

OREGON STATE LANDSCAPE ARCHITECT BOARD (OSLAB)

MEETING MINUTES

May 11, 2012

Association Center, 707 13th St. SE, 2nd Floor, Conf. Room "A"

Members Present:

Ron Nichols, Public Member, Treasurer
David Olsen, Landscape Architect, Chair
Mel Stout, Landscape Architect
Timothy Van Wormer, Landscape Architect, Vice Chair
Susan Wright, Public Member

Member Absent:

John Pellitier, Landscape Architect (Excused)

Staff Present:

Christine Valentine, Administrator
Kyle Martin, AAG, DOJ* (*as noted in minutes)

Visitors: (*as noted in minutes)

Molly Gatzlaff, Oral Exam Candidate
David Goodyke, Oral Exam Candidate
Molly Macquire, Oral Exam Candidate
Kristena McAlister, Oral Exam Candidate
Jan Satterthwaite, Oral Exam Candidate
Ken Waldal, Oral Exam Candidate
Lauren Worland, Oral Exam Candidate
Steve Ray, RLA

QUARTERLY MEETING

At 9:25AM, Chair Olsen convened the quarterly meeting of the Board. The Board quickly reviewed the agenda and made some adjustments. The work session was cancelled due to a late start and the work session agenda items moved to the Administrative Rules Committee agenda item. Chair Olsen asked for discussion of Correspondence Agenda item 5.b. to be moved up to the morning, at least with respect to consideration of written legal advice on that matter to coincide with when counsel would be present. Administrator Valentine noted that once again the Board has a very full agenda, and all will have to work to keep focused and moving along throughout the day. Vice Chair Van Wormer requested that the adjournment time be moved up to 3:30 PM with a teleconference meeting in between this and the August meeting if necessary to cover items that may need to be deferred as a result. The remaining Board members concurred with this suggestion.

COMPLIANCE REPORT

Review/Determine Action on Compliance Cases

The Board was joined by Kyle Martin, AAG, DOJ at 9:30 AM. Administrator Valentine and Member Wright briefly went over the caseload for the day and the proposed order of discussion as longest open to most recently opened. At 9:35 AM, Chair Olsen announced that the Board would enter Executive Session for discussion of compliance case investigatory materials and written advice from the AAG in accordance with ORS 671.338 and 192.660. No decisions were made in this Executive Session, and discussions were not completed. The AAG left the meeting, and Chair Olsen reconvened the Board in

Public Session at 10:56 AM. He deferred further discussion on compliance-related matters until after completion of oral exams for licensure candidates scheduled for 11 AM.

ORAL INTERVIEWS

At 11 AM, Chair Olsen welcomed seven candidates for licensure to their oral exam. He explained the process used by the Board and how this is final part of the licensure process. The remaining Board members and staff introduced themselves. The Board members explained their backgrounds, roles on the Board, and asked a variety of questions of the candidates. The Board also took questions from the candidates. Topics covered with the candidates included: role of Board, continuing education requirements, statute/rules and code of professional conduct, role of compliance, opportunities for volunteering with OSLAB, business vs. individual registrations, and the Board's interest in having registrants weigh in with ideas related to the evolution of the practice.

Treasurer Nichols moved to recognize the candidates as having met all requirements for licensure and to grant registration to all seven (RLAs #766-772). Member Stout seconded the motion. Hearing no discussion, Chair Olsen called for a vote, and all approved.

The candidates were given their registration materials and warmly welcomed to the profession. Members exchanged congratulations with the new RLAs.

(For the record, Steve Ray, RLA, joined the Board at 11:10 AM as an interested public participant.)

COMPLIANCE REPORT

Review/Determine Action on Compliance Cases (Continued)

At 11:44 AM, Chair Olsen announced that visitors would need to leave while the Board again convened in executive session to allow for completion of Board discussion about investigatory materials in accordance with ORS 671.338 and 192.660. The Board discussed all remaining open cases and two pending cases in this second Executive Session but made no final decisions. At 12:34 PM, Chair Olsen announced that the Executive Session was ended and the Board resumed in public session. The Board's one guest was invited back into the meeting. The Board proceeded to make the following decisions with respect to compliance matters in Public Session.

