

OREGON LANDSCAPE ARCHITECT BOARD
August 8, 2008 Meeting Minutes

Members Present: Robert Edwards, Public Member
Ron Nichols, Public Member, Treasurer
David Olsen, Landscape Architect
Mel Stout, Landscape Architect, Vice Chair
Timothy Van Wormer, Landscape Architect, Chair
Susan Wright, Public Member

Members Absent: John Pellitier, Landscape Architect

Staff Present: Susanna Knight, Administrator

**Candidate(s) for Initial
Registration Present:** Nick Bard

The meeting was preceded by an 8:30 AM Work Session. Both the Work Session and the Board Meeting convened in Building 48, Room 201 of Winema Place, Chemeketa Community College. Chair *Van Wormer* informed the Board that he would delay the meeting start time to 10:00 AM which would allow more time for the Work Session items.

- **MISSION STATEMENT:** As the first order, the Board was directed to focus on developing a Mission Statement. *Stout* questioned why the Mission Statement should be different from the law. *Edwards* offered that Mission Statements should be crafted to be short and sweet and offered the following: “to regulate the practice of landscape architecture in Oregon”. *Stout* offered that the Board equals the action part of regulation! The Board reviewed other possible word choices instead of regulate and found the following alternate definitions: cause, enforce, guide, oversee, implement. Since the definition of regulate is: “to govern or direct according to rule”, the Board agreed that regulate was really the perfect word!
- **NEWSLETTER ARTICLES:** *Van Wormer* then led a session about the newsletter content and the need to have Board members prepare newsletter articles quarterly. *Olsen* suggested that given the clear practice arenas of current practitioner i.e. sole practitioner, private practitioner, or public sector practitioner, perhaps readers could provide questions and the Board could develop responses. *Van Wormer* offered that the Board could solicit case studies where public health, safety, welfare were upheld through the work product of the Landscape Architect. *Van Wormer* also suggested an article on the electronic or wet stamp. *Van Wormer* closed the discussion by suggesting the following article ideas: purpose of the Board; self-regulating partnership between the Board and registrants; responses from registrants about issues and concerns; clarification of laws and rules and the role of the Rules Advisory Committee. The newsletter should lay out an invitation to present issues and concerns. *Wright* suggested that *Olsen* and *Stout* go back to their firms and ask for questions from Registered Landscape Architects.
- **BYLAWS FOR THE BOARD:** *Van Wormer* then discussed the need for the Board to develop By Laws for the Board. He directed each Board Member to bullet out exactly what his/her committee does. This bulleted information must be provided to Staff by October 1, 2008, for incorporation into the draft of the ByLaws.

Another suggestion: An article should be placed in the newsletter soliciting volunteers for L.A.R.E. grading including an explanation as to why volunteers are necessary for carrying out this responsibility.

The Work Session concluded with *Van Wormer* assigned to a September newsletter article which will be an overview. *Olsen* will prepare an article on Electronic Stamping for the December newsletter.

Chair Van Wormer called the meeting to order at 10:00 AM by welcoming one applicant for initial registration, Nick Bard. Board Members introduced themselves and then questioned the applicant on numerous aspects of both the applicant's background and the expectations of registrants here in Oregon. At the close of the oral interview, *Olsen* moved to grant registration as a Landscape Architect in Oregon to Nick Bard. *Seconded and passed unanimously.* *Edwards*, yes; *Nichols*, yes; *Olsen*, yes; *Stout*, yes; *Van Wormer*, yes; *Wright*, yes. Hands of congratulation were extended to Mr. Bard prior to his departure.

The Chair announced a 10-minute break. The Board reconvened at 10:30 AM. *Chair Van Wormer* identified the following additional agenda items: 2.F. Election of delegate to CLARB annual meeting; 5.D. Legislative Initiative on Exemptions; and 7. Mission Statement.

1. MINUTES:

- A. *Stout* moved to approved the minutes of the May 8, 2008 Board meeting. *Seconded and passed unanimously.* *Edwards*, yes; *Nichols*, yes; *Olsen*, yes; *Stout*, yes; *Van Wormer*, yes; *Wright*, yes.
- B. *Edwards* moved to approve the minutes of the June 18, 2008, Special Telephone Meeting as presented. *Seconded and passed unanimously.* *Edwards*, yes; *Nichols*, yes; *Olsen*, yes; *Stout*, yes; *Van Wormer*, yes; *Wright*, yes.

