

OREGON LANDSCAPE ARCHITECT BOARD
MEETING MINUTES
May 9, 2008

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

Staff Present: Susanna Knight, Administrator

Candidates for Initial Registration Present: Christopher Anuszkiewicz
Jason Gillies
Crystal Hutchins
Aaron Olsen
Lamont Turcotte

The quarterly meeting of the Oregon State Landscape Architect Board was called to order at 8:40 AM by *Chair Van Wormer* at Winema Place, Room 201 of Building 48, Chemeketa Community College, 4061 Winema Place NE, Salem, Oregon. *VanWormer* asked for any additions to the agenda. *Knight* requested two additions to 6. Correspondence: LAC 08 04 119 and LAC 08 05 126. *Stout* moved to approve the agenda with the additions. *Seconded and passed unanimously. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

Van Wormer welcomed to the Board meeting Mr. Daniel Santos, Senior Policy Advisor, Office of the Governor. *Knight* shared background information about Mr. Santos. Mr. Santos has been with the Governor's Office since 1987 and is currently serving his fourth Governor. During his career he has had a wide range of government responsibilities and that now includes serving as Policy Advisor for the Landscape Architect Board. After each Board Member shared information about his or her background, Santos offered that when the Governor asks, the advisors do it. His current responsibilities include immigration issues and soldiers' funerals. Serving as a Policy Advisor is a two-way street: messages go from the Advisor to the Governor and from the Governor's Office to the agency. These can be regulatory issues that need addressing or budgetary issues. Santos thanked the members for volunteering their service to the State of Oregon.

During the interactive discussion, Santos informed the Board that they must do what they think they need to do even if it means going to the Legislature. The Board asked for more information about the legislative process. Santos informed the Board that when a legislative concept is submitted by an agency, Department of Administrative Services (DAS) and the Governor's Office determine if the concept should be advanced. The policy area is to work with Board's in overlap areas and hopefully resolve any issues early in the legislative process. Santos offered that the Board must inform him of concerns or issues as he will not be out looking for these. *Van Wormer* inquired about the unfunded mandate for management salaries. Santos responded that the mandate caused problems in agencies with many managers, but the union increases for non-management staff also brought problems.

Edwards inquired about the function of legislative placeholders. *Santos* talked about the reason and the process for legislative placeholders. The Board thanked Mr. *Santos* for joining them and informing them of his role with the Board. The Board confirmed with him that they would be in touch should issues arise.

9:50 AM *Van Wormer* announced a 10-minute break.

10:00 AM: Five candidates for initial registration joined the Board for an oral interview. Board Members introduced themselves and shared their work background. *Stout* advised the candidates to keep the Board approved PDH (Professional Development Hours) log updated; save back-up paperwork for continuing education credit; and to read of continuing education updates in the quarterly newsletter. *Pellitier* inquired about the process to get to this point in their career. The candidates agreed that the process is fair; that it is rewarding to get to this point; that work experience really helps out; the five section exam made it manageable and allowed for focusing on one section at a time; sometimes it was confusing to know if the candidate should contact OSLAB or CLARB. The Board reminded the candidates that registrants are the eyes and ears of the regulation process of the Board. *Stout* moved to approve five candidates for registration. *Seconded and passed unanimously. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.* The Board congratulated the new registrants and wall certificates and letters of registration were distributed.

1. MINUTES:

- A. *Wright* moved to approve the minutes of the February 8, 2008 Board meeting as presented. *Seconded and passed unanimously. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*
- B. *Edwards* moved to approve the minutes of the March 12, 2008 Board meeting. *Seconded and passed unanimously. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

2. ADMINISTRATIVE MATTERS:

- A. Knight directed the Board to the quarterly Administrator Report. See Appendix I.
 - In particular, a newsletter article is needed quarterly that discusses the role of the Registered Landscape Architect in protecting the health, safety and welfare of Oregonians. *Van Wormer* volunteered to draft an article. Knight asked that members brainstorm a list of potential articles and then work from that list in producing articles for newsletter.
 - *Olsen* inquired if *Stout* and *Van Wormer* are planning to accept reappointment to the Board as their terms will end 6/30/2008. Both agreed to continue for a second term but *Van Wormer* offered that it is important to have new members ready to step in when the next term ends as in the past, Board Members remained too long beyond the term limit. Knight offered that it is important to engage registrants as committee volunteers as they may become Board Members in the future.
 - *Wright* volunteered to check the listing of the 50 biggest Landscape Architect firms in the Portland Business Journal and verify that each is registered with the Board.
 - *Olsen* volunteered to draft a CLARB vs. OSLAB registration sheet and to seek assistance from the newly registered candidate from his office in the preparation of this information.

