

OSLAB MEETING MINUTES

December 9, 2009

Participants Present:

In Conference Room A of The Association Center, Salem, Oregon

Robert Edwards, Public Member

Ron Nichols, Public Member, Treasurer

Susanna Knight, Administrator Board Staff

Via Telephone Conference Call

David Olsen, Landscape Architect, Vice-Chair

John Pellitier, Landscape Architect

Mel Stout, Landscape Architect

Timothy Van Wormer, Landscape Architect, Chair

Susan Wright, Public Member

1. **Agenda:** Chair *Van Wormer* called the conference call meeting to order at 12:02 PM. A voice roll call confirmed that all members were present and the Chair entertained any requests to add additional agenda items. *Van Wormer* asked to add a 7. Update on the status of registrant that has not met minimum standard. *Stout* moved to approve the agenda with the added item. *Seconded and unanimously passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

2. **Meeting Minutes:** *Stout* moved to approve the meeting minutes of November 13, 2009. *Seconded and unanimously passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

3. **Review of Administrative Rules:** Administrative Rules Chair *Nichols* asked if there were any questions about the revisions to OAR 804-025-0020(5), the continuing education standard for those registered for 25 consecutive years. *Olsen* offered that he found the text confusing and read it as the only way to acquire continuing education is through self study. *Van Wormer* agreed and offered that what this rule intends is that when you reach 25 consecutive years of experience you only need four hours of PDH (professional development hours) per year. *Olsen* stated that when you have met the 25 year mark, you are not required to do self-study but rather it is an option for PDH. After additional discussion, *Nichols* moved to approve the following language for OAR 804-025-0020(5):

(5) A Landscape Architect registered for 25 consecutive years or more in Oregon or other states requiring registration will meet the Oregon continuing education requirement upon completing four professional development hours per year. This can be accomplished through formal continuing education or self study.

Seconded and passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.

Nichols then directed the Board to OAR 804-022-0020 where the language for reinstating a delinquent registration was updated based on the manner the Board is currently dealing with this process. No questions were raised. *Edwards* moved to accept the draft language. *Seconded*

and passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.

Nichols then reported that during the November meeting, members of the Board asked to have the fee information revised in such a way that information can be located more easily. He directed the Board to the draft of the Fee OAR 804-040-0000, where a reorganization of the order of the information appears. He noted that the fees are now listed under fee categories by examination, registration, business, and miscellaneous. Stout offered that it is much better. Wright stated that it is much clearer. Nichols moved to accept OAR 804-040-0000 as rewritten. Seconded and passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.

4. Report of Compliance Activity: Compliance Committee Chair *Wright* directed the Board to the draft suggested format for web and newsletter presentation of compliance information. She stated that the goal of the report is to: inform registrants of on-going compliance activity; provide a reminder of the state law that regulates the practice of landscape architecture; share information on the nature of violations; publicize the names of violators; and report to registrant the amount of fines collected. Discussion followed. *Pellitier* shared that the newsletter of the OLCB lists all violations and includes names and penalties. *Wright* responded that this approach is overwhelming but the text box approach is just an idea and she sought more input. *Nichols* responded that the text box is better than an overwhelming list. *Edward* offered that the person or firm against whom the violation is listed should be named. *Olsen* inquired about how names in cases where a firm identifies an individual as a Landscape Architect would be listed. *Van Wormer* stated that he thought the report would be more statistical information and that he is not keen on posting the name of the individual. By using the assigned case number on the web site, the public can see that OSLAB is working on cases. *Edwards* responded that self-policing would be excluded if people do not know who is involved. If the person continues to be in violation, self policing cannot occur because no one knows who was violating. *Van Wormer* stated that the Board needs to get something up and running. *Wright* asked if she should reference the case number in a spreadsheet. *Stout* offered that other states do list names and that the Board could begin with baby steps first but in the long run, is the public being protected? *Wright* responded that the public is not being protected. *Knight* reminded the Board that ORS 671.338(1)(b) requires that investigatory information developed or obtained by the Board is confidential and not subject to disclosure unless a notice is issued for a contested case hearing or the matter investigated is finally resolved by Board action or a consent order. *Wright* suggested that she draft an idea for displaying the information, get it out to the members, and have an action item for the next Board meeting. *Pellitier* asked if we want to start out now in the newsletter stating that this is upcoming. *Wright* said that she will use real information from actual cases in her next draft. *Olsen* inquired about the purpose of posting the information and if the posting was for cases that are not anonymous or innocuous. *Wright* responded that if a case is closed with no action, then it is innocuous and the phone book violations should not be left out. *Edwards* offered that this could cause people actually check the yellow pages to make sure they are listed correctly. *Wright* reminded the Board that it relies on registrants to self-police. *Van Wormer* concluded by asking *Wright* to redraft the format and issue it to the members of the Board. The Board confirmed that the format should show all the active cases. And *Pellitier* again asked that the newsletter alert readers about the Board's work on the issue of providing on-line information

about compliance cases. *Van Wormer* concluded that the report should contain the complaint, date made, where the Board is with it and perhaps the name when the complaint is complete. No other action occurred.

5. Policy on Refund of Business Payment: Treasurer *Nichols* explained that staff has an inquiry from a closed business asking about a refund and asked if a business that is no longer practicing should get a refund. He reminded the Board that prior to July 1, 2009, business fees were collected for two years. The Board considered the implications of a refund policy. *Olsen* stated that this would be a bad precedent. The biennial budget is based on anticipated receipts and this could open up Pandora's Box about requesting funds for other items. *Stout* offered that this could affect all the other fees. *Van Wormer* agreed that the Board's biennial budget is based on the number of businesses and registrants paying fees and refunding fees could lead to budgetary problems. *Knight* stated that the examination fee is refunded if an applicant is not eligible to sit for the test. *Olsen* responded that this is a different issue. *Nichols* summarized that the Board agrees that fees will not be refunded.

Stout moved that the Board will not refund registration fees previously processed. *Seconded and passed.* *Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

6. Sole Proprietorship Follow-up: *Stout* presented a position statement about the sole proprietor. The ensuing discussion confirmed the Board's position that was established during the November Board meeting. OSLAB registers businesses that offer landscape architecture services. A sole proprietor offering landscape architect business services must have a business registration with the Board. The Board is regulating businesses that offer the landscape architecture services without regard to the size of the business.

7. Registration Concern: *Van Wormer* informed the Board that he would like to schedule another meeting about an ongoing registration concern. The Board set Thursday noon, December 17, 2009, for that meeting. Information will be forthcoming.

8. 2010 Meeting Calendar: *Olsen* informed that Board that he is hopeful his daughter will have a successful swimming season and if so, he would not be available to meet on the scheduled date of February 12, 2010 and perhaps not February 19, 2010 either. Would the Board consider February 5, 2009 as an alternative date? The Board confirmed that this date will work.

Chair *Van Wormer* adjourned the meeting at 1:10 PM.

Respectfully submitted,

Susanna R. Knight
Administrator

<p>The Minute of the December 9, 2009 special meeting of the Board were approved at the February 5, 2010 quarterly meeting. Respectfully submitted, Susanna R. Knight, Administrator</p>
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