

OREGON STATE LANDSCAPE ARCHITECT BOARD (OSLAB)

MEETING MINUTES QUARTERLY MEETING

May 14, 2015
Conference Room "B", 2nd Floor
707 13th St. SE, Salem, OR 97301

<u>Board Members Present</u>	<u>Staff Present:</u>
Gregg Everhart, RLA	Christine Valentine, Board Administrator
Sydney Hatch, Public Member	
Lauri L'Amoreaux, RLA*	<u>Other Participants*</u>
Michael O'Brien, RLA, Vice Chair	Dale White, Investigator
Kathy Olsen, Public Member, Treasurer	Kyle Martin, AAG, DOJ
Steve Ray, RLA, Chair	Ian Holzworth, Registration Candidate
Susan Smith, Public Member	Amy Whitworth, APLD, Landscape Designer
	Vanessa Gardner-Nagel, APLD, Landscape Designer
<u>Board Members Excused</u>	Barbara Simon, APLD, Landscape Designer
None	Julie Williams, Landscape Designer

*Participation was as noted in minutes

OPEN MEETING

Chair Ray opened the meeting at 9 AM. He called the roll for the record. All members were present along with Administrator Valentine. No one else was present at this time.

AGENDA REVIEW

Chair Ray reviewed the agenda with the Board and asked if there were any comments. He also asked Valentine about handouts she distributed, and she said they related to existing agenda items and would be addressed as those items were discussed. No changes were made to the agenda.

MINUTES

Chair Ray referred to the minutes before the Board for review and approval. He reminded the Board of the recent change in procedure related to executive session minutes but then moved to the public session minutes. He did not offer revisions but asked Valentine to update the Board later in the meeting on the ongoing discussion with the University of Oregon about continuing education that was referenced in the minutes. Everhart requested a revision on p. 9 to improve the clarity of the description of the Board's direction on this continuing education item. No other revisions were requested. Valentine reviewed revised language with the Board.

Everhart moved to approve the February 26, 2015 public session minutes with the one revision discussed. L'Amoreaux seconded the motion. Hearing no discussion on the motion, Chair Ray called the vote, and all approved.

Chair Ray presented the Board's executive session minutes from the February 26, 2015 meeting for review. He asked if there were any comments on the minutes. Hearing no requests for discussion, he asked for a motion to approve the minutes.

Everhart moved to approve the February 26, 2015 executive session minutes as presented. Vice Chair O'Brien seconded the motion. Hearing no discussion on the motion, Chair Ray called the vote, and all approved.

CONSENT AGENDA

Chair Ray opened review of the consent agenda. Valentine noted the three sections of the consent agenda (Licensure Review, Quarterly Check/Payment Log, and Continuing Education Audit Report) and said the intent was for these items to not require detailed discussion. She mentioned that one licensure item would be addressed under correspondence and two audits under the Continuing Education report due to need for Board discussion. Valentine also thanked Smith for pointing out several typographical errors on the consent agenda and corrected those for the record.

Chair Ray asked if there were any comments on the consent agenda. Everhart briefly explained why the two continuing education audits were not listed in the consent agenda and said she would get into details under Committee Reports. She noted that counsel would be present at that time in case the Board needed legal input on those two audits.

Treasurer Olsen moved to approve the three sections of the consent agenda. Vice Chair O'Brien seconded the motion. Chair Ray asked if there were any comments. Everhart had a question related to payments for investigator services and the history of the Board's agreement with the Oregon Board of Architect Examiners. Valentine explained how the agreement addresses payment for services. Hatch asked for clarification about the relationship between existing contracts for IT services and proposed contracts for IT services in 2015-2017. Valentine explained that she proposes to enter into new contracts for 2015-2017 with the same providers on contract in 2013-2015. Chair Ray confirmed there were no other comments and called the vote. The motion was unanimously approved.

ADMINISTRATIVE MATTERS

➤ Administrator's narrative report: Valentine referred the Board to her narrative report and welcomed questions. She requested Board review and support of several items mentioned in the report that are necessary to have in place for the 2015-2017 biennium.

◆ *Interagency agreement (IAA) for 2015-2017*: Valentine stated that the IAA was developed after consultation with Chair Ray, the Chair of the Oregon State Board of Geologist Examiners (OSBGE), and counsel. The IAA would continue the temporary arrangement for administrative services through the 2015-2017 biennium. Board members and Valentine discussed how the decision to work in this manner with OSBGE has been made on a biennium-to-biennium basis. Also discussed were various pros and cons of the arrangement. Chair Ray had some concerns about moving to a permanent arrangement as that may not best serve long-term needs. Vice Chair O'Brien felt the arrangement was important from the financial perspective but also felt that maintaining flexibility was critical. The Board discussed the advantages and disadvantages of the status quo approach. The IAA does allow OSLAB to have the services of two staff instead of one. Treasure Olsen also thought the two-year approach was appropriate.