LACC #11-08-001: Member Wright made a two part motion in this case: (1) rescind the Board's motion from 2/17/12 regarding this case and (2) have additional investigation completed in this case. Vice Chair Van Wormer seconded. Hearing no further discussion, Chair Olsen called for a vote, and all approved.

LACC #11-11-003: Member Wright moved to have staff prepare an outreach letter and for that action to close the case. Vice Chair Van Wormer seconded. Hearing no further discussion, Chair Olsen called for a vote, and all approved.

LACC #12-03-005: Member Wright moved to consider the case suspended for up to 1 year or less should additional information on the respondent's address become available. Vice Chair Van Wormer seconded. Hearing no further discussion, Chair Olsen called for a vote, and all approved.

LACC #12-03-006: Member Wright moved to close the case as respondent addressed the Board's concerns. Vice Chair Van Wormer seconded. Hearing no further discussion, Chair Olsen called for a vote, and all approved.

LACC #12-03-007: Member Wright moved to close the case when business registration and payment is received from the respondent (as he has indicated to staff is forthcoming) by the Board. Vice Chair Van Wormer seconded. Hearing no further discussion, Chair Olsen called for a vote, and all approved.

LACC #12-04-008: The Board did not make a motion in this case as it was not ripe for a decision. The Board received an informational briefing on the case.

Compliance Process Updates

Due to concerns about time constraints, several updates were tabled to a future meeting. Administrator Valentine and Member Wright did brief the Board on the DOJ investigator training they attended on April 17, 2012. Both shared that they felt it was a valuable training. Administrative Valentine stated that the training focused almost exclusively on what it takes to develop sufficient information to pursue a finding of violation. Even though many OSLAB cases never reach that point, it was helpful to hear what it takes to properly investigate and document a case. The course covered a variety of techniques that we might be able to apply to how OSLAB cases are processed and presented to the Board. Member Wright concurred with these sentiments and described the training as very eye opening regarding to the details of investigator work.

MINUTES

Vice Chair Van Wormer moved to approve the minutes of the February 17, 2012 Work Session and Meeting. Chair Olsen seconded the motion. Hearing no discussion, Chair Olsen called for a vote, and all approved.

ADMINISTRATIVE MATTERS

Administrator's Report

Administrator Valentine was asked to present the Administrator's Report to the Board. She started by addressing attachments to the report. First, she mentioned the memo outlining an increase in private vehicle mileage reimbursement effective in April. Second, she referred the Board to a proposed lease for an office suite on the first floor. She noted that this meeting is the first time the request to relocate the office could be made to the Board. She requested Board approval of the lease and stated that she believes OSBGE will review it favorably when it meets on June 7, 2012. Once approved by both Boards, the move will likely be scheduled for mid-July. Administrator Valentine mentioned that she is also currently in discussion with an individual interested in subleasing the small office in the suite, which can be locked and separately accessed. A sublease would reduce the rent cost while still providing flexibility for future expansion. She answered miscellaneous questions about the space and the lease.

The Board decided to address the proposed lease before the Administrator proceeded further with her report. *Chair Olsen motioned for the Board to support the relocation of the office subject to OSBGE's final approval of the lease. Member Stout seconded. Hearing no further discussion, Chair Olsen called for a vote, and all approved.*

Administrator Valentine next informed the Board that she had one item to present that came up after the report was prepared. Staff received two requests by exam candidates to have exam application fees refunded in addition to exam fees; copies of these requests were handed out. She explained that exam fees have been refunded because requests were made timely but that Board precedent has been to not refund application fees. Staff felt that an exception in this case could be justified as the candidates were confused about issues associated with the LARE transition, i.e., this would not be precedent setting. However, review of Board rules suggests that the Administrator has not been delegated authority to approve a refund of applicable fees. *Treasurer Nichols moved to refund the application fees. Chair Olsen seconded the motion. Hearing no discussion, Chair Olsen called for a vote, and all approved.*

