

Nebraska State Board of Landscape Architects  
**Board Meeting Agenda**  
July 27, 2010  
215 Centennial Mall South, Fifth Floor, Small Conference Room, Lincoln, NE

**8:30a CALL TO ORDER**

Open Meeting and Public Agenda Information

**Public Comments**

The public is invited to speak

**Agenda Items**

Approval or adjustment of the listed agenda

**Action**

- 1 Public Notice Publication

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**A Consent Agenda**

**1 Meeting Minutes**

- a 1-5 March 30, 2010 meeting minutes

**2 Late Submittals of Continuing Education**

- a 1-10 Submittals as approved by the Peer Review Committee Chairperson and Board Chairperson

**Action Approval of Consent Agenda**

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**B Financial Reports/Matters**

- 1 a 1-8 Budget Status Report – March, April, May, June 2010

- 2 a 1-4 MTD General Ledger Detail Report – March, April, May, June 2010

- 3 a 1-8 Fund Summary Report – March, April, May, June 2010

- 4 a 1 Financial Profile – March, April, May, June 2010

- 5 a 1 Fiscal Activity Report – FY 09-10

- b 1 Trends in Licensure – FY 09/10

**6 Other Financial Matters**

- a 1 FY 2009/2010 Fund Transfer Transaction

- b 1 FY 2010/2011 Fund Transfer Schedule Memo from the State Budget Division

- 2 Proposed FY 2010/2011 Fund Transfer Schedule

- c 1 FY 2010/2011 Budget Status Worksheet

- d 0 2011-2013 Biennium Budget Discussion

**7 Contract Review**

- a 1-4 FY 2010/2011 Contract with Charles Borcharding

**Action Approval of Financial Matters**

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**C Applications**

- 1 a 1 **Application Overview Sheet**

**2 Licensure/Examination**

- a Applications for Licensure by Reciprocity - **Class 2 w/CLARB Certificate**

- 1-2 Curt Engelhardt, IA

- 3-4 Gary Tushie, MN

- b Applications for Licensure by L.A.R.E. Examination – **Class 1 w/CLARB Record – None at this time**

**Action Approval of Licensure/Examination Applications**

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**D Compliance Cases**

- 1 a 0 **Logs - None at this time**

- 2 a 0 **New Cases – None at this time**

- 3 a 0 **Pending Cases – None at this time**

- 4 a 0 **Case Recommendations – None at this time**

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**5 Compliance Issues**

- a 1 Sample disclosure questions for renewals
- 2-9 Attorney General's opinion to renewal disclosure questions and related e-mail correspondence

*Action* **Approval of Compliance Case Disposition**

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**E General Information/Committee Reports**

**1 Meetings Schedule/Rosters**

- a 1-2 Board Meeting Schedule
- b 1 Roster of Board Members – Note 2010 expiration
- c 1 Notice of board vacancies from the Governor's office

**2 Committee Reports**

- a 0 Officers Report – Dennis Bryers, Chairperson

**3 CLARB**

- a 1 March Multiple Choice Exam Sections Results
- b 1-4 CLARB May 2010 Member Board E-News items of interest
- 5-8 CLARB June 2010 Member Board E-News items of interest
- 9-10 CLARB July 2010 Member Board E-News items of interest

**4 a 0 ASLA – None at this time**

**5 Office/Staff**

- a 1 NBEA Director news release
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**F New Business**

**1 Governance Issues**

- a 1-3 Board policies and action history
- b 0 Rules and Regulations
- c 0 Statutes
- d 0 Legislative items

**2 Landscape Architects**

- a 0 Board Strategic Plan
- b 1-5 Special Supervisory Program

**Action**

- c 1-2 First Time Renewal Continuing Education Notice on Renewal Form

**Action**

- d 0 CLARB Annual Meeting, August 25-29, 2010, in Baltimore, MD – Delegate selection and approval

**Action**

**Adjournment**

The next State Board of Landscape Architects meeting will be held on September 28, 2010, at 8:30am at 215 Centennial Mall South, Lincoln, Nebraska, Fifth floor, in the Small Conference Room.

Nebraska State Board of Landscape Architects  
**Board Meeting Minutes**  
**July 27, 2010**  
**215 Centennial Mall South, Fifth Floor, Small Conference Room, Lincoln, NE**

**CALL TO ORDER**

The meeting was held at 215 centennial Mall South, 5<sup>th</sup> Floor, Small Conference Room, Lincoln, Nebraska. Chairperson Bryers called the meeting to order at 8:42am and informed the public of the location of the Open Meeting Act.