Valentine highlighted that the IAA this time calls for a joint analysis by OSLAB and OSBGE to document the efficiencies generated by this arrangement as well as some of the challenges of shared administrative services. One example of an issue that has come up before is the roles of the two boards in a recruitment process. Valentine stressed that Board members would need to be engaged in the analysis process. The analysis would memorialize how the shared services approach has worked and also look at whether statutory changes might be beneficial to support this shared services approach. Hatch asked where the pendulum is on the issue of board and commission consolidations. Valentine said this is not entirely clear but perhaps these boards can serve as a good model for shared administrative services but independent boards. Various employment-related questions were asked by Board members and discussed. Ultimately, Board members saw value in carrying out the analysis but reserved judgement about future commitments or changes in the IAA.

◆ *IT contracts for 2015-2017*: Valentine explained that the proposed contracts cover computer and server maintenance/security and database maintenance/security. Her proposal was to continue working with the same IT providers as on contract for the current biennium. She said it is difficult to find providers willing to take on such small agencies and help to keep IT costs down as the work is not very lucrative. Valentine initially viewed these as “Office Service Contracts” which by Board policy do not require formal Board approval. But upon review of the Contracting and Procurement policy, she was unclear if these contracts would be considered by the Board to fall under this category and thus the request for Board feedback. Valentine addressed the contract terms with respect to hourly rates and not to exceed amounts. She noted that the contracts have higher maximum thresholds than for 2013-2015 due to building in contingency for assistance with the planned move to online payments and renewals. Chair Ray asked if there were any questions or concerns with the proposed IT contracts, and none were offered.

◆ *Office lease for 2015-2017*: Valentine said the lease does seem to fall under the “Office Service Contracts” category but nonetheless she saw no reason not to share the proposed lease. She noted that the lease will be nearly identical to the current lease, except for two years term instead of three and with the annual increases between 2.5 and 3%. Through the budget development process, the Board had already weighed in on the decision to not change the office location. Chair Ray asked if there were any questions or concerns about the lease and noted that he felt the office situation was working well for the Board. Treasurer Olsen offered that the lease looked good and that the difference in the 2.5-3% rate was not overly critical.

Chair Ray confirmed that the Board was supportive of having Valentine finalize negotiations and enter into the lease and IT contracts.

◆ *CLARB Exam Data*: Valentine referred the Board to information from the Council of Landscape Architectural Registration Boards (CLARB) about the exam candidate pipeline. The Board reviewed and discussed this information. Chair Ray said he was most interested in trends regarding number of candidates and exam completion and how this tied to changing demographics. The CLARB information did not fully address these issues. The data appeared to show that people are delaying starting the exam process, and others finish the exam but do not pursue licensure. Board members discussed how individuals may feel the registration is not necessary if they plan to remain working under the supervision of a registrant. If the registration is not viewed as valuable to an individual’s career, then cost and time factors may keep people from the exam process. Board members would like to better understand the

barriers to exam completion, i.e., is it time, money, low perceived value in registration, lack of support from firms, costs of registration, continuing education requirements, or some combination of factors.

Treasurer Olsen asked if there was a way for the Board to offer an incentive for taking and completing the exams, especially considering the cost of the exam. Board members discussed this concept and were interested in considering this idea further with respect to what options the Board might have and what would benefit the Board's mission. The bulk of the exam cost is set by CLARB, with OSLAB now having a one-time application fee that covers taking all exams over a period of 5 years. The Board discussed that perhaps CLARB needs to focus more on communicating the value of registration. Also discussed was a possible need for outreach by OSLAB to better understand how firm principals, registrants, ASLA, academics, and CLARB communicate about the value of exam completion and registration. The Board is interested in finding avenues to share information with prospective registrants about the purpose and value of registration and how the exam process may be more difficult if not started soon after graduation. In the short term, Chair Ray volunteered to connect with the ASLA emerging professional group to see if they would be interested in discussion around these issues.

◆ *Training Update:* Valentine mentioned that she has signed up for a Department of Justice (DOJ) Public Law training this fall and shared the training schedule with the Board. She also signed Vice Chair O'Brien up for the second day so that he could attend rule writing training. Valentine said the Board previously expressed support for the rule writing training. DOJ limited enrollment when it was offered in 2014, and OSLAB was wait listed. Hatch expressed interest in also attending day 2 of the training, and the Board was supportive of this request.

◆ *Legislative Update:* Valentine said there are no bills specifically addressing landscape architecture. Discussion of bills related to landscape contractors was deferred to the liaison reports later in the meeting. Legislative proposals for sunset type reviews appear dead. Staff continues to watch bills that address rulemaking procedures and public records and is also monitoring a proposal to designate the Oregon Medical Board as a semi-independent agency. Valentine noted that the recent PERS decision by the Oregon Supreme Court has been big news, but it appears the budget problems created by this decision will not be tackled in the current session. It is very possible that employers will see increased costs in 2017-2019 PERS rates, which would impact the cost for administrative services. Valentine mentioned that the May revenue forecast came out and was positive, giving the Oregon Legislature more revenue to work with. She said the Legislature is working on agency budgets and final bills now as it entered the home stretch.

