

OREGON STATE LANDSCAPE ARCHITECT BOARD
MEETING MINUTES
November 13, 2009

Members Present:

Robert Edwards, Public Member
Ron Nichols, Public Member, Treasurer
David Olsen, Landscape Architect, Vice-Chair
John Pellitier, Landscape Architect
Mel Stout, Landscape Architect
Timothy Van Wormer, Landscape Architect, Chair
Susan Wright, Public Member

Staff Present:

Susanna Knight, Administrator

Guests Present for Oral Interview from 10AM to 11AM:

Casey A. Cunningham
Melanie C. Poe
Anne Samuel
Andrea D. Saven [arrived at 10:45 AM]
Olena C. Turula
Karen Vitkay
Robin A. Wilcox

Other Guests:

Danny Santos, Governor's Policy Advisor [1:00 PM to 1:30 PM]
Eran Schlesinger [1:00 PM to 2:15 PM]

The quarterly meeting of the Oregon State Landscape Architect Board was convened in Salem, Oregon at The Association Center at 10:00AM.

The meeting was preceded by an 8:30AM Work Session with three topics for discussion:

✓ **Delinquent Registration Policy:** The Board discussed the current policy whereby delinquent registrants (over 60 days without renewing) are required to appear before the Board for an oral examination to reinstate registration. Following the discussion about the current practice and some inconsistencies, the Board agreed that delinquent registrants may not need to appear if 1) a letter requesting reinstatement is presented with an explanation of what caused the delinquent status; 2) fees are paid in full; 3) an up-to-date PDH log and support documentation are provided with the letter requesting reinstatement; and 4) a signed affidavit confirming that no professional work in the field of Landscape Architecture has been performed during the delinquent period. In addition, the Board retains the right to have the registrant appear for an oral interview before the Board. The Board concluded that the 30-day reminder email issued by staff should clearly outline that the person is in violation of the landscape architecture law and subject up to a \$5000 civil penalty for each violation of practice conducted while the registration is delinquent. The Board asked that an article be included in the newsletter outlining this procedure; informing registrants that delinquent names will be posted in the quarterly newsletter; and when the registration is current, the name will be posted again. The Board also directed that the current "forfeiture" letter which is issued after 60 days be issued by certified mail and include a statement that if the information is in error, the registrant should contact the Board office.

✓ **Sole Proprietor Registration:** Rules Advisory Committee (RAC) Chair *Nichols* presented the draft language prepared for review by the Board. *Nichols* offered that the philosophy behind the rule revision is that the size of the company does not matter as even a sole proprietor is offering services of landscape architecture and could have designers working in the company. So the rule defines a sole proprietor as a “business” and as such it must register as a business. He also informed the Board that the fee associated with business registration was not part of this revision, as fees must be addressed during budget development. He acknowledged that the RAC is aware of the concern of sole proprietors regarding business fees and the RAC is aware that a fee discussion will occur during the next budgeting cycle. *Wright* added that a sole proprietor is both a person and a business and some sole proprietor businesses could have a unique name.

✓ **By-Laws:** The Chair indicated that this is the first draft of the Bylaws and the Bylaws are a work in process. When completed, they will be adopted in a meeting. He directed the Board Members to review the information and provide revisions to the Administrator. The Bylaw draft will be on the next meeting agenda.

Oral Interview: At 10:00 AM, Chair *Van Wormer* welcomed six candidates to the oral interview as the final requirement for registration, with one additional candidate delayed due to interstate traffic problems. The Board and candidates each introduced themselves. *Van Wormer* offered that the volunteer Board regulates the practice of landscape architecture and this oral interview is an opportunity to meet the Board and asked questions of the Board. Numerous topics were covered including ASLA vs OSLAB; role of the Landscape Architect; Code of Conduct; contribution to the profession; newsletter publication of the Board. At the conclusion of the discussion, *Olsen* moved to certify the following individuals as Registered Landscape Architects: Casey A. Cunningham, Melanie C. Poe, Anne Samuel, Andrea D. Saven, Olena C. Turula, Karen Vitkay, and Robin A. Wilcox. *Seconded and approved unanimously: Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; VanWormer, yes; Wright, yes.*

Van Wormer announced a 10 minute break until 11:10 AM to greet the candidates.