- *Olsen* inquired as to why there is no plant material test for the State of Oregon. He would be willing to work on this. *Van Wormer* suggested that the California Board be contacted, as they are currently finalizing a California exam requirement in addition to CLARB.
- *Knight* directed Board members to the three ACTION LISTS from November 16, 2007, February 8, 2008, and March 12, 2008. Numerous items will be completed today from the February Action List. The November Action List will be completed shortly. The March list has not yet been acted upon. *Stout* stated that he appreciated the ACTION LIST.

B. **Budget Update 2007-09 Biennium:** The Board reviewed the financial statements but had no questions. Through the first ten months of this biennium, the Board currently has a \$16,886.75 of revenue over expenses.

C. **Business Registration Update** (See Appendix II): The Board was concerned about two companies that have been in the landscape architecture business for a long time but are newly registered. *Knight* offered that the new database now allows cross referencing to rein in businesses not previously identified as offering landscape architectural services. When staff identifies unregistered businesses through the Landscape Architect renewal process, those businesses are contacted and notified about the business registration requirement. Six new business registrations were processed since the February report.

D. **Other Registrants** (See Appendix II) No inactive registrants were approved during this quarter. No Emeritus registrations were added during this quarter.

3. COMPLIANCE REPORT: *Wright* reported that the \$5000 civil penalty for LACC#05-01-001 was received in the Board office so this case is now closed. Staff should include an article in the newsletter about this case and its resolution. A list of open cases ready for Board action was then distributed. See Appendix III.

- **LACC#08-04-009:** *Wright* reported that the business was listed in the yellow pages of a phone directory as a business offering the services of landscape architecture. The business is not registered with the Board. The respondent has contacted the yellow pages and is very contrite. *Wright* moved to close the case with a thank you letter for complying with the Board's request. *Seconded and passed unanimously.* *Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*
- **LACC#08-04-007:** *Wright* reported that the business name as listed in the yellow pages was not located in the Board's business registry. The respondent, a Landscape Architect, wrote to the Board and reported that the company is a dba which is registered. *Wright* moved to drop the case as both the Landscape Architect and the dba are registered. *Seconded.* Staff will change the name in the database to the Landscape Architect's business name rather than the dba. *Unanimously passed.* *Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*
- **LACC#08-04-002:** *Wright* reported that the respondent, while pursuing Landscape Architect registration, began distributing brochures soliciting landscape architecture work. *Wright* moved to issue a warning letter that brochures are not to be distributed until the Landscape Architect is registered. *Seconded.* During the discussion, *Wright* informed the Board that she recognizes from the response mailed to the Board that the respondent is contrite and has not practiced landscape architecture at this time. *Olsen* pointed out that the brochure does not stop

at residential but is much larger. Engineering firms are being targeted with master planning, etc. services being offered. An engineering firm was targeted for distribution of the brochure, not a firm offering landscape architectural services and it seems apparent that the person knows what he is doing. The Board should prepare a strong letter to cease and desist. *Stout* offered that the letter must be as strong as possible as this person knew what he was doing and that the Board will follow the licensure process of this person and the business. *Unanimously passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

- **LACC#07-12-007:** The marketing materials of this company represented that an employee assigned to a project is a Landscape Architect. The Board has no such person registered. *Wright* reported that the individual had applied to CLARB for a CLARB record and is currently registered in Iowa. *Wright* moved to close the case with a letter of warning not to do this again. *Seconded.* The Board discussed the ongoing problem of firms marketing employees as Landscape Architects when they are not registered which seems to regularly occur in varying degrees. *Wright* stated that the Board's approach for the first time around is "don't do it again". *Wright* offered that on a previous occasion, Board members indicated that the marketing section of a company is in error rather than the Landscape Architect so perhaps the Board needs to identify how they will pursue this problem. *Pellitier* suggested that an ongoing effort to inform registrants and businesses of compliance case resolution must be in the newsletter. *Stout* offered that the Registered Landscape Architect in the firm should know about this requirement. *Unanimously passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*
- **LACC#07-12-008:** A company is marketing an employee as a Landscape Architect in Iowa and pictures in the company's solicitation are for projects completed by a different firm. When an individual is not registered with the Oregon Board, the company cannot market the person as a Landscape Architect. A response from the Registered Landscape Architect in charge of the project indicated that the firm would not use pictures of another firm's project again and would not identify employees as Landscape Architects unless they are registered. [See discussion under LACC#07-12-007] *Wright* moved to close the case against the firm with a letter of warning about the requirements of the law. *Seconded and unanimously passed. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

12:20 PM Chair *Van Wormer* announced that the Board would recess for lunch. During lunch, the Board talked about the recent history of regulatory actions. *Van Wormer* asked if the Board should be more aggressive in pursuing regulatory actions. *Stout* reminded the Board that the approach has been to carefully and slowly build a track record of solid compliance cases and processes.