➤ Quarterly budget updates: Valentine presented the budget update and stated that revenues and expenses continue to track mostly as anticipated. She expects the renewal revenue for year 2 to be lower than the budget projection but higher than for year 1. She noted that business renewal revenue continues to be hard to estimate, and this is something that might be looked at when the Board dives into the business registration rule review.

➤ Renewal history: The Board briefly reviewed the updated renewal histories for individual and business registrations. Valentine responded to a question from Everhart about a January 2015 entry regarding a deceased registrant.

Chair Ray called for a break at 10:36 AM. He reconvened the Board at 10:51 AM. He noted that there were a few loose ends with the Administrator's Report to cover and then the Board would proceed to the Correspondence agenda item.

Valentine asked the Board to review information distributed about the CLARB annual meeting. She encouraged the Board to make a decision on whom it will send this year. L'Amoreaux was identified as the Board member to attend with Valentine. Everhart was identified as a backup should L'Amoreaux run into any conflicts with her schedule.

CORRESPONDENCE

Valentine explained that a Landscape Architect in Training (LAIT) requested reinstatement. Staff believes this is the first time such a request has been made by a LAIT. Staff recommended Board approval of the reinstatement. Vice Chair O'Brien noted that the Board could better work with individuals if they notified the Board ahead of time about challenges that impact on their registrations. Other board members concurred with this sentiment. Valentine said individuals in challenging situations often do not think to contact the Board. This then often limits the Board's options for working with those individuals as they let registrations lapse. All agreed that information on inactive status and implications of late renewals might be a topic for a future newsletter.

Chair Ray moved to approve the reinstatement of LAIT #0029. L'Amoreaux seconded the motion. Chair Ray asked if there was any discussion. Everhart noted the LAIT has the same work and home address and suggested it might be appropriate to caution her not be doing landscape architecture work as a sole proprietor not under supervision. Chair Ray said the Board does not have evidence that she is doing landscape architecture work in her practice. It was then noted that she is now working under the supervision of a registrant. Chair Ray called the vote, and all approved.

GOALS/STRATEGIES CHECK-IN

Chair Ray presented a draft blueprint prepared for Board consideration. Valentine said the blueprint was intended to help organize various ideas related to the Board's identified strategic goals. The Board previously endorsed the vision, values and goals included but nothing else on the blueprint. Valentine then stepped out of the meeting from 11:10 – 11:20 to obtain an additional copy of the blueprint. Board members reviewed the document during this time, with Chair Ray walking the Board through a review of the goals and possible tasks. Board members proceeded to discuss the three identified goals and various tasks identified as possible ways to forward those goals.

Board members found that they kept coming back to the goal of identifying what is meant by landscape architecture practice (i.e. goal 2 of the blueprint). This was deemed key to the Board mission and other identified goals. There was interest in enhancing the information that could be shared with allied professions, both regulated and unregulated. There was also discussion about possible ways to engage other boards and organizations in this work. Chair Ray summarized that blueprint goal 2 was the Board's highest priority. He then requested that Valentine send the blueprint to Board members after the meeting and asked each member independently review and vote for the three to four tasks for goal 2. Valentine was asked to collect and analyze the individual inputs and prepare a summary for the next quarterly meeting.

White joined the Board at 11:30 AM during the discussion about the blueprint. He offered that the boards for engineers and architects are currently trying to work out issues of stamping

related to practice overlap. He thought this model of boards collaborating and even establishing joint committees to look at practice issues could be a model for OSLAB.

Chair Ray called for a lunch break at 12:02 PM. He reconvened the Board at 12:28 PM and opened discussion on reports.

REPORTS

➤ Continuing Education

◆ *Drawing of Names for Audit*: Smith randomly pulled four registrant names for audit in this quarterly cycle. The names were not disclosed.

◆ *Continuing Education Audits*: Everhart presented her findings on audits 15-0002 and 15-0009.

15-0002: The registrant did not submit a PDH log even after several requests from staff. Everhart discussed the value of the log in understanding what the registrant is claiming for particular activities, including whether credits are viewed as health, safety and welfare related. Everhart had Valentine review the rule requirements for the PDH log. All agreed that the Board needs to respond to the registrant's failure to submit the PDH log.

Everhart said she also needed Board input about the content of the PDH submitted. While she thinks the registrant completed the 12 PDH needed, the registrant claimed more credit than seemed warranted. She asked for input on whether outreach to the registrant was in order. Valentine mentioned that this registrant has requested feedback from the Board over the last several years about continuing education in attempts to understand what is acceptable, however those requests did not involve Board review of specific examples. The Board discussed articles submitted per 804-025-0020(3)(b)(C), which says the Board may approve up to 20 PDH for various authoring (publishing) activities. The consensus was that the articles submitted for this audit appear to be designed as education for others vs. serving as an educational experience for the registrant. The Board was concerned that this might reflect a misunderstanding of the primary purpose of continuing education, i.e., to further the knowledge and skills of the registrant and not to promote landscape architecture. The Board also felt that a newspaper article was not necessarily comparable to authorship and publication of a book or an article in a peer reviewed journal.

