Call to Order

Chairman Paul Davis called the meeting to order at 9:00 a.m.

Members Present:

Paul Davis
Elizabeth Gillick
Collene Walter
Elizabeth Marshall-Beasley

Members Absent:

Philip Graham

Others Present:

Juanita Chastain
Diane Guillemette
Debra Lynn Hernandez
David J. Odishoo
Jo Ellen Lisinger
Cliff Lisinger
Thomas Deal
David Nam (by telephone)

Approval of Meeting Minutes

MOTION: Paul Davis moved to approve minutes of June 16, 2004, December 19, 2003 and November 7, 2003

SECOND: Elizabeth Gillick seconded the motion and it passed unanimously.
Ms. Walter asked that spelling of architecture be corrected in the footer of the June 16, 2004 minutes. Ms. Walter commented the minutes were very thorough.

**Discipline**

The motion of wavier for Mr. James Towery case postponed due to the fact the board did not have a quorum. Ms. Gillick and Ms. Marshall-Beasley were recused because they served on probable cause and Mr. Graham was out due to a prior commitment. Ms. Chastain explained she was aware of the quorum problem and contacted Mr. Brian Higgins and he postponed the case until the next meeting.

**Application Review**

**Ms. Debra Lynn Hernandez**  
**Six-Year Candidate**

Ms. Hernandez was present. The board reviewed her plans. Ms. Guillemette informed the board that if they wanted to make comments about the plans they needed to do so on the record.

An audience member asked about the six-year candidate process. Ms. Guillemette stated the rule that addressed the six-year candidate process is rule 61G10-11.004, FAC.

Ms. Walter complimented Ms. Hernandez on the quality of the plans and stated Ms. Hernandez met the requirements.

**MOTION:** Ms. Walter moved to approve Ms. Hernandez.

**SECOND:** Ms. Gillick seconded the motion and it passed unanimously.

**Mr. David J. Odishoo**  
**Six-Year Candidate**

Mr. Odishoo was present. The board reviewed his plans. Ms. Marshall-Beasley commented the plans were excellent. Ms. Walter indicated he had the full range of experience.

**MOTION:** Ms. Marshall-Beasley moved to approve Mr. Odishoo.

**SECOND:** Ms. Gillick seconded the motion and it passed unanimously.
Mr. Thomas Deal  
Heidt & Associates, Inc.  
Certificate of Authorization

Mr. Deal was present. The board asked why the application was before the board. Ms. Chastain explained that the application indicated prior practice. Ms. Guillemette asked if there was a pending disciplinary action? Ms. Chastain indicated it came to the board through the application process.

The board asked if Mr. Deal came forward on his own or if it was due to the unlicensed sweeps? Mr. Deal indicated he came forward on his own after he learned the certificate of authorization was required.

Ms. Walter commented that those that applied because of the sweep were fined but she could not recall if they fined those that came forward voluntarily. Mr. Davis recalled that they did impose a fine on those that came forward voluntarily and that he was somewhat uncomfortable with that. Ms. Gillick commented that if you don’t levy a moderate fine it penalizes those practicing corporations that do support what is required. Ms. Marshall-Beasley agreed.

Ms. Guillemette asked if she would do the order? Ms. Chastain replied in the positive.

Ms. Davis asked if this was considered discipline? Ms. Chastain replied it would not appear as discipline on the disciplinary history but it would be a final order, which is public record.

MOTION: Ms. Marshall-Beasley moved to approve with a fine of $500.
SECOND: Ms. Gillick seconded the motion and it passed unanimously.

Mr. Deal asked that the board make an effort to inform licensees of the requirement. Ms. Chastain stated the newsletters do include information about the certificate of authorization requirement.

Review of Continuing Education Course

Tree Introductions, Inc.  
*Nursery Culture and Landscape Installation – 1.5 hours*

Ms. Walter indicated she did the review on the course and recommends approval.

MOTION: Ms. Walter moved to approve.
SECOND: Ms. Gillick seconded the motion and it passed unanimously.

Discussion

Education Technical Advisory Committee Meeting – Florida Building Commission

Mr. Davis indicated he attended the meeting since Ms. Walter was unable to do so. He stated the FBC has come forward with a proposal for an advanced course specific to landscape architecture. There was opposition to the course. The proposal is a course on tree hazard evaluations.

Ms. Guillmette asked how long the course was and Mr. Davis indicated it would be a one-hour course.

Ms. Chastain stated she received a call from Ila Jones, with the Department of Community Affairs, and was told the Commission will be developing rules to allow the approval of course accreditors. Ms. Chastain indicated the rules should be in place shortly and Ms. Walter could then apply for approval on behalf of the board. Ms. Chastain also indicated that once Ms. Walter became an accreditor the board could revisit the courses they previously approved. Ms. Gillick asked if the courses would be approved retroactively. Ms. Guillemette indicated that courses would not be approved retroactively but that it would be considered a rule waiver.