Administrator Valentine now returned to the Administrator Report included in the meeting packet. She noted that, unless requested otherwise by the Chair, items covered in the Report but to be discussed elsewhere on the agenda will not be discussed at this time. Several items were briefly discussed. One item was the need for proctor's for the June 11 and 12 LARE – the last exams proctored by OSLAB. Chair Olsen stated that he can proctor the Monday exams. Members Nichols and Wright are both unavailable. Members Stout and Van Wormer were uncertain about availability. Board guest Steve Ray indicated that he might be able to help out on Tuesday. Staff indicated that the contract with CLARB would be researched to see if a non-Board member is allowed to proctor. The Board also spent some time discussing vehicle insurance coverage for the Board. Administrator Valentine explained how she discovered that the Board does not have coverage at this time due to choices made back in 2004 by a

previous Board. The Administrator was asked to pursue getting the Board vehicle insurance coverage through the DAS.

Budget Updates

The Board briefly reviewed the budget updates. Administrator Valentine commented on how she evaluated the first year revenues in association with consideration of relocating the first floor office suite. When that analysis was done, it appeared that revenues would be under projections but so would expenses. The budget data in the packet provides an update to the information she previously evaluated and suggests that revenue is trending very close to projections.

Approve Quarterly Check Log

The Board reviewed the check log. *Vice Chair Van Wormer moved to approve Check Log for Checks #3694-3723 and 100115-100120. Treasurer Nichols seconded. Hearing no discussion, Chair Olsen called for a vote, and all approved.*

Review Updated Renewal History

The Board briefly reviewed the renewal history and noted that registration numbers are stable.

COMMITTEE REPORTS

Administrative Rules Committee

Rulemaking updates from the work session were moved to here due to the work session being cancelled due to a late start in the morning. Administrative Valentine and Treasurer Nichols presented three rules items to the Board.

Public Comments - Registration/Reciprocity Rules (continuation)

Administrator Valentine referred the Board to the rulemaking hearing report and copies of public comments included in the work session packet. She then handed out copies of the rules as presented through public notice as copies were inadvertently left out of the meeting packet. She explained that no one attended the public hearing held at the Board Office on April 19, 2012. She noted that written comments were received in response to public notice, and all those comments were included in the packet for the Board's consideration. After considering the comments received, the Board will need a motion in the regular meeting if it wishes to proceed with adoption of final rules.

The Board evaluated the comments received and determined that no further changes to the rules would be made. *Treasurer Nichols motioned to approve the rules as proposed and to direct the Administrator to file the rules with the Secretary of State. Chair Olsen seconded. Administrator Valentine requested clarification that the motion referred to the rules version approved at 2/17/12 meeting, and Nichols affirmed this. Hearing no further discussion, Chair Olsen called for a vote, and all approved.*

Technical Adjustment – Model Rules of Procedure (proposed)

Administrator Valentine explained why a technical adjustment is proposed for OAR 804-001-0005. The DOJ updated the Model Rules of Procedure effective late January 2012. The proposed technical change needs to be filed to ensure the Board is following the current rules. The model rules set forth procedures that ensure agencies are complying with the Oregon Administrative Procedures Act (i.e., rulemaking, contested cases, declaratory rulings, etc.). This change of reference to the new edition meets the definition of a technical change, as has been confirmed by the Board's counsel, which means that rulemaking notice is not required.

Administrator Valentine explained that the Board will need a motion directing the Administrator to file this technical adjustment. *Member Wright moved to approve filing of the technical amendment related to the Model Rules of Procedure. Chair Olsen seconded the motion. Hearing no discussion, Chair Olsen called for a vote, and all approved.*

LARE Related Rule Amendments (proposed)

The Board's rules related to examinations need to be updated to address changes in the LARE (i.e., switch from 5 part to 4 part exam and to fully computerized format.) The draft rules in the work session packet reflect staff recommendations. These have not yet gone to the Administrative Rules Committee (ARC) or been previously considered by OSLAB. Some further adjustments are likely as staff is still researching some procedural changes with staff from CLARB. The Board's input on engagement of the ARC was solicited. Administrator Valentine explained that the goal is to have updated rules in place prior to the December 2012 administration of the LARE. This means the target for final adoption is the August 2012 Board meeting if at all possible. Adoption at the November 2012 Board meeting may not guarantee the rules are in place by the December administration of the LARE. The Board understood and encouraged the Administrator and Treasurer Nichols to proceed with the ARC process.