2. ADMINISTRATIVE MATTERS:

- A. **Board Administrator Report** (See Appendix I):
 - The Board was directed to the printed report in the Board packet and informed that the Semi-Independent Board Administrators (SIBA) discussed the possibility of hiring a lobbyist during the 2009 Legislative Session for purposes of tracking semi-independent legislation. Administrators of Health Regulatory Boards have been meeting regularly during the past year with a Legislative Committee to discuss Board issues. There is some concern by SIBA participants that this movement may also lead to legislation effecting semi-independent government, even beyond those that are health related. The Board discussed the role of lobbying and agreed to consider this concept again at the next meeting.
 - *Wright* offered that governmental entities often do not have an understanding as to the contribution of Landscape Architects. It is important that the 2009-11 budget include funds for participating in the annual meetings of both the League of Oregon Cities (LOC) and the Association of Oregon Counties (AOC)

- OSLAB documents are now being copied on OSBGE's leased machine. There has been a substantial reduction in the copying cost. Staff has not yet developed a system for calculating the cost to bill back copies to OSLAB by OSBGE.
 - *Olsen* inquired about the anticipated \$77,000 DAS Risk Management Division (RMD) line item for the 2009-11 budget. Knight informed the Board that this involves the repayment of the insurance payment received in 2005. The Board directed staff to invite a representative of RMD to attend a future Board meeting and explain the implications of self-insurance which require pay back on insurance payments.
- B. **Action Lists from May 9, 2008 (Appendix II) Meeting & June 18, 2008 Meeting (Appendix III):** All items from the June meeting have been completed. A few outstanding items remain from the May meeting. *Wright* will complete a cross-check of the 50 largest Landscape Architect firms listed in the Portland Business Journal with the businesses listed on the web page as registered with OSLAB.
- C. **Budget Update 2007-09 Biennium:** The Board was directed to the final figure for both income and expenses for year one of the biennium. (Appendix IV) The income was about \$8,000 over the budgeted figure. Two non-budgeted line items account for the amount: 1) Business application fees were not included in the budget and that represents \$2,900 of income; 2) a civil penalty payment of \$5,000 was also received by the Board. Effective July 1, 2008, the monthly Administrative Fee increased by \$1300 per month to cover staff increases that were not known at the time the budget was approved. The Revenue and Expense for July (short of the entire month) was presented to the Board. (Appendix V). And a Balance Sheet was also distributed to the Board. (Appendix VI)
- D. **Business Registration Update (See Appendix VII)** Eight new business registrations have been added to the roster in the past quarter.
- E. **Inactive Registrants (See Appendix VII)** One application for *inactive* registration status was granted during the past quarter.
- F. *Stout* moved to approve *Olsen* as the CLARB delegate to the annual meeting to convene in San Diego on September 4, 5, and 6, 2008. *Seconded and passed unanimously. Edwards, yes; Nichols, yes; Olsen, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

3. COMPLIANCE REPORT: *Wright* distributed a report (Appendix VIII) with recommendations for numerous outstanding cases.

- A. **LACC #06-11-004:** *Wright* reported that this is an old case the preceded her appointment to the Board. It involved an individual registered in a neighboring state who may have practiced Landscape Architecture in Oregon. *Wright* offered that it would be appropriate to close this case with a letter putting the individual on notice that registration in Oregon is required to practice landscape architecture in Oregon. *Edwards* so moved. *Seconded and passed unanimously. Edwards, yes; Nichols, yes; Olsen, yes; Stout, yes; Van Wormer, yes; Wright, yes.*
- B. **LACC #07-12-005:** *Wright* reported that the respondent on this case has complied with the Board's requirements in closing another case that arrived at the same time. *Edwards* moved to close the case with a letter thanking the individual for completing the registration process here in Oregon. *Wright* offered that this was a good outcome on these two cases. *Seconded and passed unanimously. Edwards, yes; Nichols, yes; Olsen, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