Ms. Chastain explained that with the 100% monitoring the courses that have been approved as advanced would be credited to the licensee as meeting the requirement for advanced. Ms. Guillemette stated that even if it is part of the landscape architecture rules since it is a course approved by DCA she did not believe they had retroactive provisions but with a rule waiver they can.

Ms. Gillick stated she does not like approving courses retroactively but given the history regarding the advanced courses it may be appropriate. Ms. Guillemette responded that perhaps it may be appropriate but it must be handled legally. Ms. Gillick stated she would not want to compromise the board’s rules.

Ms. Walter indicated that if one person filed a waiver then it would be retroactive for the course. Ms. Guillemette agreed.

Ms. Marshall-Beasley asked if there was a way to encourage the commission to offer the course in more areas. Ms. Guillemette stated that
the executive director could contact the providers and ask them to offer
the courses more often. Ms. Chastain asked if she was to contact DCA
and see if the course could be offered. Ms. Marshall-Beasley commented
that an ASLA conference was going to take place in August.

Ratification List

Ms. Walter asked if Mario Nievera Design, Inc.’s qualifier had a
relationship with the firm mentioned in the disciplinary case and if the item
should be postponed. Ms. Guillemette commented that it appears they
are trying to cure the problem in the disciplinary case. Ms. Walter stated
that do they now have a landscape architecture that can qualify the firm.
Ms. Marshall-Beasley stated she was uncomfortable with approving the
applicant.

Ms. Guillemette stated the disciplinary action was against Mr. Towery and
not this firm. Ms. Marshall-Beasley stated there may be unlicensed cases.
Ms. Walter wanted to confirm a landscape architect qualified the business.
Ms. Chastain commented that the application would not be before them
without a licensed qualifier. She stated all requirements must be met to
be included on the ratification list. Ms. Chastain asked if the concern was
possible unlicensed practice? Ms. Walter confirmed that was her concern.
Ms. Chastain stated she would contact the office to verify who the
landscape architect is and if they have an unlicensed case.

Ms. Marshall-Beasley asked if the person signing and sealing had to be a
part of the corporation. Ms. Chastain replied they must be an officer of the
corporation. Ms. Marshall-Beasley asked how the department knows if
they have registered with the Secretary of State. Ms. Chastain replied
that is checked through the application process.

MOTION: Mr. Davis moved to amend the agenda.

SECOND: Ms. Gillick seconded the motion and it past unanimously.

Mr. Lisinger commented he knows Mario Nievera has been practicing in
Florida and also has an office in Connecticut. He commented he has
been advised of the requirement of licensure and he continues to practice.
Ms. Lisinger stated that she doesn’t personally know Mario but would hope
the board would take the maximum approach to the situation because a
slap on the wrist with a fine is not enough. Ms. Gillick commented that the
board has taken action against companies practicing without a certificate
of authorization as much as nine years back because they have not gotten
the proper licensure. It probably should be more but based on the statute
the Board can only do so much.
Ms. Guillemette commented the board was considering denial of the application based on 481.331(5), F.S., that there is pending investigation and also feels there is basis under 481.319(1)(a), F.S., principle officers of the corporation are registered landscape architecture.

Reports

Chair’s Report – Paul Davis

Mr. Davis commented he would write a chair’s message for the newsletter.

Ms. Gillick asked if Mr. Davis wanted to do an article about the CLARB meeting. Mr. Davis commented that CLARB did receive numerous complaints about the examination. Ms. Guillemette stated she reviewed the contract with the department and CLARB. She feels that the comments should come from the department instead of the board. In the contract it does state that the contractor shall perform all the services described in a proper and satisfactory manner as determined by the department. It does talk about administering the examination by computer based. Ms. Guillemette commented she was hoping the contract would address the appropriate place to take the examination; however, she does think if you talk about satisfactory manner, the department may have leverage that the examination should be in a quite place.

Mr. Davis commented that Lasergrade facilities are at airports and CLARB is subcontracting with Lasergrade. Ms. Guillemette stated the contract stated CLARB couldn’t subcontract. Ms. Gillick commented the department should have some say as to whom is being subcontracted. Ms. Gillick stated there appears to be a lack of regard for candidates. Ms. Marshall-Beasley stated there were many problems.

Ms. Marshall-Beasley commented that CLARB never takes responsibility for their shortcomings. Ms. Marshall-Beasley would like the department to put them on notice that they are not doing their job. Ms. Gillick asked if as a practical matter could they back it up? Ms. Guillemette read contract language about unassignability. She indicated it would be up to the department to lean on them.

Ms. Marshall-Beasley asked about Florida not paying CLARB for the examinations. Ms. Chastain commented that applicants pay CLARB directly for A, B and D.

Mr. Davis asked that the Bureau of Education and Testing be informed of the board’s unhappiness with the examination. Ms. Davis stated candidates are advised to visit the examination site in advance. Ms. Lisinger commented there must be an acceptable level of service and a
standard care of practice. Ms. Gillick commented there needs to be a lot of improvement. Mr. Davis stated he thinks CLARB has standards and they are acknowledging they did not meet those standards.

