreach about the practice of landscape architecture;
2. ASLA teaching Rules and Laws;
3. Encouraging ASLA to attend one meeting per year;
4. Acquire information of the CLARB exam critique;
5. Develop guidelines about health, safety, welfare:

6. Review statute for revision next session;
7. Letter to municipalities regarding the practice of grading and drainage.

Van Wormer then reported on his luncheon meeting with the Chair of OLCB where the following five topics were discussed:

- the exemption in the OSLAB law to allow all exemptions in the OLCB law;
- the definition and intent of the word “Plan”;
- landscape designers;
- ASLA & OSLAB and LCA & OLCB; and
- Semi-independent boards.

The OLCB Chair understood OSLAB’s need to remove the exemption from the OSLAB law that allows all exemptions in the OLCB laws. It appears that OLCB would like to allow its registrants to design projects that someone else might build. OSLAB has discussed this with regard to “plan or design”. OSLAB indicated that HSW is a concern. *Van Wormer* discussed with the OLCB Chair that OSLAB does not know if the OLCB exam contains the health, safety, welfare (HSW) component of the national LARE examination prepared by CLARB and administered in Oregon by OSLAB. OSLAB would be entering testimony into the record at the upcoming OLCB Administrative Rules Hearing on this matter. *Van Wormer* stated that OSLAB would then leave it to the State of Oregon to determine whether there are HSW issues. *Van Wormer* also reported that OLCB is concerned about the potential of losing semi-independent board status. *Van Wormer* asked whether the Landscape Contractor Association (LCA) acts as a steering committee for OLCB. *Van Wormer* explained to the OLCB Chair about the unfavorable legislative report about the relationship of OSLAB and its professional association and told the OLCB Chair that a strong relationship with a professional association is not recommended for regulatory boards. The chair of OLCB stated that OLCB is aware of this and that OLCB keeps the two entities separate. The board chairs agreed that ongoing dialogue was important.

Van Wormer announced a 5-minute break with the Board meeting to convene at 10:05 AM.

.....

Chair Van Wormer called to order the quarterly meeting of OSLAB at 10:05 A.M. and asked for any changes or additions to the agenda. *Stout* moved to approve the agenda with the following revisions:

1. At 2:00 PM, Kevin Moynahan from the Division of State Lands will join the Board to share the results of a year-long study regarding wetland certification in Oregon.
2. The Compliance Committee Report is moved to agenda item 2, as the committee chair may depart the Board meeting early due to a bad cold.
3. Under New Business, the following items should be added: B. Practice Overlap; C. Joint Communication with other design Boards; D. Follow-up to request for OLCB to draft definition of “plan”.

Motion was *seconded and unanimously passed*: *Nichols*, yes; *Olsen*, yes; *Pellitier*, yes; *Stout*, yes; *Van Wormer*, yes; *Wright*, yes.

At 10:15 AM, *Chair Van Wormer* welcomed the five candidates present for the oral interview for initial registration. A very interactive question and answer period was held including an interviewee question about the necessity to stamp private work. A review of ORS 671.379(2) revealed that any

“final drafts of professional documents that the landscape architect issues for obtaining permits, obtaining approvals by agencies other than the board or fulfilling contractual obligations, including maps, plans, designs, contract documents and reports” shall be stamped and signed by the RLA. The question and answer period ended at 10:50 AM. *Stout* moved to grant registration to five new applicants. The motion was *seconded and unanimously passed: Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.* Wall certificates were bestowed and congratulations were shared. Following a 10-minute break,

Chair Van Wormer reconvened the meeting at 11:04 A.M.

1. Meeting Minutes: *Chair Van Wormer* asked if there were any corrections or additions to the minutes of August 8, 2008 or September 29, 2008. Hearing no discussion, *Van Wormer* requested of staff to incorporate a lighter tone on the background word *DRAFT* of the minutes. *Olsen* moved to accept both minutes of the August 8, 2008 and September 29, 2008, meetings with no changes. The motion was *seconded and unanimously passed: Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

Chair Van Wormer then announced that the Board would enter into Executive Session and 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 per ORS 192.660(2)(f) under ORS 671.338.

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 11:43 AM, the Board returned to open session.