VanWormer announced that following the approval of the meeting minutes, the Board would go into Executive Session. *Edwards* moved to approve the agenda as presented. *Seconded and unanimously approved. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; VanWormer, yes; Wright, yes.*

1. Minutes: *Olsen* moved to accept the August 14, 2009 meeting minutes. *Seconded and unanimously approved. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; VanWormer, yes; Wright, yes.*

At 11:12 AM, *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 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 12:58 PM, the Board returned from Executive Session and invited the public to return.

Governor's Policy Advisor: At 1:00 PM, Chair *Van Wormer* welcomed Danny Santos. Santos summarized the various issues facing the upcoming legislative Special Session which will convene February 2010. The November Revenue forecast will be coming shortly and the Governor is hoping that the revenue picture will have leveled out. Santos acknowledged that this has been a slow recovery. He reminded the Board that in January 2010, registered voters will be voting on two revenue packages followed by the March forecast to be released on 2/15/2010. The focus of the February 2010 Special Legislative Session will be balancing the budget. No impact to Board policy is foreseen for that session. An increase for PERS will be under consideration. No federal stimulus dollars will be considered although the federal revenue helped balance the budget.

Santos offered that when budget issues arise, an opportunity occurs to look at government structure, including Boards and Commissions. Santos distributed a copy of the June 8, 2009 letter of the Governor which included ideas for consolidating Boards and Commissions. Under the listed suggestions, OSLAB would move to Building Codes. Santos does not anticipate a change during the February 2010 session as OTHER FUNDED agencies (Boards and Commissions) represent a very small percentage of the overall budgeted dollars. General Fund agencies will be the hardest hit if the revenue forecast requires cuts. Additional changes may occur during the 2011 Session when a new Governor inquires about the state of the budget, but everything depends on the economy in 2011. Santos offered that the Board must be prepared to make the case for why it should exist. Santos apologized to the Board for failing to notify the Board that this would be coming.

Discussion with Santos continued. *Van Wormer* stated that Board members serve at the leisure of the Governor and work for the Governor. As the Governor evaluates his vision for the state, the Board would wish to work with the Governor. *Van Wormer* reported that the Board is functioning much better; it is working every meeting to be better at carrying out its mission. Santos stated that the Governor would say that it is time to justify the work of the Board. *Olsen* inquired if some Boards could be factored out. Santos offered that it is a case by case situation. *Van Wormer* asked what Building Codes would provide as a consolidation suggestion and stated that he is trying to understand the savings in such a move. Santos offered that consolidating Boards leads to less administration. *Van Wormer* inquired as to a possible configuration or model if a consolidation is considered. Santos offered the Health Licensing Agency as an example of consolidation where there is one Administrator and numerous Boards. *Van Wormer* asked if the plan was to consolidate the architects, engineers and landscape architects into one combined board and Santos said that that was not being suggested. *Van Wormer* inquired if there was no savings to the state in putting the architects, engineers and landscape architects under the Building Codes Division, could that be taken off the table now? Santos said that he did not see that happening.

Santos inquired if the Board anticipates any legislative issues for the 2011 session and encouraged the Board to get them prepared sooner, not later! He indicated that he would work with the Board on any possible legislation and would be happy to come back later to discuss legislative issues. He again apologized to the Board that it heard after the fact about the consolidation considerations of the Governor. The Board thanked Santos for his attendance and wished him a good weekend.

Individual Seeking Reinstatement of RLA: *Van Wormer* granted *Pellitier's* request to leave the meeting during the reinstatement discussion, as he practices in the same locale as the individual. Eran Schlesinger introduced himself. The Chair asked that he explain why he was at the meeting.

Schlessinger stated that he opened his own practice three years ago. When recently seeking a loan through the Emerging Small Business (ESB), he was informed that his RLA registration was not current. When contacting the Board office to correct this, he was informed that his registration was delinquent for over 60 days and that he would have to appear before the Board to seek reinstatement. *Olsen* inquired about “where was he” when the notices between his office and the Board arrived and why had he failed to contact the Board. The RLA renewal notice was issued 45 days before it was due; at 60 days, on August 4, 2009, a delinquent notice was issued. No contact was made with the Board until October 14, 2009. Issues such as this compromise the Board. *Stout* interjected that the Board has 20 attempts logged in contact and work with Schlessinger over business and RLA registration but found him to be unresponsive. He asked Schlessinger where his responsibility was and asked if Schlessinger was just “blowing the Board off”. Schlessinger responded that he does have respect for the Board and the practice. He supports the continuing education process and stated it was his fault for not knowing this was happening. His letter indicated that a new employee and the filing process caused the problem. Else, he has always paid regularly and cannot explain why it happened this year. *Olsen* also inquired as to why he failed to respond to inquiries regarding the business registration requirement. Schlessinger stated he had a hard time remembering what happened. *Olsen* stated that the Board must see both his PDH log and support documentation to validate completion of the continuing education requirement before the RLA could be reinstated.