12:50 PM Chair *Van Wormer* reconvened the meeting.

4. COMMITTEE REPORTS

A. ADMINISTRATIVE RULES COMMITTEE: Chair *Nichols* reported that the Rules Advisory Committee (RAC) met in Salem on April 10, 2008. The Board's counsel was present for the meeting to provide legal expertise and a tutorial for the RAC about rule development and use of language followed. A discussion about the Code of Conduct, Division 50 was held. RAC members present in Salem were Kathleen Ellis, Brian McCarter and John Lee and Eileen

Obermiller of Pilot Butte attended by telephone. *Van Wormer* thanked *Nichols* for convening the RAC for a meeting.

1. Division 50: The Board was directed to the final language for OAR 804, Division 50, Code of Professional Conduct and an additional handout with revisions to two of the rules: OAR 804-50-0005(2) & (9). Following a round of discussion about (2), the Board's roll in determining how a company markets its landscape architectural services, *Nichols* moved to remove (2) as proposed and not to include this issue in the Administrative Rule. *Seconded and passed unanimously.* *Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.* *Nichols* then moved to approve the following language for (9): A Registered Landscape Architect must apply technical knowledge and skills in a competent manner that meets the minimum recognized standards applied by Registered Landscape Architects of good standing practicing in the State of Oregon. *Seconded and passed unanimously.* *Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.* *Stout* offered that the record shows that the RAC met; a long process of review occurred since noticing registrants about this rule review; and the Board unanimously supports the final language.

2. Division 22: *Nichols* distributed revised language since the February Board meeting. The Board concurred that the additional language brought a bit more clarification. Applicants for exam can be supervised by an RLA, a PE, or an Architect, but an individual cannot be registered as an LAIT unless the individual is working under the direct supervision of an RLA. *Stout* stated that an individual can register without being an LAIT. *Van Wormer* questioned why there are two different tracks: experience under an RLA with LAIT registration or not under an RLA. *Stout* offered that generally a Landscape Designer term is used if a graduate is not working toward registration. But if the employee has the necessary degree and has passed at least two sections of the LARE, the LAIT designation represents that the individual is working toward the RLA. *Nichols* moved to approved Division 22 as presented. *Seconded and passed unanimously.* *Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

3. Division 27: *Wright* moved to approve Division 27 as presented. *Seconded.* *Knight* reminded the Board that this is a new Division. Because the Board is required by statute to define the duties, functions and powers of the LAIT, this section on LAIT practice has been developed. Information about the practice of the Registered Landscape Architect already in the Administrative Rules is also being moved to this section. *Van Wormer* asked about the use of an electronic seal. The Board agreed that this would be a separate discussion and the rule could be revised to accommodate such language but at this time, the primary concern is identifying duties, functions and powers of an LAIT, information not previously addressed. *Unanimously passed.* *Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

B. CONTINUING EDUCATION COMMITTEE: Chair *Stout* distributed a report of the Continuing Education Committee (CEC) activities since the last meeting. [See Appendix IV.] *Stout* moved to approve the following audit numbers from the October, November and December audit period: #036, #037, #038, #040, #042, #043, #055, #057, #069, and, with special notice to insure the respondent's understanding of the requirement, #085. *Seconded and passed unanimously.* *Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.* *Stout* informed the Board that the committee continues to learn in the audit process. Audited registrants must use the Board log which is the required log if they are audited. It is

important that outreach continues to hammer this requirement. The Committee will update the log so it includes the actual auditing period, which is based on the month of renewal. The log will also be revised so the registrant can summarize the credits anticipated for carry over to the next audit period which will be validated by the CEC. The CEC also suggests that penalties may need to be identified to hold registrants accountable for the PDH requirement and suggested the following: for non-response, a letter and \$250 penalty; for a late-response, a letter and \$175 penalty; for an incomplete submission, letter and \$125 penalty. If the materials submitted for first review by the CEC do not meet the requirement, stamping documents could be suspended. *Van Wormer* suggested that Board's counsel be sought regarding the penalty phase. *Edwards* recommended that the language for the renewal form also be reviewed by counsel. *Olsen* interjected that the registrant will be responsible for the math on the log. *Stout* concluded his report by reporting that overall, the process is working.

