

**OREGON LANDSCAPE ARCHITECT BOARD
MEETING MINUTES
FEBRUARY 5, 2010**

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
Kyle Martin, AAG, Business Services Unit [8:30 AM to 9:15 AM]

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

Spencer B. Bugbey
Kevin R. Perry
Bethany M. Rydmark

Other Guests:

No other guests.

Chair Van Wormer called the meeting to order at 8:32 AM in Conference Room A of The Association Center, Salem, Oregon and announced the Board would enter into Executive Session. The Chair 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 ORS 192.660(2)(f).

“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, the Board may meet in public session to make a decision under ORS 183.482(6).”

The Executive Session concluded at 9:47A.M. The Chair announced a 5-minute break.

Oral Interviews: At 9:55 AM, *Van Wormer* welcomed the three candidates for initial registration to the oral interview and stated that the mission of the Board is to regulate the practice of landscape architecture in Oregon. Each Board representative introduced themselves followed by the candidates introducing themselves. Content discussed during the oral interview included the purpose of ASLA versus OSLAB; the difference between the OAR and the ORS; continuing education; health, safety, welfare in protecting the public; the Board’s Code of Professional Conduct.

Olson moved to duly approve Spencer B. Bugbey, Kevin R. Perry, and Bethany M. Rydmark as Registered Landscape Architects. *Seconded and passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

Certificates were issued to new registrants, congratulations were offered, and words exchanged with the new registrants.

Additions to the Agenda: *Van Wormer* asked for additions or changes to the agenda. *Knight* offered one additional correspondence: LAC 10 01 034. *Wright* requested the addition under New Business of Required Evidence in Individual Complaint Types. *Stout* moved to approve the agenda with the two additions. *Seconded and passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

1. MINUTES:

- A. The Board reviewed the minutes of the November 13, 2009 Board meeting, but staff noted that those minutes were previously approved at the special December 9, 2009 meeting and were already posted on the web. *Van Wormer* noted that at that meeting, Danny Santos, the Board's Policy Advisor, indicated that if the tax ballot measure passed in January, there would be less need to consider combining Boards.
- B. *Stout* moved to approve the minutes of the December 9, 2009 Board meeting. *Seconded and passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*
- C. *Olsen* moved to accept the minutes of the December 17, 2009 Board meeting. *Seconded and passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

2. COMPLIANCE REPORT: *Wright* reported that the Compliance Committee met on January 21, 2010. *Van Wormer* inquired as to why no compliance report was in the Board packet. *Wright* offered that she had the full log of all outstanding cases. *Van Wormer* read the following statement at 11:07 AM:

"The Board will now meet in executive session per ORS 671.338(1)(b) for the purpose of discussing investigatory information developed or obtained by the Board which is confidential and at this time exempt by law from public inspection.

"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, the Board may meet in public session to make a decision under ORS 183.482(6)."

The Executive Session concluded at 11:47 AM. *Van Wormer* suggested that the staff investigate E-Rooms, a venue that would allow review of information by individuals with authorization as a possible strategy for presenting investigatory information.

Wright reported that both LACC 09-05-035 and LACC 09-05-036 remain open and under investigation but the following three cases are now ready for action.

A. **LACC 09-05-031:** *Wright* reported that the respondent provided a statement to the Board in response to the letter asking about employment. *Wright* moved to issue a letter of confirmation closing the case and reiterate information about sole proprietorships. *Second and passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

B. **LACC 09-11-005:** *Wright* reported that this individual has not met the minimum standard for registration and moved to issue a NOTICE OF PROPOSED ACTION AND RIGHT TO REQUEST A HEARING with a revision to the notice of bolding and setting apart the words “or in the alternative” within 16. *Seconded and passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

C. **LACC 10-01-006:** *Wright* moved to close this case by sending a letter to the individual at the Community College that used the term Landscape Architect in the Community Learning bulletin to describe a teacher for a design class that is not registered as a Landscape Architect. *Seconded and passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

3. ADMINISTRATIVE MATTERS: Knight referred the Board to numerous items.

A. The Board Administrator Report (AR2010-01) presented activities of the Administrator since the last Board. In particular, meetings of the SIBA group were driven by the audit and the biennial report. The renewal numbers were off in December, but the 30-day reinstatement window is not yet closed.

B. The budget updates for the 2009-11 biennium reveal that the cost of the biennial audit increased substantially and was up almost \$6,000 from the previous audit. No change in the audit content occurred, just a change in the auditing company. The budget anticipated a \$2500 increase, not a \$6000 increase! The Board also made a \$12,000 payment to Risk Management, the first of 6 such payments. These two large expenses are represented in this report.

C. Nichols moved to approve the check log of #3362 to #3409 and #10065 to #10070. *Seconded and passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

D. The Audit Report prepared by Moss Adams was completed and made a part of the biennial report. *Stout* stated that he reviewed the audit and noted that the auditors found no problems with the financial information of the Board.