Mr. Davis commented CLARB was allowing retakes at no cost. Ms. Walter stated it was not only the cost of the examination but the time off from work and the preparation time for the examination.

Mr. Davis asked Ms. Chastain and Ms. Guillemette to meet with the Bureau of Education and Testing about the board’s concern.

Ms. Marshall-Beasley addressed her concerns about CLARB’s certification program. She indicated the information they are requesting is information given to the state of Florida for licensure. Mr. Davis stated that all of this is done not knowing if another state will accept you. Ms. Marshall-Beasley stated CLARB could not even tell what another state’s requirements are. Ms. Chastain indicated that the certification program is a clearinghouse. Ms. Guillemette commented if an applicant did not want to go through CLARB they could go directly to the state. Mr. Davis stated CLARB certification is required for reciprocity in some states. Ms. Chastain commented Florida endorses those that meet Florida requirements. They do not have reciprocity.

Ms. Gillick asked Ms. Chastain to obtain copies of Region III minutes.

Executive Director’s Report – Juanita Chastain

Ms. Chastain called the board’s attention to the letter received from Mr. Ben Bolusky of the Florida Nursery, Growers and Landscape Association (FNGLA) concerning the oversight in publishing “Florida Certified”.

Ms. Chastain presented the fourth quarter financial report.

Ms. Chastain presented the newsletter and asked for board comments. Ms. Marshall-Beasley asked that a “five easy ways to lose your license” article be written.

Board Counsel’s Report – Diane Guillemette

Ms. Guillemette informed the board she considered her job was to help the board do what they want to do in a legal way. She considers the board her client.

Ms. Guillemette indicated that the handout referencing the rule 61G10-18.002, FAC, regarding continuing education was published on October 15, 2004. Rule 61G10-12.001, application and examination fees needed
to be updated. Ms. Guillemette and Ms. Chastain will meet and discuss
and bring back to the board. Rule 61G10-18.001, FAC, regarding
continuing education credit requirements, language that the board agreed
to concerning the two hours for advanced course requirement. Rule
Edwards brought a matrix to the board but after discussion the board
decided that the rule was sound and did not need to be fixed. Ms.
Guillemette agreed it was probably better to leave it as written.

Ms. Guillemette commented that they have $10,000 fines for some
offenses and that in the practice act, which is the statute, you have a
maximum of a $1,000 up to $5,000 pertaining to violation. If you want to
keep it as written probably better not to bring it to the attention of the Joint
Administrative Procedures Committee.

For the Board’s Information

Unlicensed Activity Report – Ms. Chastain stated that the report was Ms.
Gaffney’s, unlicensed activity attorney’s, report.

Mr. Davis stated that the board had a request from Mr. Christopher
Kennedy. His wife had a stroke the day of the examination and he is
asking the board to waive the fee requirement for the next examination.
Mr. Davis stated the board had hospital proof of admittance.

MOTION: Ms. Gillick moved to grant applicant extension with regrets
for his wife’s event.

SECOND: Ms. Marshall-Beasley seconded the motion.

Ms. Guillemette asked if it was a rule waiver waiving the examination fee.
Question called and motion passed unanimously.

The board recessed and reconvened at 11:06.

Ms. Chastain informed the board she did not have the information
requested because the reviewer was out of the office. Ms. Chastain
stated if they wanted the qualifiers on the ratification list they would do so.
Ms. Walter stated that was not necessary she was just concerned with
Mario Nievera because of the disciplinary case.

Ms. Chastain indicated that Libra Design Group sent an email indicating a
website and she sent the email to the complaint section to verify if they
were practicing prior to licensure. She indicated she had not heard back
from them.
Ms. Guillemette stated she thought the best way to proceed was an intent to deny based on the statutes mentioned earlier and the applicants could come before the board and explain the situation.


**SECOND:** Ms. Walter seconded the motion.

Ms. Marshall-Beasley questioned holding a conference call to cover the applications. Ms. Gillick commented she thought of that as well but based on counsel’s recommendation felt it more appropriate to deny because of the 90-day issue.

Question called and motion passed unanimously.

**New Business**

No Business

**Old Business**

Meetings dates:

December 10, 2004, 10:00 a.m. telephone conference call
January 28, 2005 – Orlando
April 22, 2005 – St. Augustine or Jacksonville

The board thought the national meeting would be in October/November of 2005 in Ft. Lauderdale. Mr. Nam stated that there would not be a state conference next year because of the national conference. He indicated there would be meeting in lieu of the state conference where continuing education would be held. Mr. Nam will contact Ms. Chastain regarding the dates. Ms. Marshall-Beasley stated they could invite members from other states to attend the board meeting. Ms. Marshall-Beasley commented about sunshine. Ms. Guiellemette commented there was not a prohibition from members talking to members of the public, they just cannot talk with each other about board business. Mr. Nam offered to look into holding a reception at the National conference. Ms. Guiellemette to look into necessity of filing form regarding cost of the reception.
MOTION: Ms. Marshall-Beasley moved to adjourn

SECOND: Ms. Walter seconded the motion and it passed unanimously.

The meeting adjourned at 11:20 a.m.