The Board directed that Everhart work with staff on written notification to the registrant of the following: (a) while it appears he has sufficient credit to pass, the PDH log needs to be submitted with identification of credit types as required per Board rules, (b) the Board is concerned with the type of articles submitted as PDH and anticipates awarding these no more than 2 PDH per article, and (c) the Board will reconsider this audit at the next quarterly meeting. Board members noted that this registrant relied almost exclusively on authoring credits, but there is not currently any rule requirement for registrants to pursue diversity in the type of PDH completed. This was noted as an issue to consider as part of evaluation of the continuing education rules.

15-009: Everhart summarized that this audit involved a registrant who did not complete his PDH for the audit period. This individual submitted a letter explaining that his plans to attend the annual ASLA conference to complete his PDH were cancelled due to need to care for a spouse with a terminal illness. Staff contacted the registrant to see if inactive status might be an option. The registrant wants to maintain the ability to practice and indicated his interest in

catching up on his PDH. Valentine noted that the Board has in rule that it can give a registrant 120 days to complete PDH. While this registrant's situation is not explicitly addressed in the rule, the Board has prevailed of this option for somewhat similar situations before. The consensus was to notify the registrant that he has 120 days to complete the 12 PDH required for the audit year with a reminder that he also needs 12 PDH for the current year.

◆ *Other updates:* Valentine reported on a conversation she had with the outgoing Landscape Architecture Department Chair at the University of Oregon. She informed the Board that information was being relayed at the university level to Bart Johnson, the incoming Department Chair. The Department has been invited to participate in the Board's evaluation of the continuing education rules, and Valentine believes representatives of the Department will engage in that process.

➤ **Liaison Reports:**

◆ *Board of Architect Examiners (ORBAE):* L'Amoreaux provided a report and noted the work of ORBAE with the engineering board on overlap issues as mentioned earlier by White. She understands the practice overlap issues were generated by compliance cases. She encouraged OSLAB to consider diving into this conversation about stamping and signing by various design professionals.

◆ *Landscape Contractors Board (LCB):* Chair Ray reminded all of previous informational meetings with representatives of LCB and how most recently issues about irrigation design services were discussed. The Board was updated on the status of proposed statutory changes included in SB 580 to allow LCB registrants to provide irrigation designs without installation. Vice Chair O'Brien reminded all that the statutory change would be generalized and that LCB representatives committed to working with OSLAB on rule changes to set appropriate requirements. There was discussion at those meetings about ensuring competency for irrigation design. Valentine said there was discussion about requiring the highest level of licensure LCB offers and also setting training, experience, and other criteria in rule as appropriate. Valentine mentioned that LCB has a new administrator coming on board and that she would reach out to this person about these issues. Valentine also added that LCB may need to develop and implement new exams depending on the fate of another bill, HB3304, which is currently in the legislative process. She anticipated that such a mandate could cause some distraction for LCB from the irrigation design rulemaking issue at least initially.

◆ *American Society of Landscape Architects (ASLA):* Chair Ray did not have a report regarding the Oregon Chapter. He reiterated that he would approach the Emerging Professionals group as discussed in the AM.

The Board was joined by Kyle Martin, AAG, at 12:45 PM.

➤ **Administrative Rules**

Valentine distributed a summary list of 2015 rule projects for reference. The Board proceeded to consider the following rules and made the motions noted herein:

◆ *Budget Rule Amendment (2015-2017 budget), 804-001-0002:* Valentine presented the hearings officer report and summarized the one comment received on the budget. She recommended Board approval of the updated biennial budget rule, OAR 804-001-0002, to finalize adoption of the 2015-2017 budget. No changes to the budget approved at the Feb. 26, 2015 meeting were proposed.

Vice Chair O'Brien moved to adopt 804-001-0002 as amended for the 2015-2017 budget. Everhart seconded the motion. Hearing no discussion, Chair Ray called the vote, and all approved. The rule will be filed with an effective date of July 1, 2015.

◆ **Proposed Rulemaking:** The Board was updated on rules work that was kicked off via discussions at the February 26, 2015 meeting. Four rules (1 new, 3 revisions) were tackled by Valentine and Vice Chair O'Brien. The Administrative Rules Committee was engaged to review the drafts. The Committee supported the rule proposals and had only limited suggestions for revisions. Valentine said the committee's revisions were largely worked into the draft rule language included in the meeting packet. After the Committee meeting on April 29, 2015, the draft rules were also sent to Board counsel for review. Valentine noted that Martin was present to participate in discussion with the Board, both with respect to his advice about some changes to the inactive and reinstatement rules and to address other questions Board members might have.