E. A copy of the Biennial Report was distributed to all Board members. It was submitted as required per ORS 182.472 to the Legislative Fiscal Office; the President of the Senate; the Speaker of the House; and the Governor. The report represents the work of the Board from 7/1/2007 to 6/30/2009. Board members were asked to read the report and be prepared to comment about it at the next Board meeting.

4. COMMITTEE REPORTS

A. **ADMINISTRATIVE RULES COMMITTEE:** *Nichols* reported that changes to previously reviewed and approved rules are necessary to bring clarification. He offered numerous motions for purposes of accomplishing this clarification.

1. OAR 804-003-000: An addition to the definition of business entity is needed to bring clarification. *Nichols* moved to amend the prior draft of the definition of business entity in OAR 804-003-0000 (2) so that “corporation, Limited Liability Corporation, partner and other entity” are included in the definition. *Seconded and passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

2. OAR 804-022-0000: *Nichols* moved to amend the previously approved draft of OAR 804-022-0000 by renumbering the last line from 2) to the number 3) and renumbering 3) to 4). *Seconded. Van Wormer* offered that this is a good change. *Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes. Motion passed.*

3. OAR 804-022-0020: *Van Wormer* reminded the Board that as part of the reinstatement requirement, the Board will require a statement from the individual confirming that the practice of landscape architecture did not occur while the person was not current with registration. The Board concurred that this addition should be added to the rule before it is finalized. This rule should be held pending additional revisions.

4. OAR 804-025-0020: *Nichols* moved to amend the previously approved draft of OAR 804-025-0020 by changing any reference of “hours” and “units” to PDH; clarifying the types of PDH activities that are acceptable and eligible for acceptance; and allowing the Board discretion in accepting PDH. *Seconded.* The Continuing Education Committee members concurred that these clarifications will strengthen the OAR. *Nichols* advised that a section in OAR Division 25 on documentation of continuing education and auditing continuing education is up next for drafting. *Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes. Motion passed.*

5. OAR 804-030-0003: *Nichols* reported that a very minor change occurred in wording. The words “cause to be voided” were changed to “be void”. *Nichols* moved to amend the previously approved draft of OAR 804-030-0003 with one minor revision which changes (6)(a) “shall be caused to be voided” to “are void”. *Seconded and passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

6. OAR 804-035-0010: *Nichols* moved to amend the previously approved draft of OAR 804-035-0010 by changing the term “business” to “business entity” and changing “shall” to “must” or “will”. *Seconded. Olsen* inquired if this does indeed clarify and *Wright* offered that it is clarified in the definition of business entity. *Passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

7. OAR 804-035-0020: *Nichols* stated that this is again a clarification that business means “business entity” and moved to amend the previously approved draft of OAR 804-035-0020 by clarifying that the application for a Certificate of Authorization is for a business entity; that “business” means “business entity”; and changing “will” to “must” because the requirements of this rule are in the present, not the future. *Seconded and passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

8. OAR 804-035-0030: *Nichols* offered that this is the last clarification where “business” becomes “business entity” and moved to amend the previously approved draft of OAR 804-035-0030 by clarifying that business means “business entity”. *Seconded and passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

B. CONTINUING EDUCATION COMMITTEE: *Stout* distributed a report of the work of the Continuing Education Committee (CEC) and reported that the PDH audit this time provided three different scenarios of registrants: one seeking not to continue registration; one

registered with 25+ years experience needing 4 PDH; and one required to present 12 PDH. *Stout* moved to approve #337 and #338 and to hold #339 pending additional information from the registrant. *Seconded*. During discussion, *Nichols* inquired if the registrants with twenty-five or over years of experience are being notified. *Stout* responded that the committee determined the 25 year scenario should be included in the audit information, perhaps with a check box. *Nichols* suggested that a sidebar be included in the newsletter about the 25+ years of practice and continuing education. *Edwards*, yes; *Nichols*, yes; *Olsen*, yes; *Pellitier*, yes; *Stout*, yes; *Van Wormer*, yes; *Wright*, yes. *Motion passed*.

The CEC also responded to inquiries of staff about PDH opportunities. The CEC also affirmed that PDH approved by the LA CES is acceptable for meeting the requirement. *Van Wormer* inquired if the website offered information on continuing education. *Stout* responded that information for clarifying PDH requirements will be incorporated into the Administrative Rules. [Appendix III]

C. INVESTMENT COMMITTEE: *Nichols* reported that the Certificates of Deposit continue to earn interest, although modest, and serve as a reserve for the Board should any unexpected or unbudgeted expenses arise.

D. LICENSURE REVIEW COMMITTEE: *Van Wormer* reported that in addition to the three candidates approved at the beginning of the meeting for initial registration by examination, three new registrants by reciprocity were also approved since the last meeting. Three businesses were also added to the Board roster. One registrant moved to inactive status. *Olsen* suggested that the inactive applicant might want to keep his Oregon registration current until his registration in another state is finalized. The Administrator will review all requests for inactive status. [Appendix II]

E. OTHER:

1. Liaison to OBAE: *Olsen* reported that he has been in touch with the newly appointed member of the Architect Board who is assigned as liaison to OSLAB.