Van Wormer announced a 5-minute break while the Continuing Education Committee evaluated the supporting paperwork presented by Schlessinger.

When the meeting reconvened, *Olsen* moved to accept fees and documents to reinstate LA501 pursuant to the arrival within 21 days of additional continuing education documentation for the October 2008 to October 2009 period, or the Board may take further action. *Seconded*. Additional discussion continued. The renewal form was signed and dated October 8, 2009, hence the requirement to review additional PDH. *Stout* inquired if the registration was delinquent now and staff confirmed that it is. *Stout* asked that the motion include that “this requirement will be documented in a letter which spells out the expectations of the Board both now and for the future”. *VanWormer* stated that if the motion passes and the documents appear within 21 days, the individual will be reinstated. *Edwards*, yes; *Nichols*, yes; *Olsen*, yes; *Pellitier*, recused; *Stout*, yes; *VanWormer*, yes; *Wright*, yes. Motion passed. The Board thanked Schlessinger for appearing and he departed.

4. Committee Reports, E. Other: 1. Liaison to OBAE: *Olsen* stated that due to the conditions in the Santiam Pass which is his route for traveling home, he would need to depart but asked to enter the following report into the record as the liaison to the Oregon Board of Architect Examiners (OBAE). He shared with the Board about information he read in the August 7, 2009 OBAE minutes where information about staff salary freezes and furlough days during the 2009-11 biennium was discussed and asked about the OSLAB staff with regard to this issue. Knight stated that OSLAB has a contract with the Oregon State Board of Geologist Examiners (OSBGE) for administration of the office. The personnel budget is developed by OSBGE and incorporated into its budget figures. OSLAB pays a monthly administrative fee to OSBGE to cover half of this cost. Knight assured the Board that this issue was thoroughly addressed by OSBGE and in the March 18, 2009 Minutes during budget discussions, the Board determined that staff salaries would be frozen and no COLA would be budgeted following the lead set by all State Agencies.

However, the Board would not include furlough days for staff unless the financial picture would require such consideration.

Olsen departed at 2:25 PM.

2. COMPLIANCE REPORT

A. Chair *Wright* requested action on the following cases:

- a. *Wright* moved to close **LACC #09 05 033** as the business completed its registration with the Board immediately after contact from staff. *Seconded and passed: Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; VanWormer, yes; Wright, yes. Olsen absent.*
- b. *Wright* moved to close **LACC#09 07 001** as the RLA has written a letter confirming that he understands the complaint and that the stamping issue will not happen again. *Seconded and passed: Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; VanWormer, yes; Wright, yes. Olsen absent.*
- c. *Wright* moved to close **LACC#09 08 002** as the arborist has worked with the yellow page advertisers to correct the entry under Landscape Architects. *Seconded and passed: Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; VanWormer, yes; Wright, yes. Olsen absent.*
- d. *Wright* moved to close **LACC #09 08 003** as the landscape designer has contacted the Yellow Pages to bring a correction to the entry under Landscape Architects. *Seconded and passed: Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; VanWormer, yes; Wright, yes. Olsen absent.*
- e. *Wright* moved to close **LACC # 09 05 031** when the business registration fee for the sole proprietorship has been received. *Seconded and passed: Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; VanWormer, yes; Wright, yes. Olsen absent.*
- f. *Wright* moved to close **LACC#09 05 035** when the business registration fee is received and include answers to questions raised by the registration regarding registration as a sole proprietor when informing the registrant of the Board's decision. *Seconded and passed: Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; VanWormer, yes; Wright, yes. Olsen absent.*
- g. *Wright* moved to close **LACC #08 10 020** pending receipt of the PDH documentation for the period 10/2008 to 10/2009 for reinstatement of the individual's RLA because all fees and forms for business registration have been received. [See information on page 3 for individual seeking reinstatement of RLA.] *Seconded and passed: Edwards, yes; Nichols, yes; Pellitier, recused; Stout, yes; VanWormer, yes; Wright, yes. Olsen absent.*

B. Determine web format of Compliance Report: *Wright* distributed information addressing the format for reporting compliance cases on the web and in the newsletter and asked the Board to consider if they wish to report all compliance cases or only those that go to fines. Due to the lateness of the day, she asked that this be placed on the agenda for the next meeting.