Public Records Requests, 804-001-0020: Valentine summarized that the revisions would bring the rule up-to-date with the Oregon Public Records law and comparable to similar rules adopted by other state agencies. The Committee was concerned that the staff labor rate proposed at \$25 may be too low and questioned whether this rate should be higher or given as a range depending on how response needs to be handled in terms of the person(s) researching and preparing the response. Valentine explained that the rate was based on a review of similar rules adopted by other state agencies, with a desire to have OSLAB be comparable to the norm. She also said the rate reflects the anticipated work of multiple staff positions in review and response to records requests for a blended hourly rate. She further pointed out that the revised rule would allow the Board to better capture the true costs of public records requests compared to the current rule which only addresses costs for copies. She encouraged the Board to discuss the issue and noted that neither the Committee nor counsel identified any other changes. The Board briefly discussed and decided to keep the rule language as proposed.

Vice Chair O'Brien moved to authorize the issuance of rulemaking notice for proposed revisions to 804-001-0020. Treasurer Olsen seconded the motion. Chair Ray asked if there were any comments. Hearing none, he called the vote, and all approved.

Required Application Information (Social Security Numbers), 804-022-0030: Valentine explained that this proposed new rule addressed legal purposes for obtaining social security numbers for all registrants. The rule would provide clarity to prospective applicants, registrants, and future Board staff and Board members. The Committee was supportive but did request an addition to the very end of the rule to clarify that the Board will not release a social security number for any other purpose not authorized by the rule without written consent. Counsel did not identify any changes to the rule.

Hatch moved to authorize the issuance of rulemaking notice for proposed rule 804-022-0030. L'Amoreaux seconded the motion. Chair Ray asked if there were any comments. Hearing none, he called the vote, and all approved.

Inactive & Inactive Emeritus Status, 804-022-0025: Valentine distributed a hand-redacted update of the proposed revisions and then summarized the intent of the rule revisions as an effort to provide greater clarity regarding requirements and procedures for existing forms of inactive status. Regular inactive status is not currently addressed in rule so adding the

requirements and procedures into the rule was the first major change highlighted. The second major change proposed was adding an annual fee for all inactive registrants, not just emeritus inactive registrants. The administrative work is the same so the existing fee difference is not logical. Valentine explained that this would require the Board to also make a minor change to its fee rule and provided a handout showing the change. Finally, the rule revisions also addressed delegation of decision-making.

The main comment from the Committee was that the rule would be less confusing if the two forms of inactive status were called Inactive and Emeritus. Counsel subsequently commented that the Board needs to stick with the Inactive and Inactive Emeritus titles so as to not appear to be creating a type of registration status not authorized under statute. The Committee also asked about definitions for Inactive and Emeritus. The Board has a definition for Emeritus in its existing definitions rule.

Counsel recommended further modifications to ensure that the Board would be delegating only non-discretionary actions. In other words, the Board can delegate decisions where staff would be determining that an individual either met or did not meet the requirements for switching registration status. Staff would not make decisions that require the exercise of discretion on a case-by-case basis.

Everhart asked if the Board should define good standing in this rule. Valentine pointed out that the Board already has a definition of good standing in its definition rule and that the definition was updated not that long ago. O'Brien suggested a link be added to the rule since the Board finds that people are not clear on what good standing means. Martin advised that the Board could add a reference back to the definitions rule. The Board decided to add this reference in sections (2) and (3) of the draft language. Valentine said she would get this update incorporated prior to putting the rule out for review.

Hatch moved to authorize issuance of rulemaking notice covering 804-022-0025 with the language changes identified and associated fee change in 804-040-0000. Everhart seconded the motion. Hearing no comments, Chair Ray called the vote, and all approved.

Late Renewal & Reinstatement, 804-022-0020: Valentine distributed a hand-redacted update of the proposed revisions and then summarized the intent of the rule revisions as an effort to provide greater clarity about how registration can be renewed when renewal was not completed timely. The Board is given sidebars in statute, which continue to be reflected in the rule. Major changes were: (1) addition of more descriptive language about late renewal and reinstatement options including the 5 year window, (2) reduction of the requirements for reinstatement, and (3) delegation of decision-making. Valentine said the revisions would address the chronic issues of clarifying that there is not an exam for reinstatement, no longer leaving individuals wondering if they will need to appear before the Board, and no longer having to hold reinstatements for the next quarterly Board meeting. Vice Chair O'Brien suggested the revisions would make the process less onerous for individuals and the Board. Valentine agreed but noted that the fees associated with reinstatement will continue to be the biggest deterrent to individuals simply ignoring renewals.

The Committee was most interested in the proposed changes to the reinstatement process and spent most time discussing the pros and cons of requiring individuals to appear before the Board. While the Committee did not necessarily have a strong position on the matter, there

was an inclination to having the Board maintain some discretion and flexibility in this area. Valentine said there could be some value in keeping discretion but also pitfalls around how to determine whether a reinstatement does or does not need to go before the Board. She also noted that it can be a burden for registrants, particularly those not living in Oregon. Vice Chair O'Brien asked the Board to consider what is the value of coming before the Board for reinstatement. Martin advised that the Board would need to be consistent in when it required individuals to come before the Board. The Board determined that there was not sufficient justification to require individuals to appear before the Board as part of the reinstatement process.