2. Liaison to OLCB: *Pellitier* reported that he continues to review information presented from the Landscape Contractor's Board and noted that many fines continue to be assessed.

At 1:50 PM, the Chair announced a five-minute break.

5. CORRESPONDENCE

A. LAC 09 11 313: *Van Wormer* informed the Board that this letter was prepared by the various professional associations for Engineers, Architects, and Landscape Architects and was issued to the Governor's "Reset Cabinet". The cabinet was charged with developing strategies to deal with the decline in state budget dollars.

B. LAC 10 01 009: The Board concurred that the issues raised in the auditor's letter to the Board were not substantial and the audit revealed no problems with the financial statements of the Board.

C. LAC 10 01 023: This correspondence was a registrant inquiry regarding the initial registration date reported on his registration card. The registrant's certificate revealed an

earlier registration date. The Board was sunset in the early 1980's, but registration was reinstated effective January 1982. Those registered between 1968 and 1980 may not have received new wall certificates. However, a new initial date of Oregon registration was established in 1982.

D. LAC 10 01 034: A registrant is requesting inactive registrant. However, effective 12/31/2009, the registration number became delinquent. Inactive status can only be granted when a registration is "in good standing". Inactive may have been granted if the applicant had requested inactive status while in an active status. The Board discussed the need to maintain an active registration if one is marketing Landscape Architect services. The Board also stated that if the engineering firm offers landscape architecture services, that firm will need to register with the Board. A discussion about inactive status followed. Knight stated that there are three types of registration statuses: active, inactive, emeritus. When a registrant does not renew an active registration, it becomes *delinquent*. When an inactive registrant does not reinstate, the registration moves to a *lapsed* status. Emeritus registrants meet the requirements of OAR 804-022-0025 and become *lapsed* after five-years. The Board asked that a newsletter article address these registration statuses.

6. OLD BUSINESS

A. Action List: The Board reviewed the list and noted assignments as listed.

B. Format for Reporting Compliance Activities: *Wright* distributed a sample report for QUARTERLY COMPLIANCE ACTIVITY. The Board discussed whether or not names of registrants and companies in violation would be printed. *Van Wormer* thought that names would be printed when legal action occurred such as a fine or discipline. *Wright* suggested a third category on the form titled PENALTY. In this section of the report, names could be printed. Compliance Activity Report to the Board office by 2/21/2010.

C. Bylaws: *Van Wormer* noted that no additional work occurred on the Bylaws during the Work Session. Knight suggested that an updated draft be issued to the Board members and that a review occur at the next Work Session.

7. NEW BUSINESS

A. Streamlining Compliance Case Process: *Wright* noted that it is the goal of the Compliance Committee to reduce the days from receipt of a complaint to the final letter. The average time of 365 days per complaint was reported in the recent biennial report for the 2005-07 biennium. For the 2007-09 biennium, that number was reduced to 120 days. *Wright* offered that this is still high and she would like to see it reduced. She offered that there is no clear process in place for dealing with complaints so this has added time to "days". A Compliance Tree will be developed by the Committee. *Wright* also suggested that routine complaints such as phone book yellow page advertising should move forward without action by the Board. *Wright* also noted that the compliance process is tripping up on the penalty phase. The Compliance Committee will work with the Board's AAG to determine what proof is needed in a case to support a penalty phase. *Edward* offered that currently the committee needs Board approval to close yellow page complaints.

B. Draft ATTESTATION OF PRACTICE/NON-PRACTICE: *Edwards* suggested that such a document should be signed when a registrant requests inactive status, “Before the horse is out of the barn”. The Board agreed that the document be titled a STATEMENT; that a re-draft be prepared; and that the revised draft be presented at the next meeting. The Board also agreed that the word AFFIDAVIT should be changed to STATEMENT on the form used by initial applicants for registration documenting that both the Rules and Laws have been read. That same change should occur on the current AFFIDAVIT OF RESPONSIBILITY completed by the Landscape Architect on record for a business.

C. Draft Form Letter to those in a Delinquent status: The Board viewed the revised letter issued to registrants that fail to renew within the 60-day window. The word **Forfeit** has been changed to **Delinquent**, the statutory term of the Board.

8. ANNOUNCEMENTS

A. *Van Wormer* announced that the next meeting would convene in Salem at the Board office on May 14, 2010.

B. The next LARE administration by the Board will be June 7 & 8, 2010, at the Board office building.

9. ADJOURNMENT: *Van Wormer* adjourned the meeting at 3:30 PM.

Respectfully submitted,

Susanna R. Knight
Administrator

<p>The minutes of the February 5, 2010 Board meeting were approved as presented at the May 14, 2010 Board meeting. Respectfully submitted, Susanna R. Knight, Administrator</p>