Updates on Administrative Rules Committee Process: Administrator Valentine directed the Board's attention to a one page flowchart of administrative rules committee procedures included in the meeting packet. She explained that the flowchart provides a high level summary that reflects the latest thinking on how the ARC fits into the rulemaking process. It incorporates two key changes related to use of an advisory committee as defined under the APA. The first is that the ARC will be specifically asked to address a series of questions on fiscal impacts that are mandated by the APA whenever an advisory committee is engaged. The second is to require that whenever the ARC is called into action by the Board, it will meet in person or by teleconference at least once per rules project and prior to issuance of rulemaking notice. The meeting requirement reflects advice from DOJ and the top AG that one meeting is required for a committee to be deemed an advisory committee under the APA.

Treasurer Nichols asked a few questions about how the Board might schedule future meetings of the committee. He also asked if the Committee needs to have a quorum to meet and if so whether the committee should have an odd number of members to make it easier to determine quorum. Administrator Valentine noted that these are good questions with respect to Public Meetings Law and that she would research.

Continuing Education Committee

Committee Chair Stout presented the quarterly audit report the period of October – December 2011 to the Board. There were 8 audits conducted, and the Committee finding is that all candidates passed as described in the report. Member Stout noted that the review was very straight forward once additional information came in to address initial questions about the logs. He recommended the Board approve all audits for the period. Drawing of names for the January – March 2012 audit period was also completed and the slips returned to the Administrator.

Member Stout moved for the Board to approve the 8 audits for the period of October – December 2011. Chair Olsen seconded the motion. Chair Olsen added that he would like for Member Stout to write up a brief explanation of how he reviews continuing education audits to assist a future Committee Chair since Stout will be leaving the Board soon. Hearing no further discussion, Chair Olsen called for a vote, and all approved.

Investment Committee

Treasurer Nichols noted that interest earnings on all CDs (Pioneer Trust Bank/other) continue to be low. Also, he advised the Board that Paulson is now JHS Capital Advisors, effective mid April 2012. Actual investments, investment terms and the Board's investment advisor remain unchanged.

Treasurer Nichols commented that he and the Board were concerned with bank account balance given the protracted downturn in the economy and so he has been monitoring this. He is pleased to report that the account has remained steady despite the economy.

Licensure Review Committee

Vice Chair Van Wormer directed the Board to the report in the meeting packet. The Board briefly discussed. Chair Olsen requested that for future reports the individual RLA license # also be included

with new business registrations so that the Board can easily see the RLA in responsible charge for each business.

Administrator Valentine directed the Board's attention to a proposed form letter addressing expiration of emeritus status. This letter was generated after staff realized that we are just now starting to have RLAs with emeritus status come up against the 5 year limit. Staff thought that it would be a helpful courtesy to supply a reminder letter to these RLAs in advance of when they face the 5 year limit. However, this is only part of the issue. The database also needs to be adjusted so that it flags when it is time to send such courtesy letters. Right now, the database generates standard renewal letters for these RLAs which makes it too likely that staff will miss something and a emeritus RLA be inadvertently allowed to renew past the 5 year window. Staff needs to research with the database provider how much this type of modification will cost. The Board briefly discussed how the current rule came to be, namely that the statute allows only for an inactive status not a retirement status and further limits inactive status to 5 years.

OTHER:

Report from Liaison to Oregon Board of Architect Examiners (OBAE)

Chair Olsen reported that he was not able to attend the OBAE meeting and asked Administrator Valentine to give an update about the meeting. Administrator Valentine summarized the outcomes of the meeting held April 6, 2012 at the Oregon Board of Architect Examiners (OBAE). Member Pellitier was also at the meeting, along with Rodney Weick, RG, CEG, with the OSBGE. The OBAE is open to OSLAB's participation in development of the next update to the manual, but details about the scope of change remain to be worked out. Administrator Valentine further explained that a conversation with the OBAE Administrator in mid-April revealed that the update may be put on hold for an additional year. The reason for this is that the OBAE is considering pursuing some statutory changes and would like for the manual to reflect these changes. The Board was going to decide in the near future on the timing issue, and the OBAE Administrator will be in touch. The Board needs to realize this effort may be on a back burner for a while.