C. INVESTMENT COMMITTEE: *Nichols* stated that he reviews the investment reports that come to the office but he is not an expert in this arena. He asked Knight to research the investment options currently used by other semi-independent Boards and bring the findings back to the Board.

D. LICENSURE REVIEW COMMITTEE: *Van Wormer* reported that the system for reviewing applicants is working well and referred members to the Appendix II location where the eight new Landscape Architects by reciprocity since the last meeting are listed.

5. OLD BUSINESS

A. Quarterly newsletter request: Knight requested that a quarterly newsletter article about the Landscape Architect's role in protecting the health, safety and welfare of Oregon citizens be written as outreach to cities and counties receiving the newsletter. *Van Wormer* volunteered to draft an article. Knight offered that a brainstormed list would be a good place to start. The list could be prioritized and then an article representing item one on this list could be drafted. Landscape Architect Board Members agreed review the draft article.

B. PDH Requirements for Inactive Registrants: Knight requested clarification about the application of this provision which was previously discussed at the February Board meeting. *Stout* explained that each active Landscape Architect must sign a renewal form indicating that 12 PDH were completed during the past year. When an inactive Landscape Architect returns to active status, that person must sign a renewal form indicating that 12 PDH hours were completed during the past year. *Stout* moved that inactive person returning to active Landscape Architect registration must by their signature confirm they have completed the required PDH during the previous year. *Seconded and passed unanimously.* *Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

C. Exam Retake Requirement: Knight explained that at the last meeting, OAR 804-020-0005 was discussed. In this requirement for retake applications for examination, verification of supervised experience is not required. This is because verification is required with the initial application. Staff has discovered that some retake examination candidates do not have this verification in their file. Because this requirement is not defined in this rule, staff cannot require the information. *Pellitier* offered that requirements evolve and as they do, some will acquire requirements in different ways. *Van Wormer* stated that he believes the rules should be consistent. Since this is a requirement for examination, then it should be required for those retaking the examination. *Olsen* offered that he has no problem leaving this rule as it is. It allows for those

applicants already in the queue that did not provide this information to continue to sit for the test. When that person seeks registration, the verification must be in the file, so the loophole can be closed then. *Van Wormer* stated that as Chair, he cannot make a motion. Hearing no motion to change the rule, it will remain as it reads.

6. CORRESPONDENCE

A. LAC 07 12 349: This inquiry regards the need to understand the continuing education requirement when moving from inactive status to active status. The Board confirmed a position on this question during discussion under agenda item 5. Correspondence B. from today's agenda.

B. LAC 08 04 104: This letter is questioning the application of PDH for 25 continuous years of registration when this has occurred in another state, as registrants with 25 continuous years need to validate 4 PDH. The Board concurred with staff's response to this registrant that if audited, the registrant would have to have verification from the state where such 25 years of continuous registration is held if staff is unable to validate this requirement through the Oregon database.

C. LAC 08 04 110: The registrant is requesting clarification on OAR 804-025-0010 (1)(a) which defines exemptions for continuing education. Knight explained to the Board that this rule applied when all renewals were in the same month, as those acquiring initial registration in September would be exempt from continuing education on the initial renewal date in June. But now that annual renewals occur in the month of original registration, this exemption is not needed, as new registrants have 12 months to acquire the 12 PDH. *Nichols* moved to delete OAR 804-025-0010(1)(a). *Seconded and passed unanimously. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

D. LAC 08 04 116: This inquiry is regarding the use of electronic signatures. *Stout* stated that the current practice is that only preliminary documents have an electronic stamp. Wet stamps are required on bid or construction documents. *Wright* offered that this is now an electronic age. *Edwards* inquired if this wasn't a question about using a computer for signing the document. *Olsen* suggested that the Board needs an example of what the question really is asking. *Edwards* inquired if it meant fax, electronic, or copy? He is unsure. *Olsen* thought it might be asking about signing something when the signor is not available but stated that the original signed is kept by the company as proof that it was the company's work product. Knight is to see clarification about just what this inquiry is seeking.