**Roll Call:** Dennis Bryers, JoAnne Kissel, John Royster, Gary Wells; Absent: Eileen Bergt, David Ciaccio

**Staff Present:** Jon Wilbeck, Executive Director (ED), Sandra Weaver, Administrator, Jean Lais, Administrative Assistant (AA)

**Public Comments**

None scheduled

**Agenda Items**

No corrections were made.

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**A Consent Agenda**

**1 Meeting Minutes**

March 30, 2010 meeting minutes approved as presented

**2 Late Submittals of Continuing Education**

Submittals from James Wike, Herbert Meeks, and Peter Conway as approved by the Peer Review Committee Chairperson and Board Chairperson

**Approval of Consent Agenda**

**Action** Motion by Wells, second by Kissel to approve the Consent Agenda. Voting Yes: Wells, Royster, Kissel; Voting No: None; Absent: Bergt, Ciaccio

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**B Financial Reports/Matters**

**1 Budget Status Report – March, April, May, June 2010**

Enterprise One reports provided for review. Administrator Weaver reported the Board received 89.39% of the projected revenue in FY 2009/2010. This was mostly due to nine licensees who did not renew their license in 2009. The Board used 71.37% of the appropriated budget in FY 2009/2010 leaving a balance of \$7,470.29 which was rolled over into FY 2010/2011.

**2 MTD General Ledger Detail Report – March, April, May, June 2010**

Enterprise One reports provided for review.

**3 Fund Summary Report – March, April, May, June 2010**

Enterprise One reports provided for review. Administrator Weaver reported a cash fund balance of \$23,040.55 as of June 30, 2010.

**4 Financial Profile – March, April, May, June 2010**

Report provided for review

**5 Fiscal Activity Report and Trends in Licensure– FY 09-10**

Report provided for review. AA Lais reported out of the nine licensees who did not renew, all but three have contacted the office stating they would not be renewing.

**6 Other Financial Matters**

**FY 2009/2010 Fund Transfer Transaction**

On June 15, 2010, \$572 was transferred from the Cash Fund to the State General Fund as mandated by LB1 and LB3, 101<sup>st</sup> Legislature, First Special Session, 2009.

**FY 2010/2011 Fund Transfer Schedule and Memo from the State Budget Division**

Transfers from the Cash Fund to the State General Fund for FY 2010/2011 will be \$571 on December 15, 2010, and \$571 on June 15, 2011.

**FY 2010/2011 Budget Status Worksheet**

Worksheet provided showing the total FY 2010/2011 appropriation of \$29,192.29.

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**2011-2013 Biennium Budget Discussion**

ED Wilbeck provided the budget narrative from the 2009-2011 biennium for review. The first draft of the 2011-2013 biennium narrative is due August 3, 2010. A new requirement for this budget is the Agency efficiency review plan. The Board needs to list what actions/services are mandated by law and any changes that will be made within the next two years. Royster suggested mention be made in the narrative to when the Board eliminated the Executive Director position and entered into the agreement with the Nebraska Board of Engineers and Architects (NBEA). Royster also commented the 4-day work week would mean there would be less public access to the agency. He suggested the Board spend the rest of the current biennium forming a committee to examine model law legislation and how it applies to Nebraska. The Board would want to engage the profession and other agencies in the discussion.

ED Wilbeck inquired as to how the budget numbers had been derived in the past. Royster commented the Board has relied on the knowledge of the Administrator. He inquired how the budget would be affected if the Board wanted to revise and adopt new statutes and rules and regulations using cash fund monies. Administrator Weaver advised monies would be added to the individual line items on the budget where the resources would be used.

Administrator Weaver informed the Board the final biennium budget is due September 15, 2010. Royster asked her to look at the previous year's numbers and advise the Board of what she proposes. Royster also asked if the NBEA knew what the MOU would be increasing to for the next two years. ED Wilbeck responded that the NBEA has not looked at the numbers and will work on getting the total hours through June 2010 to access the total costs.

If the Board wants to increase the renewal fee, the Board needs to address this in the budget. Chair Bryers stated needs to know what the current numbers are before can set a new fee. The last increase was in 2007. He would like to set the fee to cover three to four years and may need to use the cash fund to offset the costs in the first year.

Chair Bryers will take a look at some of the issues and send the information to ED Wilbeck. ED Wilbeck will send a copy of the biennium budget to the Board members for comment once completed.