Report from Liaison to Oregon Landscape Contractors Board (OLCB)

No report today as Member Pellitier was not present.

CORRESPONDENCE

Medical Hardship Request – Continuing Education Waiver

Administrator Valentine reminded the Board about the process required in rule for Board approval of medical hardship requests. She asked the Board to review the subject request and suggested that the request appears to be supported by adequate documentation. The Board discussed the request and also what is required by the rule (OAR 804-025-0000) in terms of credits that must be completed for the next renewal cycle. *Vice Chair Van Wormer moved to approve the medical hardship request. Member Wright seconded the motion. Member Stout clarified that the approval will state that the RLA is subject to compliance with the rule in terms of credits that must be completed. Hearing no further discussion, Chair Olsen called for a vote, and all approved.*

Irrigation Association Letter

Chair Olsen introduced this item and noted that the letter was discussed earlier in the day in conjunction with compliance cases. He proceeded to summarize the questions asked and the OLCB response to OLCA that was attached to the letter. In addressing the irrigation questions, the OLCB makes a distinction between planning and installation. Several board members noted that OLCB elsewhere in the letter does not draw that distinction but instead says LC licensees can plan and install or provide plans and specifications but not install. Administrator Valentine noted that the Board has written advice from its counsel to consider on this matter but needs to do so in Executive Session to maintain confidentiality. Chair Olsen decided that the Board would not further discuss the legal advice today as response to this letter is entwined in work to be done for a compliance matter. The Board discussed waiting until a future

teleconference or quarterly meeting when more information should be available to discuss this matter further.

CLARB Summary of Meeting Outcomes, February 2012

Administrator Valentine reminded the Board about its discussion at the 2/17/12 meeting regarding CLARB Council Record marketing and its direction for her to work with the Chair on a letter to CLARB expressing concerns. Such a letter was drafted, but questions arose as to whether the Board should also address additional items presented in the CLARB Summary of Meeting Outcomes. The Board discussed and directed the Administrator to continue work on a draft letter for review and discussion at the 8/10/12 Board meeting. The Board will decide at that time, after reviewing the letter and debating further, if it will send a formal letter to CLARB.

OLD BUSINESS

Board Membership Update

Administrator Valentine informed the Board that one application for a RLA position and one application for public member position have been submitted to the Governor's Office. She is aware of four other RLAs considering submittal of an application and one that submitted but withdrew. The four RLAs received a challenge letter from OSLAB. A generic challenge letter is also posted on the Board website. She has talked with one other public member candidate, and he decided not to apply. She has been in touch with a former Board Member in the Salem area to enlist his help in brainstorming about potential public member candidates. Chair Olsen noted that guest Steve Ray, RLA, also recently expressed interest in applying for the second RLA position on the Board. Mr. Ray explained that he was unclear until today about the urgency of completing his application. He asked the Board to explain how the search for Board members has been carried out, and the Board discussed its efforts thus far.

Member Wright raised the issue of multiple Board members going off the Board at once. She would like to see some cross training, either by staggering terms more or having outgoing member members come to one more meeting with new members. Chair Olsen asked Administrator Valentine to comment on her discussions with the Governor's Office on this subject. Administrator Valentine explained that the Governor's Office is not wanting to look at other arrangements, primarily because the statute says Board terms start July 1.

Building Officials Guide –Meeting with Board of Architects

This agenda item was covered earlier under liaison report.

Policies-Procedures Update (potential adoption of policies)

Administrator Valentine referred the Board to summary information provided in the Administrator's report as well as to the consent agenda and policy language included in the meeting packet. She respectfully requested Board approval of 5 policies listed on the consent agenda for this agenda item noting that it is important to get policies in place. Policies can always be amended if any issues arise during implementation. Vice Chair Van Wormer stated that he reviewed the draft policies and agreed that the Board should get these in place now unless members were going to conduct further review and provide comments back at the next meeting. Administrator Valentine then referred the Board to the draft Accounting Policy, explained its purpose, and requested that the Board be prepared to adopt this policy at the August meeting. She then handed out a draft Contracting/Procurement policy as "homework" for the next meeting, explaining how she needs Board input on thresholds for different types of contracting/procurement methods and also thresholds for Board approval vs. delegated authority to the Administrator.