3. Compliance Committee Report

A. *Wright* moved to close the following cases as each has complied with the Board’s request to correct advertising of landscape architecture services without a Landscape Architect on staff: LACC#08-04-004, LACC#08-04-008, LACC#08-04-010, LACC#08-05-013, LACC#08-05-014, and LACC#08-08-016. The motion was *seconded and unanimously passed: Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

B. *Wright* moved to close case LACC#08-10-021 and LACC#08-10-027 with a note of thank you for due diligence in correcting the violation of the law. The motion was *seconded and unanimously passed: Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

Wright then asked the Board to consider civil penalties in two cases: LACC #07-12-009 and LACC #08-04-005. *Nichols* inquired as to what the action should be. *Stout* offered that a business license not in compliance should command the same civil penalty as a title violation. *Van Wormer* requested that each of the two cases be dealt with individually.

C. *Wright* moved that action in LACC#07-12-009 be taken to issue a civil penalty of \$500 for violation advertising landscape architecture services on a web site by a non-registered individual and a \$500 civil penalty for a non-registered business offering services of landscape architecture. *Seconded.* *Olsen* recused himself from the discussion. Motion passed. *Nichols*, yes; *Olsen*, recused; *Pellitier*, yes; *Stout*, yes; *Van Wormer*, yes; *Wright*, yes.

D. *Wright* moved to issue a civil penalty in LACC#08-04-005 for two violations: 1) no RLA on staff, \$500 civil penalty and 2) advertising LA services without a business registration, \$500 civil penalty. *Seconded.* *Wright* offered that if this information is removed before or as the civil penalties are administered, then the penalty will be withdrawn and the case closed. The motion was *unanimously passed*: *Nichols*, yes; *Olsen*, yes; *Pellitier*, yes; *Stout*, yes; *Van Wormer*, yes; *Wright*, yes.

E. *Wright* moved to close LACC 08-06-015 since a previous case concluded that an exemption limits the authority of OSLAB in a governmental project at this time. *Seconded.* Additional discussion revealed that some Board members remain unclear as to why an exemption occurs in this situation. *Motion unanimously passed*: *Nichols*, yes; *Olsen*, yes; *Pellitier*, yes; *Stout*, yes; *Van Wormer*, yes; *Wright*, yes.

F. *Wright* reported that she had completed her assignment to determine if the top 50 Landscape Architect businesses in the state are registered with OSLAB. Research revealed that to acquire the top 50 list would have cost \$50. As an alternative, she acquired the top 35 from the Daily Journal of Commerce and all 35 of those firms are registered with OSLAB.

In additional discussion, *Olsen* asked if the OSLAB database contains information about each business or person involved in a complaint. The Administrator responded that the database is set up to enter all names and those that are not registered are so reflected for historical purposes.

At 12:07 PM, Chair *Van Wormer* announced that members should serve up the lunch buffet and the meeting would continue. During lunch, *Knight* presented

2. ADMINISTRATIVE MATTERS:

A. Board Administrator Report [Appendix I]: *Knight* also met with the Compliance Chair on 11/13/2008 and with the Rules Advisory Chair on 11/13/2008. CLARB: Board Member *Wright* volunteered for the 12/8/2008 exam date; Board Member *Van Wormer* volunteered for the 12/9/2008 exam date. *Knight* suggested that the Board alert CLARB that should CLARB be in need of graders, Oregon would be willing to recruit participants.

The Administrator report was temporarily suspended for scheduled visitor.

At 1:03 PM, Pat Carrothers, Finance Analyst, DAS State Services Division presented information about how rates for the 2009-11 bienniums are calculated. She informed the Board that Risk Management is self-insured with some commercial insurance also. The goal is to provide fair rates, recover costs, but not to build a surplus. The Board asked DAS/RMD to attend and explain the \$77,808 line item for insurance in the upcoming biennium. The Board was assured that no additional repayment of the insurance payment received by the Board in 2006 would be expected. Carrothers departed at 1:30 PM.

At 1:30 PM, Kathryn G. Seidenwurm interviewed for reinstatement of her registration as a Landscape Architect in Oregon. She explained that while working for a large company, she turned in her renewal and was told it would be paid. But when she contacted the Board staff after leaving the company for private practice, she was informed that she was delinquent with her renewal. She acknowledged her error in assuming that the company had made the payment. Knight reminded her that it is the registrant's responsibility to keep current even if they fail to receive the reminder notice. *Stout* moved to reinstate LA478. *Seconded and unanimously passed: Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

At 1:40 PM, the Board returned to the Administrator's Report.