3. ADMINISTRATIVE MATTERS:

A. Board Administrator Report: Knight referred the Board to the quarterly report [attached to these meeting minutes] and reminded the Board that the office would be closed for the Thanksgiving Holiday on Thursday and Friday, November 26 & 27 and again for the Christmas Holiday on December 24 & 25. Staff has not yet determined other vacation dates that could occur over this period.

B. Budget Updates for 2009-11 Biennium: Knight reported that from 7/1/2009 to 10/31/2009, revenues are below expenses, but these months have fewer registrants renewing.

C. Report on Biennial Audit of October 21 & 22, 2009: Three auditors spent two days in the Board office. The final report will be forthcoming. It will also be included in the biennial report, a document that each semi-independent Board must submit to the Governor, the President of the Senate, the Speaker of the House and the Legislative Fiscal Office by January 1 of each even-numbered year.

D. Approve check log: *Nichols* moved to approve the August 1, 2009 to October 31, 2009 check log including check #3320 to #3361 and #10058 to #10064 as presented. *Seconded and passed: Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; VanWormer, yes; Wright, yes. Olsen absent.*

4. COMMITTEE REPORTS

A. ADMINISTRATIVE RULES COMMITTEE:

1. **OAR 804-025-0020:** *Nichols* stated that clarification is needed regarding the intent of the 25 year experience standard addressed in OAR 804-025-0020. The question raised is whether this standard applies only to those individuals registered in Oregon for 25 consecutive years. *Stout* offered that his understanding is that it is about the consecutive years, regardless of which states, without a break in registration. The Board asked that a revised draft be prepared for consideration by the Board.

2. **Lapsed and Delinquent** *Nichols* reported that numerous rules were reviewed in order to determine if the terms *lapsed and delinquent* were correctly used. In ORS 671.376(2), a registrant failing to renew on or before the renewal date is deemed delinquent. ORS 671.376(4) clarifies that lapsed only applies to those registrants in an inactive status that fail to become active within five years. After offering additional changes to OAR 804-022-0020 and the presentation of OAR 804-040-0000, the Board asked that a revised draft be prepared for each of these for consideration by the Board.

3. **OAR 804-030-0003:** *Nichols* reported that the draft OAR for Signature is based on the presentation to the Board by Ronald Singh of ODOT. *Stout* had requested that the Board follow the engineering lead. *Pellitier* offered that this change validates the need to stay abreast of new technology. *Nichols* moved to accept OAR 804-030-0003, Signature, as presented. *Seconded and passed: Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; VanWormer, yes; Wright, yes. Olsen absent.*

4. **OAR 804-003-0000, OAR 804-035-0010, OAR 804-035-0020:** *Nichols* reminded the Board that a discussion about sole proprietors occurred during the Work Session (see page 1). The Board agreed that a sole proprietor that uses the registrant name must register as a business. Three different rules refer to the business definition and must be revised in setting this definition of sole proprietorship as a business. *Nichols* moved to accept the changes as submitted for OAR 804-003-0000; OAR 804-035-0010; and OAR 804-035-0020. *Seconded and passed: Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; VanWormer, yes; Wright, yes. Olsen absent.*

5. **OAR 804-035-0030 & OAR 804-035-0035:** *Nichols* reminded the Board that an annual renewal of business registration was previously passed by the Board and implemented by staff on July 1, 2009. Previously, a business renewal was issued biennially. *Nichols* moved to approve OAR 804-035-0030 as written but changing principle to primary and OAR 804-035-0035 as presented. *Seconded and passed: Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; VanWormer, yes; Wright, yes. Olsen absent.*

6. **OAR 804-022-0000:** *Nichols* moved to approve OAR 804-022-0000 which will require that an LAIT registration is contingent upon supervision by a Landscape Architect. *Seconded and passed: Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes. Olsen absent.*

B. CONTINUING EDUCATION COMMITTEE (CEC): Stout distributed the CEC report (attached to these minutes) which included information as to the procedure for carrying out the audit and moved that the CEC report be approved. *Seconded.* Additional discussion occurred. *Stout* inquired about including this process in the Bylaws. *Van Wormer* liked the report and stated that the CEC audit process should be added to the Bylaws. *Stout* commented that the CEC is more work than he ever thought! *Seconded and passed: Edwards, yes; Nichols, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes. Olsen absent.*

C. INVESTMENT COMMITTEE: *Nichols* referred the Board to the pink Balance Sheet as of 10/31/2009 and pointed out that the Board moved \$25,000 into a CD with Paulsen Investment Company. The FDIC is now insuring accounts up to \$250,000, but the Board has both its checking and CDs at the same bank. The CD purchase will prevent the bank account from exceeding the insurance limit.