Vice Chair Van Wormer moved for the Board to approve the 5 policies on the consent agenda (i.e., Policies and Guidelines for Board Members, Electronic Funds Transfers, Investment Policy, Reimbursement of Expenses, and Stipends). Treasurer Nichols seconded. Hearing no discussion, Chair Olsen called for a vote, and all approved.

Chair Olsen asked Administrator Valentine to send an electronic version of the draft Contracting/Procurement policy to all board members. Individual Board member comments will then be sent to the Administrator to assist in continued development of this policy and to facilitate discussion and possible adoption at the August meeting.

OSLAB Newsletter

Chair Olsen explained his recent conversation with the ASLA public awareness advocate. He has facilitated inclusion of some new ASLA outreach materials in the OSLAB summer newsletter. The proposal is to include the materials as inserts in a future newsletter. He suggested that for those that get a hard copy of the newsletter we include a web address for the flyers instead of providing the flyers in black and white.

Administrator Valentine noted that one idea for the summer newsletter is to include an article about business registration requirements. She stated that articles and ideas from Board members for the newsletter are always welcome and appreciated.

Action List

The Board reviewed the updated action list provided in the meeting packet. Chair Olsen asked that future versions provided to the Board NOT include actions completed. Administrator Valentine stated that this change would be made for the next meeting.

NEW BUSINESS

ASLA and OSLAB Relationship (carried over from 2/17/12 as it was not discussed then as scheduled)
Chair Olsen announced to the Board that he was pulling this item from the agenda and not carrying it forward to the next meeting.

HB 3316 (2011) & Public Contracting by RLA (carried over from 2/17/12 as it was not discussed then as scheduled)

Administrator Valentine noted that background documents were in the February 2012 meeting packet. Chair Olsen decided there was nothing further to discuss.

Practitioner of the Year Award

Chair Olsen proposed that the Board consider doing something to recognize RLAs that volunteer to do work with the Board. He would like to see some action taken to recognize their willingness to volunteer. The Board discussed briefly, and it was noted that this would really be volunteer of the year and not practitioner of the year. Treasurer Nichols suggested that instead of an annual award the Board could send a letter of recognition sent to each person that volunteers with the Board. No decisions were made, but the Board expressed interest in having Chair Olsen and Administrator Valentine keep this as a future action item.

Board Elections/Assignments – Planning for August 2012 meeting

Administrator Valentine reminded the Board of what rule says about elections: *The Board may elect a Chair, Vice Chair, and Treasurer once a year at the first Board meeting held after July 1. The new Chair, Vice Chair, and Treasurer terms will begin at the end of the meeting at which they are elected. OAR 804-001-0015.* Last year, the Board decided that it would keep officers in place and did not hold an election. This year, the Board has to address elections as the Vice Chair is leaving the Board. Administrator Valentine suggested that it might be asking too much of new member to have them immediately serve as an officer. Chair Olsen noted that Member Pellitier may be the logical choice for Vice Chair when Van Wormer is off the Board as this would avoid having to ask a new member to take on this role.

PUBLIC COMMENT

Steve Ray, RLA, was the only member of the public at the Board meeting and participated in discussion of several agenda items. No one else was present to offer public comment.

ANNOUNCEMENTS

- Office Closed – May 28 (Memorial Day)
- LARE Section C & E Exams – June 11-12 (Last One! Proctors Needed!)
- Next Meeting – Friday August 10

ADJOURNMENT

Chair Olsen adjourned the meeting early at 3:00 PM.

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Respectfully Submitted,
Christine Valentine, Administrator

The minutes of the May 11, 2012 work session and quarterly meeting were approved as presented at the August 24, 2012 Board meeting.

Christine Valentine,
Administrator