E. LAC 08 04 119: The letter is requesting that the Board honor LARE test scores from a regional test site. *Wright* moved to accept exam scores from regional exam sites if the applicant has met all of Oregon requirements. *Seconded and passed unanimously. Edwards, yes; Nichols, yes; Olsen, yes; Pellitier, yes; Stout, yes; Van Wormer, yes; Wright, yes.*

F. LAC 08 05 126: This letter is requesting that the Board review the fees for business registration and establish a sliding scale based on the number of Landscape Architects in the business. The Board concurred that it is aware of this situation and will take this concern under consideration when establishing the budget for 2009-11. *Pellitier* stated that it is a cost of doing business, as he is also a sole proprietor. *Van Wormer* questioned the purpose of registering businesses. *Stout* responded that there are more multi-disciplinary firms and such firms need to recognize what an RLA brings to the firm. This fee requires the firms to pay attention to the laws and rules of the State of Oregon.

7. NEW BUSINESS

A. CLARB (Council Landscape Architect Registration Boards) Delegate Procedure: A Board member needs to be selected to represent OSLAB at the September 4,5, & 6, 2008, national meeting in San Diego, CA. Knight asked the Board to consider how Board representatives would be selected for attendance at the two national meetings convened each year. *Van Wormer* attended the September 2007 meeting and *Pellitier* attended the March 2008 meeting. *Van Wormer* offered that he felt much better about CLARB after attending a meeting in person. If that is the purpose in attending, then all Board Members could go. Knight inquired if the Board's favor would be to send a Landscape Architect member or if a Public Member could successfully represent the Board's position on issues raised. In order to be nominated for any CLARB position, a nominee must have participated in a minimum of two CLARB events. Those nominees are Landscape Architects. *Pellitier* reported that the March meeting discussed strategic planning and where the Landscape Architect profession is in the green movement. A Public Member could not address this issue so this brings credibility to sending one of the four Landscape Architect Board Members first. The Landscape Architect would attend as the Oregon Board representative, so if no LA from the Board is available, then a Public Member could attend to represent the Board. *Olsen* volunteered to represent the Oregon Board in San Diego. *Van Wormer* will serve as the back-up.

B. CLARB Slate of Potential Candidates: The slate of officers to date was distributed. Each nominee on the slate for CLARB's Executive Committee must have participated in a minimum of two CLARB national meetings. The CLARB Bylaws lay out the following requirement for elective office to CLARB:

To be eligible for elective office in the Council, the candidate shall

- A. Have attended at least two meetings of the membership prior to the time of nomination; and
- B. Be a member of the Council Board of Directors or a member or past member of a member board at the time of election; or
- C. Have participated in a combined total of four sessions of a Standing Committee, or a Grading Session as a Grader or Master Grader, or as a Cut Score Committee member.

Should any Oregon Board member be interested in possible national participation, then the Oregon Board should facilitate the two meeting requirement so that that Oregon Board member could be eligible for nomination to the CLARB Executive Council.

C. Outreach Concerns. *Wright* addressed the Board with her concern that the Board must demonstrate to cities, counties and municipalities about the value of Landscape Architect work. An efficient manner for an outreach effort could be the annual meeting of either the Association of Oregon Counties (AOC) or the League of Oregon Cities (LOC) where the benefits of working with Landscape Architect professionals could be presented. How can OSLAB organized to provide education brochures with publicity about the regulation of Landscape Architects? *Olsen and Stout* confirmed the need for such outreach and *Wright* suggested that ideas about health, safety and welfare be presented.

8. ANNOUNCEMENTS

A. The current Board elected officers and committee assignments as of March 24, 2008, was distributed to all members. [Appendix V.]

B. LARE examinations will be administered by the Board at Chemeketa Community College on June 9 & 10, 2008. *Van Wormer* volunteered to proctor the June 9, 2008, examination. *Edwards* volunteered to proctor the June 10, 2008, examination. If he is unavailable, *Olsen* then *Wright* will serve as backup proctors.

C. The next quarterly Board Meeting is scheduled for Friday, August 8, 2008. If need be, the Board could convene for a special meeting.

D. The national CLARB Meeting will convene in San Diego, CA on September 6, 7, & 8, 2008. *Olsen* and *Knight* will represent OSLAB at the meeting. *Van Wormer* will serve as the alternate representative for the Board.

9. **ADJOURNMENT:** Chair *Van Wormer* adjourned the meeting at 3:15 PM.

Respectfully submitted,

Susanna R. Knight
Administrator

The meeting minutes from May 9, 2008, were approved as presented at the August 8, 2008, Board Meeting.

Respectfully submitted,
Susanna R. Knight