**Approval of Financial Matters with the exception of Contracts**

**Action** Motion by Royster, second by Kissel to accept the Financial Matters with the exception of Contracts. Voting Yes: Wells, Royster, Kissel, Bryers; Voting No: None; Absent: Bergt, Ciaccio

**7 Contract Review**

**FY 2010/2011 Contract with Charles Borcharding**

Copy of the contract provided for review. The contract covers the service of proctoring the L.A.R.E. graphic examination administrations for Fiscal Year 2010/2011. Included in the contract are the hourly wage, terms of payment, frequency of the examinations, and the litigation process.

**Approval of Contract with Charles Borcharding**

**Action** Motion by Wells, second by Royster to approve the Contract with Charles Borcharding. Voting Yes: Wells, Royster, Kissel, Bryers; Voting No: None; Absent: Bergt, Ciaccio

Administrator Weaver left the meeting at 9:30am

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Section D.5 Compliance was moved forward for discussion

Bergt joined the meeting at 9:54am

ED Wilbeck left the meeting at 9:55am

**C Applications**

**1 Application Overview Sheet**

Form provided.

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**2 Licensure/Examination**

**Applications for Licensure by Reciprocity** - Class 2 w/CLARB Certificate

**Approved:** Curt Engelhardt, IA; Gary Tushie, MN

**Action** Motion by Bergt, second by Royster to approve Engelhardt and Tushie for licensure by Reciprocity Class 2 with a CLARB Certificate. Voting Yes: Wells, Royster, Bergt, Bryers; Voting No: None; Abstain: Kissel; Absent: Ciaccio

**Applications for Licensure by L.A.R.E. Examination** – Class 1 w/CLARB Record

*None at this time*

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**D Compliance Cases**

**1 Logs** - *None at this time*

**2 New Cases**

Chair Bryers provided the Board with information on an individual who states their company provides landscape architectural and landscaping services. The Board recommended the Compliance Officer (CO) send a cease and desist letter to the individual.

He also provided an article written by an individual which states the author is a landscape designer and refers to himself as the designer of the project mentioned in the article. It appears the author is engaged in the practice of landscape architecture without being licensed. The Board recommended the CO send a cease and desist letter to the individual.

Chair Bryers will send further information to ED Wilbeck on these cases.

**3 Pending Cases** – *None at this time*

**4 Case Recommendations** – *None at this time*

**5 Compliance Issues**

**Sample disclosure questions for renewals** (Discussed prior to Section C Applications)

The Board is looking into adding disclosure questions for renewals with regards to a licensee being convicted of a felony in connection with the profession and if the licensee has had a license to practice in another jurisdiction revoked, suspended or canceled. An opinion was received from the Attorney General's (AG) office stating it is unclear with the current law whether the Board has the authority to place these questions on the renewal form. This would require a change in the statute and/or the rules and regulations. However, it appears the Board does have the authority to add these to the initial application.

The AG suggested a change in Title 231 of the NAC, chapter 8 002.15 to read "conviction of a felony shall be grounds for the Board, in its discretion, to open an inquiry or investigation concerning whether or not charges are to be brought against the licensee." Even so, he still did not believe the question could be asked in connection with an annual renewal application without a change to the statutes.

If the Board is seeking information about felony convictions merely so it can start investigations to determine if the statutory bases for discipline are involved, he suggested the Board amend the rules and regulations to specifically state that, in order for it to determine whether disciplinary proceedings may be proper under Neb. Rev. Stat section §81-8,202 for the specific reasons set forth in that statute, each applicant for renewal must inform the Board of any felony convictions he or she might have had during the previous renewal period. Thus, the Board would not be declaring a felony conviction alone shall result in the filing of charges, but the information is needed in order to conduct investigation to aid in carrying out the Board's disciplinary duties under the statutes and authorizing the specific question on the application.

It is the opinion of the AG both questions could be asked on the initial application, but could only ask whether the licensee has had a license suspended, revoked, etc. on the renewal form. Royster recommended the board make the changes necessary to the statutes and rules and regulations with the next amendment of such and should pursue adding the questions to the application and renewal form as determined by the AG.

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**Approval of Disclosure Questions**

**Action** Motion by Royster, second by Wells to add the disclosure questions to the initial application and renewal form as discussed. Voting Yes: Wells, Royster, Bergt, Kissel, Bryers; Voting No: None; Absent: Ciaccio

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**E General Information/Committee Reports**

**1 Meetings Schedule/Rosters**

**Board Meeting Schedule**

Bergt will not be able to attend the September meeting unless the date or time can be moved. AA Lais will look into availability of the conference room and advise the board of options.