D. LICENSURE REVIEW COMMITTEE:

1. *Van Wormer* noted the many new initial registrants were added to the roster today through the oral interview process.
2. Joseph Wilson, LA692 was approved for licensure on 9/22/2009 by reciprocity with Nebraska.
3. The following four new businesses were added to the roster since the last Board meeting: Merrill Morris Partners, L329, 8/27/2009; AECOM Technical Services, L330, 9/21/2009; LanPacific, Inc., L331, 10/16/2009; and Rizlandesigns, L332, 10/30/2009.
4. Inactive registration status was granted on 11/30/2009 to David Hilgers, LA558 and Matthew Long, LA475.
5. Reinstatement as a Landscape Architect is pending for Eran Schlessinger (See page 1 of these minutes.).

E. OTHER:

1. **Liaison to OBAE:** Due to *Olsen's* early departure, see the report on page 4.
2. **Liaison to OLCB:** *Pellitier* reported that no meeting was convened with Landscape Contractors to continue discussions about "plan" since the last OSLAB meeting. He noted that the Governor's Reset Committee is not holding Public Meetings; this concern was discussed in the minutes of the Landscape Contractor Board. Letters to the Governor have been addressing this issue.

5. CORRESPONDENCE

A. LAC 09 10 266: This letter was submitted to the Governor regarding the "Reset Cabinet", which is holding closed meetings. Organizations representing many Associations in Oregon issued the letter regarding concerns that the requirements of Oregon's Open Meetings Law would not be met. *Van Wormer* offered that now is the time to work together.

B. LAC 09 10 278: The Continuing Education Committee will respond to the registrant's recommendation regarding PDH documentation.

6. OLD BUSINESS

A. Action List: The Board reviewed the list and removed the August 2008 newsletter article entry; the November 2008 entry regarding a letter to companion agencies; the Feb 2009 Plain Language entry as this was completed; the two May 8, 2009 entries regard Administrative Rule changes for PDH and Audits; the August 14, 2009 entry regarding reinstatement follow-up and the continuing education opportunity; and the 8/14/2009 entry regarding carryover PDH. *Wright* reported that as an Outreach effort, she recently attended a breakfast with the Association of Oregon Counties when they met in Portland. The meeting was a roundtable with State Agencies and was not well attended. *Wright* did have some good conversations and was able to share the word about the regulation of Landscape Architects with some of the participants.

B. Report on CLARB Meeting, Seattle: *Pellitier* reported that he talked with three states about the regulation and scope of practice of landscape contractors. During the Region V meeting, he also quizzed Washington about the new practice act.

C. 2011 Legislation: Legislation is due by April 2010. Earlier in the meeting, the Board's Policy Advisor encouraged the Board to submit any Legislative Concepts as soon as possible, as he will be reviewing them. The Board concurred that they did not intend to move forward with any legislation at this time.

7. New Business

A. Business Registration Fees: *Nichols* reported that at this time, the 2009-11 budget is set so a change in the business fee will not occur this biennium. Now that the definition of sole proprietor is finalized, the Board can consider the business fee schedule during the next budget cycle. This was also discussed during the Rules Advisory Committee Meeting last week.

B. Policy on Outstanding Checks: The Board recommended that the outstanding check information be moved into the Bylaws.

C. Set 2010 Meeting Dates: The Board agreed to the draft dates presented for consideration which occur on the second Friday of the second month of each quarter.

8. ANNOUNCEMENTS

A. Next LARE Dates are Monday and Tuesday, December 7 & 8, 2009, at the Board office building. Van Wormer volunteered to proctor on Monday, December 7. Board Members are asked to check their schedule to determine availability to proctor on Tuesday, December 8.

B. Next Meeting Date: *Van Wormer* announced that the Board would meet for a phone meeting on December 9, 2009, Wednesday at noon to consider the Administrative Rules that were revised during today's meeting and to address the format of the Compliance Activity Report for the web and the newsletter.

9. ADJOURNMENT: The Chair adjourned the meeting at 4:30 PM.

Respectfully submitted,

Susanna R. Knight
Administrator

The minutes of the November 13, 2009 quarterly meeting of the Board were approved on December 9, 2009 at a Special Telephone Meeting.

Respectfully submitted,
Susanna R. Knight
Administrator