- C. **LACC #07-12-006:** *Wright* reported that this company responded to this issue through another complaint that arrived at the same time. The company confirmed that they are aware that an employee cannot be identified as a Landscape Architect unless the employee is registered with OSLAB. *Wright* moved to close the case as the individual has become registered but reminding the company *not to identify* landscape designers as Landscape Architects. *Seconded and passed unanimously. Edwards, yes; Nichols, yes; Olsen, yes; Stout, yes; Van Wormer, yes; Wright, yes.*
- D. **LACC 07-12-009:** On the business' website, the respondent identifies the work as landscape architecture. Unless an employee is registered with OSLAB as a Landscape Architect and the firm is also registered to offer services of landscape architecture, these words cannot be used by the company. *Wright* moved to close the case by reminding the designer that the use of the descriptive term landscape architecture is not allowed in advertising. *Seconded and passed unanimously. Edwards, yes; Nichols, yes; Olsen, yes; Stout, yes; Van Wormer, yes; Wright, yes.*
- E. **LACC #08-04-011:** *Wright* reported that this case involved a listing in the Yellow Pages which was not through the individuals own doing. The respondent provided the response from the company that the information would be corrected in the next publication. *Wright* moved to close the case with a letter of thanks for diligent follow-up on the Board's concern. *Seconded and passed unanimously. Edwards, yes; Nichols, yes; Olsen, yes; Stout, yes; Van Wormer, yes; Wright, yes.*
- F. **LACC 08-04-003:** *Wright* reported to the Board that the individual directed the DEX Yellow Pages to notify the Board via email that the respondent was not responsible for the advertising in the Yellow Pages. *Wright* moved to issue a thank you for do diligence in following up on the Board's concern. *Seconded and passed unanimously. Edwards, yes; Nichols, yes; Olsen, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

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Chair Van Wormer invited the Board to eat lunch at 12:15 PM where the meeting continued. The Board was joined by former Board Member Andy Leisinger, RLA of Salem, Oregon. Leisinger presented the 1995 history of the Landscape Architect Board becoming semi-independent. Leisinger reported that both the budget process was streamlined as well as the opportunity for the Board to shift budget items without having to go back to a special Legislative Committee. Leisinger encouraged the Board to work to maintain the semi-independent form of government. Leisinger departed at 12:45 PM.

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- G. **LACC 08-05-012:** *Wright* summarized the issues of this case. *Olsen* requested that the Board move into Executive Session to discuss the case.

EXECUTIVE SESSION: At 12:55 PM, Chair *Van Wormer* 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 under

671.338 Confidentiality of investigatory information.
 (1) Notwithstanding ORS 192.420:

(b) Investigatory information developed or obtained by the board is confidential and not subject to disclosure by the board unless a notice is issued for a contested case hearing or the matter investigated is finally resolved by board action or a consent order. The board shall notify the registrant of the investigation. The public may obtain information confirming that an investigation is being conducted and describing the general nature of the matter being investigated.

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 1:30 PM, the Board returned to the open meeting.

G. [continued] **LACC 08-05-012**: *Wright* moved to table any discussion on LACC #08-05-012 until documentation of the sequence of events in this case has been compiled. *Seconded and passed unanimously. Edwards, yes; Nichols, yes; Olsen, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

4. COMMITTEE REPORTS

A. **RULES ADVISORY COMMITTEE (RAC)**: *Nichols* reported that the revised CODE OF CONDUCT has been submitted to the Administrative Rules Unit and should be updated on the web soon. The RAC was very helpful in that rewrite process. *Nichols* directed the Board to three revisions presented in the meeting packet:

1. **OAR 804-001-0005, Model Rules of Procedure** (Appendix IX, 1): *Nichols* moved to change the publication year in this rule from 2006 to 2008. *Seconded*. During the discussion, the ATTORNEY GENERAL’S ADMINISTRATIVE LAW MANUAL AND UNIFORM AND MODEL RULES OF PROCEDURE UNDER THE ADMINISTRATIVE PROCEDURES ACT was displayed to the Board. The Board was informed of the requirement to adjust the publication date when there is a revision to the manual so that the Board is current with the Administrative Law. The manual is generally revised following a Legislative session so that any changes in the law are noted. *The motion passed unanimously. Edwards, yes; Nichols, yes; Olsen, yes; Stout, yes; Van Wormer, yes; Wright, yes.*
2. **OAR 804-020-0001, Landscape Architect Registration Examination (LARE)** (Appendix IX, 2): *Nichols* moved to approve an addition to this rule which would allow the Board to honor LARE test results from CLARB’s regional test centers for Section C and Section E. *Seconded and passed: Edwards, yes; Nichols, yes; Olsen, yes; Stout, yes; Van Wormer, yes; Wright, yes.*
3. **OAR 804-025-0010(1)(a), Exemptions to Continuing Education Requirements** (Appendix IX, 3): At the May 2008 Board meeting, a registrant presented correspondence in which he indicated that the exemption here was causing confusion, as it appeared as though a new registrant was not required to complete continuing education for his/her first renewal cycle. The Board confirmed that there is no exemption for registrants and that during year one of Landscape Architect registration, a registrant must be acquiring the required PDH. *Nichols* moved to remove this

exemption from the Administrative Rules. *Seconded and passed: Edwards, yes; Nichols, yes; Olsen, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

4. **OAR 804-025-0015, Continuing Education Requirements for Reactivation of Registration** (Appendix IX, 4): *Nichols* moved to approve an addition to the Rules where registrants with inactive status can find the continuing education requirements with the following two revisions: a) in (2), remove the words “request for” in line three of the draft; (b) capitalize “Inactive” in both (1) and (2) of the Rule. *Seconded and passed: Edwards, yes; Nichols, yes; Olsen, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

Edwards noted that “lapsed” is a term used in the Administrative Rules rather than delinquent. Staff was asked to research the term “lapsed” and determine if the Board has statutory authority to this designation or if “delinquent” should replace the work “lapsed” in the Administrative Rules.

B. CONTINUING EDUCATION COMMITTEE:

1. *Stout* distributed his report (Appendix X) that discussed the four registrants that were audited from the second quarter of 2008. The committee convened to discuss the four audits on July 31, 2008. *Stout* reported that the following three presented qualifying information: #151, #155, and #157 and moved to approve these three audited candidates as well as allowing a 120-day extension effective 5/18/2008 for receipt of continuing education materials from #179. *Seconded and passed: Edwards, yes; Nichols, yes; Olsen, yes; Stout, yes; Van Wormer, yes; Wright, yes.*
2. *Stout* moved to withdraw the committee’s idea of assessing penalties for late responses or no response. *Seconded.* Discussion followed. *VanWormer* suggested that registrant be asked to come before the Board. *Olsen* said we cannot issue a fine. *Edwards* stated that the Board can charge up to \$5000 in a civil penalty or take the registration away. *Stout* suggested that the Board rely on the big hammer for compliance: suspend or revoke registration. *Motion passed: Edwards, yes; Nichols, yes; Olsen, yes; Stout, yes; Van Wormer, yes; Wright, yes.*
3. *Stout* offered a new recommendation from the CEC and *moved* that the Board limit carryover hours to 9 HSW and 3 Other if the registrant has plentiful hours, with the CEC determining how many hours can be carried over if they registrant has less that 9 PDH and 3 PDH. *Seconded and passed. Edwards, yes; Nichols, yes; Olsen, yes; Stout, yes; Van Wormer, yes; Wright, yes.*
4. *Stout* also reported that staff outreach is good and that staff has been successful in helping Landscape Architect’s to comply with follow-up phone calls.
5. Due to staff interruptions over the past weeks, the pool of audited registrants was not available. *Stout* directed staff to prepare and draw the audit numbers for the second quarter of 2008.

- ## **C. INVESTMENT COMMITTEE:**
- Nichols* reported how other SIBA agencies are handling reserve funds. (Appendix XI) *Olsen* inquired if the Board should purchase another CD or more. After additional discussion, *Wright* moved to take \$75,000.00 and purchase 3 additional \$25,000 CD’s with staggered maturity dates between the current CD’s already owned by the Board. *Seconded. Van Wormer* offered that this discussion

begs a question about the fees. The Board acknowledged that with the anticipated \$77,000 payment next biennium, some of the CD's may have to be cashed and that the second year of this biennium will help the Board in determining the fee level for 2009-11. Unanimously *passed*. *Edwards*, yes; *Nichols*, yes; *Olsen*, yes; *Stout*, yes; *Van Wormer*, yes; *Wright*, yes.