2. A. cont. CLARB: Knight also requested that the Board develop a policy regarding Board member attendance at the national CLARB meetings. The Board concurred that the Board representative should have an interest in the work of CLARB. *Van Wormer* indicated that he wants the direction of CLARB to focus on the exams. *Pellitier* suggested that *Van Wormer* serve as the CLARB representative. *Olsen* agreed that continuity is important.

B. Board Members were asked to review the ACTION LIST from the August 8, 2008 Board Meeting and the ADDENDUM ACTION LIST comprised of items forwarded from previous meetings. Members were asked to complete any assigned tasks.

C. Budget Update 2007-09 Biennium: The Board reviewed the updated spreadsheet and had no questions.

D. *Stout* moved to approve Check Log #3169 – 3196. *Seconded and passed unanimously. Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

E. Seven Business Registrations have been added to the Board roster since the last Board meeting. [See Appendix II] Four registrants have moved to an Inactive status since the last meeting. [See Appendix II]

At 2:00 PM, the Board was joined by Kevin Moynahan, Department of State Lands, Wetlands & Waterways Assistant Director. Moynahan shared information about SB 544 of the 2007 Legislative Session which directed State Lands to complete a study during the Legislative interim about the possibility of adding certification for Wetland Scientists. The research revealed that Wetland Delineator might prove to be a better term. There was a core group of support for such a certification, but it was difficult to engage a large group. The report was presented to a Legislative Committee, but the economic climate may not lead to such regulation at this time.

4. COMMITTEE REPORTS

A. ADMINISTRATIVE RULES COMMITTEE: *Nichols* reported that the following three new items are currently under review: 1) OAR 804-22-0020, provide clarification of the Inactive and Delinquent registration status; 2) evaluate the delinquent status; and 3) OAR 804-003-0000, Definitions to make changes to align the rule definition with the statute: (12) "Renewal of Registration" -- To annually maintain the current status of a valid registration or to bring an inactive [lapsed] or [expired] delinquent registration to current, valid status. Due to the late hour, no discussion was held. *Nichols* indicated that the Rules Advisory Committee would meet and have a recommendation for the next Board meeting.

B. CONTINUING EDUCATION COMMITTEE: *Stout* distributed the committee report [Appendix III] and moved to approve the report. *Seconded and unanimously passed. Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

C. INVESTMENT COMMITTEE: *Nichols* reported that three additional CD's have been purchased but there is currently little return due the economy. The Board discussed making a request to DAS/RMD for a payment schedule to spread the payment for the 2009-11 biennium over a longer period of time.

D. LICENSURE REVIEW COMMITTEE: *Van Wormer* reported that reciprocity continues and Appendix II reports that four new registrants have been added by reciprocity since the last Board meeting. One new LAIT has also been added to the Board roster. *Olsen* offered an observation that one applicant had very low university grades and the reference form fails to reveal the degree of interaction that the candidate may have with different facets of the profession. *Olsen* offered again this meeting that CLARB testing, neither the UNE nor the LARE, reflect local or regional plant knowledge which he believes is essential.

5. OLD BUSINESS

A. Knight expressed the need to have an article in the quarterly newsletter specifically for citizens, cities, and counties to expand understanding of the role of the Landscape Architect. *Olsen* offered that this is a good time for such an article as municipalities may be reading newsletters with the slowdown in the economy. *Stout* suggested that the Landscape Contractor Board should also receive the newsletter. *Wright* offered that readers should see the reality of what Landscape Architects do.

B. *Olsen* reported on his participation at the CLARB National Meeting, San Diego. He indicated that at the conference registration table, he was informed that he did not need to be there until the next morning. He did not see great benefit in CLARB 101, a presentation by the CLARB staff. *Olsen* agreed that it is important that the Board's representative be engaged in the work of CLARB.

C. The Board agreed that in addition to Van Wormer's September 18, 2008, letter, testimony should be presented at the OLCB Rule Hearing on 11/21/2008 at 1:00 PM. Knight agreed to present the testimony if the Board would prepare the document. In addition, the September 18, 2008, letter would also be submitted into the record.