Valentine mentioned that counsel recommended some additions to the rulemaking summary, which is not part of the rule language but provides history that stays in the rulemaking record. Counsel also raised the issue about delegation of decisions being limited to only decisions that do require the exercise of discretion by staff. The issue was the same as discussed for the inactive rule.

Smith pointed out the need to fix the numbering sequence in (5) such that the word "and" is inserted after (b) and a period added after (c).

Everhart asked the Board to think about the fees currently in place for reinstatement and how this compared to inactive status. It was clarified that a registrant that requests to go inactive while in good standing can avoid the high fees of reinstatement.

Chair Ray moved to authorize issuance of rulemaking notice for 804-022-0020 with the minor editorial changes identified. Treasurer Olsen seconded the motion. Hearing no discussion, Chair Ray called the vote, and all approved.

The Board was joined by four guests at this time: Amy Whitworth, APLD, Landscape Designer, Vanessa Gardner-Nagel, APLD, Landscape Designer, Barbara Simon, APLD, Landscape Designer, and Julie Williams, Landscape Designer.

◆ *Anticipated Rule Projects:* Valentine mentioned that the next projects on the Board's 2015 list are focused on continuing education and business registration. For the continuing education rules project, Valentine thanked Everhart for continuing to update her list of issues encountered in the audit process. The updated list was distributed to all. For the business registration rules, she reminded the Board of its discussion on this topic at past meetings and that the Board has some legal advice on this topic. She suggested the Board think about how it would approach registrant outreach on these projects since these topics are known to be of high interest to registrants. She also encouraged the Board to take the time to carefully review the existing rules and then develop and review revisions. Vice Chair O'Brien agreed and added that the Board will also need the strong engagement of counsel on these projects.

Vice Chair O'Brien acknowledged that Everhart agreed to be engaged in the review process for the continuing education rules. This would include meetings of the Administrative Rules Committees. Everhart said this process would be an opportunity to share information about continuing education with registrants while soliciting their input. She mentioned that the Board might want to coordinate with ASLA's continuing education coordinators located in Eugene and Portland. Vice Chair O'Brien suggested that the Board might want to look at what other landscape architect boards have in their continuing education rules. The Board decided that it

would start with the Committee and build towards some face-to-face outreach opportunities with registrants. The Board might also ask ASLA and CLARB for ideas and input.

Valentine pointed out that the rule amendments discussed earlier did not change continuing education requirements but did contain links to existing continuing education rules. If the Board subsequently decides to change the continuing education rules, those changes will automatically link back to these rules.

For the business registration project, Vice Chair O'Brien again reminded the Board that counsel provided some legal advice in relation to this project. He suggested that this will be the most difficult of the rule projects identified for 2015. The Board will need to be cognizant of registrant concerns and the possibility of unintended consequences of various changes.

Chair Ray called for a break at 2:15 PM. Chair Ray reconvened the Board at 2:28 PM and opened discussion on the Compliance Report.

➤ *Compliance*

Chair Ray inquired if the Board would need to go into executive session to review open complaint cases. Valentine summarized that the Board had several complaint cases to discuss in executive session and also two potential compliance issues to discuss in public session. The cases were LACC#14-04-003, LACC#14-12-005, and LACC#15-03-007. The other items involved use of title involving a non-registrant and the ASLA's Firm Finder website feature.

At 2:34 PM, Chair Ray announced that the Board was entering Executive Session for purposes of reviewing materials exempt under ORS 671.338 and ORS 192.660(2)(l) and (f). The Board's guests left the room as Chair Ray read the script.

Chair Ray returned the Board to public session at 3:14 PM and announced that he was recusing himself from discussion of LACC#14-12-005 and left the room. At 3:15 PM, Acting Chair O'Brien returned the Board to executive session to continue with its case discussions. He announced that the Board was entering Executive Session for purposes of reviewing materials exempt under ORS 671.338 and ORS 192.660(2)(l) and (f) and read the script regarding participation in this session.

Vice Chair O'Brien returned the Board to public session at 3:32 PM. He called for a break so that Chair Ray and the Board's guests could be invited back into the meeting.

ORAL EXAM

Chair Ray reconvened the Board at 3:37 PM. The Board welcomed a candidate for initial registration, Ian Holzworth, to the meeting at this time. The Board's guests patiently waited for the opportunity to provide public comment after the oral exam. Board members, staff, and counsel introduced themselves to Holzworth.

Chair Ray explained the purpose of the oral exam and stressed the importance of registrants understanding the statutes and rules that govern landscape architecture title and practice. Board members proceeded to ask a variety of questions on topics such as title vs. practice regulation, maintaining registration, continuing education, stamping and signing and examination.