D. LICENSURE REVIEW COMMITTEE:

1. Initial Registration by Examination: One interview for initial registration was held at the beginning of the meeting. Although previously registered in Montana, when the applicant moved to Colorado for employment where registration was not required at that time, he did not maintain his Montana registration. Hence his Oregon registration required an oral interview.
2. *Van Wormer* reported that there has been a steady applicant pool by reciprocity and that staff is doing a very thorough job of confirming that each applicant meets the Oregon requirement. (Appendix VII) Eight new Landscape Architect registrants by Reciprocity have been added since the last meeting. (See Appendix II)

5. OLD BUSINESS

- A. Quarterly newsletter article** specifically for citizens, cities, counties: *Van Wormer* reported that based on the Work Session discussion, he will provide an article for the September newsletter and *Olsen* will prepare an article for the December newsletter. Additional information about newsletter articles can be located in the Work Session portion of these minutes.
- B. CLARB Slate of Officers:** Members of the Board are asked to report their preference on the slate of officers to *Olsen* who is serving as the delegate to the CLARB meeting in San Diego.
- C. Bank Signatory Authority:** *Knight* presented a position statement (Appendix XII) regarding Administrator signatory authority for the Board's checking account. *Van Wormer* stated that this can only be approved if there is complete support by the Board. *Edwards* moved to give the Administrator signatory authority with the Board's checking account with the understanding that the monthly bank statement will be accompanied by original invoices for all checks for the Board Treasurer to review. *Seconded*. Extensive discussion followed. *Nichols* offered that sending unsigned checks through the mail is a potential for problems. *Stout* offered that he has also thought of that as the back-up check signer but he had concerns about the perception which begs the questions: has enough time passed since the previous experience? *Van Wormer* offered that he would like to see staff assigned this responsibility. Both *Stout* and *Wright* confirmed that there is danger with the US Mail process. *Van Wormer* stated that it is important that all Board members are in agreement. *Olsen* offered that he could agree to the decision as long as there are checks and balances in place and *Stout* interjected that a process must be in place. Unanimously *passed*. *Edwards*, yes; *Nichols*, yes; *Olsen*, yes; *Stout*, yes; *Van Wormer*, yes; *Wright*, yes. *Knight* stated that a quarterly list of all checks written will be presented in each quarterly Board meeting packet.

D. Legislative Initiative on Exemptions: *Stout* reported that he would like the Board to meet to discuss this concern which was addressed by Counsel and previously discussed by the Board. Knight will coordinate a Special Meeting of the Board for this purpose.

6. CORRESPONDENCE: LAC 08 06 174: *Knight* reported she had talked with both the owner and the possible Landscape Architect to be employed by the company. A letter will be issued answering the questions on configuring a business for purposes of meeting RLA supervision requirements. *Stout* and *Olsen* will review the draft response.

7. NEW BUSINESS: *Edwards* moved to approve the following Mission Statement of the Board: to regulate the practice of landscape architecture in Oregon. *Seconded and passed.* *Edwards, yes; Nichols, yes; Olsen, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

8. ANNOUNCEMENTS

A. The CLARB Annual Meeting will convene in San Diego on September 6, 7, & 8, 2008. *Olsen* and Knight will be representing OSLAB.

B. The next Board Meeting will be held Friday, November 14, 2008.

C. CLARB Exams will be administered December 8 & 9, 2008. The deadline for applications is September 9, 2008. Proctors will be solicited at the November 2008 Board meeting.

9. ADJOURNMENT: *Van Wormer* adjourned the meeting at 3:15 PM.

Respectfully submitted,

Susanna R. Knight
Administrator

The August 8, 2008, meeting minutes were approved as presented at the November 14, 2008, Board Meeting.

Respectfully submitted,
Susanna R. Knight
Administrator