At 3:10 PM, *Wright* asked to be excused due to her cough and cold and departed the meeting.

6. CORRESPONDENCE

A. **LAC 08 08 200:** *Olsen* previously volunteered to author an article for the newsletter on ELECTRONIC SIGNATURES AND THE RLA STAMP and suggested that this individual be directed to the newsletter article upon its completion.

B. **LAC 08 08 205:** OSLAB received a copy of a letter issued to DEQ by the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS) regarding the DEQ 100-C Permit; Erosion and Sediment Control Plan Part I: Narrative. OSLAB agrees with OSBEELS that this is an additional credential (CPESC) but an individual must abide by existing law whether it is engineering

or landscape architecture. The Board noted that the CPESC does require 20 hours of continuing education each year.

C. LAC 08 09 208: The Board's response to this inquiry about the use of digital encrypted signatures for sealing documents is that they are working on this topic of electronic stamps and digital signatures and hope to have a resolution soon.

D. LAC 08 09 219: Knight informed the Board that Member Board Executives (MBE) of the Landscape Architect Boards present at the San Diego National Meeting requested that CLARB include an MBE on the Executive Committee so that communication lines remain open with staff of the Boards. This request is under consideration by the CLARB Executive Committee and will be up for discussion at the February CLARB meeting to convene in Charleston, South Carolina.

E. LAC 08 09 228: In this inquiry from a registrant, the Board stated that when a supplier is giving you a product, you are not in violation of the Code of Conduct OAR 804-050-0010(2). It is when the registrant offers gifts to potential clients that a violation could occur. This is outlined in the Administrative Rules and this individual should be directed to those.

F. LAC 08 10 238: Staff shared this request for reactivation of an Oregon registration that was not current since 2000, and informed the Board that the person remained active with a Maine registration. It is not possible to "reinstate" the registration number in Oregon because it was delinquent for more than 5 years, but the candidate is eligible to apply for registration by reciprocity and was so informed.

G. LAC 08 10 248: A person with a degree in landscape architecture has never succeeded in landing a position with a Landscape Architect firm for purposes of meeting the Board experience requirement and is now requesting special consideration to sit for the LARE. The candidate is eligible for Sections A, B, and C and the Board suggested he sit and pass these sections. Perhaps this would provide a better opportunity to be hired. The law requires supervised experience which will not be waived. Perhaps joining the professional organization (ASLA) would provide contacts for experience under a Landscape Architect.

7. NEW BUSINESS

A. Wetlands Conference, Portland: *Stout* submitted a written statement regarding his attendance at an afternoon discussion session held on September 18, 2008, in Portland. He suggested monitoring the final report and inviting the Division of State Land's staff to talk about the Wetland Certification under study. [Note: The Board heard about this research at 2:00 PM today during the meeting.]

B. Practice Overlap: *Olsen* offered the following questions and comments: 1) Letter to companion agencies for working together: OSBEELS, OBAAE, OSLAB, & OSBGE; 2) Inquire of CLARB if Engineers are complaining about Landscape Architect practice; 3) Seek assistance from ASLA, CLARB, other states to determine if Oregon is the only state registering landscape contractors.

C. Set 2009 Meeting Dates: Select the 2nd Friday of the 2nd month of each quarter and provide this to all Board Members.

D. Request to OLCB: The Board needs to contact the Landscape Contractors Board again and request a definition of the word plan for review and consideration by OSLAB.

8. ANNOUNCEMENTS

A. LARE Exams, December 8 & 9, 2008, Salem, Oregon. *Wright* will serve as proctor on Monday, December 8, 2008; *Van Wormer* will serve as proctor on Tuesday, December 9, 2008.

B. CLARB National Meeting, February 27 & 28, 2009, Charleston, S.C. *Van Wormer* and Knight will represent OSLAB.

9. ADJOURNMENT: *Chair Van Wormer* adjourned the meeting at 3:40 PM.

Respectfully submitted,

Susanna R. Knight
Administrator

The November 14, 2008 Board Meeting minutes were approved with additions at the February 20, 2009, Board Meeting.
Respectfully submitted,
Susanna R. Knight, Administrator