The Board invited questions from Holzworth. Chair Ray also explained that the Board is interested in hearing from candidates about their experiences with the LARE and what drives

individuals to pursue registration. Holzworth said he found sections 1 and 2 to be difficult but fair. He was not convinced that sections 3 and 4 reflected how work actually occurs in profession. He also thought section 4 was not as difficult as it could be but sees there would be challenges in translating grading into a computer exam. For barriers to completing the exam, he mentioned cost as an issue early on but then later said he just did not see a need for the registration. Eventually he saw registration as necessary to take a next step in his career. Hatch asked about plant knowledge coverage on the exam. Holzworth said there was not much on plants. The Board discussed that one challenge with testing plant knowledge is that the LARE is a national exam.

Holzworth encouraged the Board to better clarify the process between CLARB and the Board. Valentine mentioned that the Board streamlined that process through rule amendments adopted late in 2014. This was in part a response to challenges that he and several other candidates had with the process.

Chair Ray moved to accept Ian Holzworth as a Registered Landscape Architect with the Board. Everhart seconded the motion. Hearing no comments, Chair Ray called the vote, and all approved.

Holzworth was provided with his registration card and wall certificate and warmly welcomed to the profession by the Board. He left the meeting at this time.

REPORTS (continued)

➤ Compliance, Part II

Chair Ray inquired with Valentine about remaining items under the Compliance Report and then returned the Board to that agenda item.

Vice Chair O'Brien moved to dismiss LACC#14-12-006 based on determination of allegations unfounded. Smith seconded the motion. Chair Ray called the vote but abstained from voting on this motion. The motion passed with Everhart, L'Amoreaux, Vice Chair O'Brien, Treasurer Olsen, Smith and Hatch voting yes.

The Board reviewed several web postings that refer to an individual not registered with the Board as a Landscape Architect. Since a complaint has not been filed with the Board, staff requested Board review and discussion of whether to open a case. This came to the attention of staff through a city of Portland web article being forwarded to the Board office. Staff then found several other postings on the internet where the individual is referred to as a Landscape Architect. Valentine presented three options: do nothing, outreach letter, or open a complaint case. She did not recommend the do nothing option but said the Board has used the second and third options in the past in somewhat similar instances.

Smith asked if the Board has anything showing the individual directly advertises that she is a Landscape Architect. Valentine said the individual has not been contacted yet but that staff did not find anything posted on her business website. Smith suggested that an outreach letter seemed prudent since the Board does not have clear evidence of direct use of title in what she provided to organizations. Board members discussed this option vs. opening an investigation. Everhart had some concern on practice related to bioswales mentioned in the Creative Conservation Corps web posting. Treasurer Olsen noted that the postings seem to use consistent language, possibly suggesting that the individual supplied the information. While there was some agreement that this could be the case, Board members discussed that it was also

conceivable that individuals responsible for the web postings did not understand that a degree in landscape architecture does not equate to being a Landscape Architect. Everhart noted that Landscape Architects similarly have to monitor and correct any references to being called an Architect since that is also a protected title. The Board directed that staff send an outreach letter about the need to correct these postings and requesting a response. The Board will revisit at the next quarterly meeting after obtaining the individual's response.

The Board next reviewed a handout about the national ASLA's "Firm Finder" web-based feature. Valentine referred the Board to a list produced by running a search under the term Oregon on the Firm Finder site. A cursory review by staff revealed seven firms from the list that appear to potentially be subject to business registration and the associated need to designate the RLA in responsible charge that do not currently hold business registrations. Valentine referred the Board to the disclaimer about licensure present on the ASLA site and asked if any of the RLA Board members had insights regarding how ASLA feeds information to the Firm Finder. The Board also discussed this site in relation to pending work to update and clarify business registration rules.

Vice Chair O'Brien agreed that the list shows firms that do not have a Landscape Architect on staff and suggested the Board communicate with ASLA national office about this. Everhart said she suspected that ASLA feeds the Firm Finder with its membership database. The problem with this is that not all ASLA members are registrants. She did not think the Board could conclude that ASLA members all would understand how ASLA populates the Firm Finder feature. Valentine asked Martin about where this might cross into use of title or offer to practice violations. Martin said the answer to this depends on how the individual is involved in supplying and updating information and what they know about ASLA's posting of information on the Firm Finder. Vice Chair O'Brien asked if the ASLA disclaimer is sufficient. Martin said the disclaimer is not the deciding factor; an individual's control over an ASLA posting is the key. The Board requested more research by staff.

PUBLIC COMMENT

Chair Ray opened the public comment period at 4:16 PM. White left the meeting at this time.