AA Lais advise the Board the April 2011 board meeting was changed to the last week of March to accommodate the registration deadline of April 12<sup>th</sup> for the graphic exams. She will send the corrected date to the board.

**Roster of Board Members**

Royster informed the Board he will not be seeking reappointment when his terms expires on September 23, 2010. He is recommending Todd Maiellaro to replace him. Chair Bryers also noted the term of Brian Leaders on the Peer Review Committee is expiring this year. If Maiellaro is appointed to the Board, they will need to replace two members of the Peer Review Committee. Mary Anne Wells was suggested as a possible committee member. Wells will speak with her and advise Chair Bryers of her decision. He requested the members send any other names of persons interested be sent to him for consideration.

**Notice of board vacancies from the Governor's office**

Notice provided for review.

**2 Committee Reports**

Officers Report – Chair Bryers reported he has just returned from the Cut Score Committee for the June 2010 graphics exam and encouraged those who have not attended to do so.

**3 CLARB**

**March Multiple Choice Exam Sections Results**

Score Roster provided for review.

**CLARB May 2010 Member Board E-News items of interest**

Copy provided for review.

**CLARB June 2010 Member Board E-News items of interest**

Copy provided for review.

**CLARB July 2010 Member Board E-News items of interest**

Copy provided for review.

**4 ASLA – None at this time**

**5 Office/Staff**

A copy of the news release naming Jon Wilbeck as Executive Director of the NBEA was provided for review. ED Wilbeck is filling the position vacated by Melinda Pearson in February 2010. He will oversee the day-to-day operations of the agency.

ED Wilbeck informed the Board that a new Compliance Officer has been hired to fill the vacancy left when he became Executive Director. He will begin on August 9, 2010.

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**F New Business**

**1 Governance Issues**

**Board policies and action history**

Royster questioned the \$25 for roster requests. He thought it was \$50. AA Lais will look into and advise. Also, need to expand LA P98.01 to insure all wording is showing. Suggested the Media Notice Procedure be removed since this is no longer done by the Board.

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**Action** Motion by Royster, second by Bergt to remove the Media Notices from the list of Board policies and action history. Voting Yes: Wells, Royster, Bergt, Kissel, Bryers; Voting No: None; Absent: Ciaccio

When Royster was looking through some old notes, he found some statute and/or rules and regulations recommendations from Ken Backman the Board may want to take into consideration as they review the changes that need to be made. The suggestions were adding a clause to allow administrative staff to approve registration by reciprocity for CLARB certificate holders and eliminating any reference for the Board to review L.A.R.E. scores since they are now graded on a pass/fail basis. AA Lais will add these items to the Board Actions to changes in the Statute and/or Rules and Regulations list.

**Rules and Regulations** - None

**Statutes** - None

**Legislative items** - None

**2 Landscape Architects**

**Board Strategic Plan**

Chair Bryers will send a notice with a date comments on the Strategic Plan draft as are due to him. He will then work with the Strategic Plan Committee and have a final draft ready for approval at the September 2010 meeting.

**Special Supervisory Program**

Royster informed the Board this program was added to the Title 231 of the NAC chapter 1 002.06 to allow experience not obtained under a licensed landscape architect. It was developed to use the same guidelines that CLARB uses to accept experience. It is to be set up in advance of any experience being calculated. The exam applicant who had originally requested guidelines on this program has since decided to obtain his initial licensure in another state. It was the consensus of members to address this issue when revising the rules and regulations. Further discussion was tabled to a future date.

**First Time Renewal Continuing Education Notice on Renewal Form**

To clarify some misunderstanding during the last renewal period, the Board suggested the wording on the renewal form be reworded as such, "If you were licensed in the current calendar year, you are exempt from the professional development hours requirement." Wording on the initial licensure card receipt was accepted.

**CLARB Annual Meeting**, August 25-29, 2010, in Baltimore, MD

The consensus was to not send a delegate since Chair Bryers would be attending as a member of the CLARB Board of Directors

**Adjournment** Motion by Kissel, second by Wells to adjourn the meeting at 11:10am

The next State Board of Landscape Architects meeting will be held on September 29, 2010, at 1:00pm at 215 Centennial Mall South, Lincoln, Nebraska, Fifth floor, in the Small Conference Room.

  
Board Member

  
Date