Whitworth introduced herself as a landscape designer working under her business Planet Earth Design and as the legislative advocacy chair for the Association of Professional Landscape Designers (APLD). She introduced the other guests as landscape designers and noted the following: Barbara Simon serves as President of the local APLD chapter, Vanessa Gardener-Nagel serves on the national APLD board, and Julie Williams serves on the local APLD chapter Board. As designers, Whitworth said they are stakeholders impacted by Board decisions about practice. They are concerned about the livelihoods of landscape designers and are always cognizant of the challenges they face as an unregulated profession. They are concerned about some of the violations that have come up recently in a complaint case. In the past, they felt that they understood what the practice exemption covered even though there were some blurry lines. What they are hearing about a case currently before the Board has them concerned that the Board's position on practice has shifted.

It was made clear to the Board's guests that the Board could not engage in discussion of the details of an ongoing complaint investigation per statutory confidentiality required for open cases. Chair Ray also noted that the Board does not regulate landscape designers but understands the sensitivity about where landscape design overlaps with landscape architecture practice. The Board recognizes that designers have an ongoing concern about running afoul of

the Board's practice statutes and rules. He noted that designers definitely do not want to use the protected title and referred to the statutory definition of landscape architecture practice as important for designers to understand. He said it is not the Board's intent to limit the landscape design profession per se but to protect public health, safety and welfare where the Board sees potential issues related to landscape architecture practice. This is true whether practice was by a registrant or an unregistered person. He asked if APLD had specific concerns.

Whitworth mentioned that the Board's statutes are of limited help because all of what landscape designers do falls under the landscape architecture practice definition. For this reason, she said it has always been challenging to articulate the boundaries. She noted that the Board provided some guidance in the past about what is or is not allowed. But she reiterated that in light of a current complaint case, they have some concerns that the Board is changing its previous position.

Chair Ray said the Board does not think it best to answer off the cuff and risk misunderstandings on either side. He again encouraged APLD to submit written questions to the Board and said this could come from the local chapter or national group. This would give the Board more opportunity to consider and respond appropriately.

Whitworth asked if there could be an opportunity to have an open discussion where things that are not real black and white could be discussed openly. In response to this, Chair Ray asked if APLD has ever thought about discussion with ASLA as the two professional organizations for these allied professions. He said OSLAB has to look at statutes and rules to craft an answer, and APLD may never be fully satisfied with that type of discussion. He thought the ASLA might be able to provide a better forum for an ongoing dialogue about these larger practice issues.

Everhart offered that she also thought ASLA would be a good forum and noted that she understands designers have questions about what is considered construction details. Williams acknowledged that designers would benefit from a better understanding of what the Board considers to be construction details. She asked if there was a definition. She also said it would help to know what can be said on a website about work that falls within the practice definition for landscape architecture. Chair Ray advised that designers should not use a landscape architect title or include a description of landscape architecture level services.

Vice Chair O'Brien left the meeting at 4:30 due to another commitment. The Board still had a quorum with six members.

Gardener-Nagel was concerned that talking with ASLA would not help since the statutes and rules are different in each state. She worried that ASLA could have a position that does not ultimately matter if it conflicts with Oregon statutes and rules. Chair Ray agreed that there are differences from state to state but felt the ASLA OR chapter would be knowledgeable of Oregon's requirements. He also felt there would be some overarching issues that apply across states. Whitworth was not convinced of the feasibility of this approach due to a concern that ASLA would give an opinion but may not really understand the law.

Williams asked for an explanation of the Board's investigation process. She specifically wanted to know what the process entails if a designer is identified as respondent. Valentine gave a detailed summary of the standard investigation process, noting that exact steps vary depending on the issues at hand and indicating that the Board's process is very similar to how

other state licensing boards handle investigations. The respondent is always asked for a written response and may be interviewed or requested to supply specific documents. The complainant is not a party to the case. Once sufficient information has been gathered, a report is prepared for the Board's consideration. She mentioned possible steps of settlement negotiation or a contested case hearing if violations are noted. No one is forced to obtain legal counsel although that can be advisable depending on the specific case.

Chair Ray concluded by reiterating that the Board recommended written questions as a starting point. The Board would review and respond where feasible. He said the Board is appreciative of the efforts by APLD and individual designers to work with the Board. Whitworth mentioned past conversations between OSLAB and the LCB about practice issues and how issues have never really been resolved. This left her wondering if practice overlap issues between landscape designers and OSLAB will face a similar fate. She also said that there is some fear that if they ask questions, the Board will say that they really cannot do much at all as landscape designers.

Smith left the meeting at 4:44 PM due to another commitment. The Board still had a quorum with five members.

Chair Ray closed the public comment agenda item by thanking the Board's guests for participating in the meeting

NEW BUSINESS/ANNOUNCEMENTS

There was no new business. Valentine announced upcoming office closures for state holidays and dates for staff vacation. She also requested courtesy notifications from Board members regarding extended times away between now and the next quarterly meeting. Several Board members shared vacation plans.

The next meeting is scheduled for Thursday August 13, 2015.

Chair Ray adjourned the Board at 4:48 PM.

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The minutes of the May 14, 2015 meeting were approved with revision incorporated herein at the August 13, 2015 Board meeting.

Respectfully submitted,

Christine Valentine, Administrator