

1 **BOARD OF LANDSCAPE ARCHITECTURE**
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3 **CROWNE PLAZA OCEANFRONT NORTH PALM BEACH**
4 **3200 NORTH OCEAN DRIVE**
5 **SINGER ISLAND, FLORIDA**

6
7 **OCTOBER 22, 2004**

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9 **GENERAL BUSINESS MEETING MINUTES**
10 **9:00 A.M.**

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14 **Call to Order**

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

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18 **Members Present:**

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20 Paul Davis
21 Elizabeth Gillick
22 Collene Walter
23 Elizabeth Marshall-Beasley

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25 **Members Absent:**

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27 Philip Graham

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29 **Others Present:**

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31 Juanita Chastain
32 Diane Guillemette
33 Debra Lynn Hernandez
34 David J. Odishoo
35 Jo Ellen Lisinger
36 Cliff Lisinger
37 Thomas Deal
38 David Nam (by telephone)

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40 **Approval of Meeting Minutes**

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

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45 **SECOND:** Elizabeth Gillick seconded the motion and it passed
46 unanimously.

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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.

92 **Mr. Thomas Deal**
93 **Heidt & Associates, Inc.**
94 **Certificate of Authorization**
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96 Mr. Deal was present. The board asked why the application was before
97 the board. Ms. Chastain explained that the application indicated prior
98 practice. Ms. Guillemette asked if there was a pending disciplinary action?
99 Ms. Chastain indicated it came to the board through the application
100 process.

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

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

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

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

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121 **MOTION:** Ms. Marshall-Beasley moved to approve with a fine of \$500.

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

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

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129 **Review of Continuing Education Course**

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131 **Tree Introductions, Inc.**
132 ***Nursery Culture and Landscape Installation – 1.5 hours***
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134 Ms. Walter indicated she did the review on the course and recommends
135 approval.

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

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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. Guilmette 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

184 the executive director could contact the providers and ask them to offer
185 the courses more often. Ms. Chastain asked if she was to contact DCA
186 and see if the course could be offered. Ms. Marshall-Beasley commented
187 that an ASLA conference was going to take place in August.

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Ratification List

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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.

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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.

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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.

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MOTION: Mr. Davis moved to amend the agenda.

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

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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.

230 Ms. Guillemette commented the board was considering denial of the
231 application based on 481.331(5), F.S., that there is pending investigation
232 and also feels there is basis under 481.319(1)(a), F.S., principle officers of
233 the corporation are registered landscape architecture.

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Reports

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Chair's Report – Paul Davis

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

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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.

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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.

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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.

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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.

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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

276 standard care of practice. Ms. Gillick commented there needs to be a lot
277 of improvement. Mr. Davis stated he thinks CLARB has standards and
278 they are acknowledging they did not meet those standards.

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

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

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

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

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301 **Executive Director's Report – Juanita Chastain**

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303 Ms. Chastain called the board's attention to the letter received from Mr.
304 Ben Bolusky of the Florida Nursery, Growers and Landscape Association
305 (FNGLA) concerning the oversight in publishing "Florida Certified".

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307 Ms. Chastain presented the fourth quarter financial report.

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

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313 **Board Counsel's Report – Diane Guillemette**

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

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319 Ms. Guillemette indicated that the handout referencing the rule 61G10-
320 18.002, FAC, regarding continuing education was published on October
321 15, 2004. Rule 61G10-12.001, application and examination fees needed

322 to be updated. Ms. Guillemette and Ms. Chastain will meet and discuss
323 and bring back to the board. Rule 61G10-18.001, FAC, regarding
324 continuing education credit requirements, language that the board agreed
325 to concerning the two hours for advanced course requirement. Rule
326 61G10-14.003, FAC, disciplinary matters. Ms. Gillick indicated that Ms.
327 Edwards brought a matrix to the board but after discussion the board
328 decided that the rule was sound and did not need to be fixed. Ms.
329 Guillemette agreed it was probably better to leave it as written.

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

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337 **For the Board's Information**

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

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

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347 **MOTION:** Ms. Gillick moved to grant applicant extension with regrets
348 for his wife's event.

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350 **SECOND:** Ms. Marshall-Beasley seconded the motion.

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

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355 The board recessed and reconvened at 11:06.

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

362

363 Ms. Chastain indicated that Libra Design Group sent an email indicating a
364 website and she sent the email to the complaint section to verify if they
365 were practicing prior to licensure. She indicated she had not heard back
366 from them.

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368 Ms. Guillemette stated she thought the best way to proceed was an intent
369 to deny based on the statutes mentioned earlier and the applicants could
370 come before the board and explain the situation.

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372 **MOTION:** Ms. Gillick moved to deny Libra Design Group and Mario
373 Nievera Design, Inc. based on information discussed earlier
374 and to approve Chris Wayne and Associates, Inc., Certificate
375 of Authorization and approve 1-3 under endorsement and 1-
376 11 under examination on the ratification list dated October
377 22, 2004.

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

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381 Ms. Marshall-Beasley questioned holding a conference call to cover the
382 applications. Ms. Gillick commented she thought of that as well but based
383 on
384 counsel's recommendation felt it more appropriate to deny because of the
385 90-day
386 issue.

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388 Question called and motion passed unanimously.

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390 **New Business**

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392 No Business

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394 **Old Business**

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396 Meetings dates:

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

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402 The board thought the national meeting would be in October/November of
403 2005 in Ft. Lauderdale. Mr. Nam stated that there would not be a state
404 conference next year because of the national conference. He indicated
405 there would be meeting in lieu of the state conference where continuing
406 education would be held. Mr. Nam will contact Ms. Chastain regarding the
407 dates. Ms. Marshall-Beasley stated they could invite members from other
408 states to attend the board meeting. Ms. Marshall-Beasley commented
409 about sunshine. Ms. Guillemette commented there was not a prohibition
410 from members talking to members of the public, they just cannot talk with
411 each other about board business. Mr. Nam offered to look into holding a
412 reception at the National conference. Ms. Guillemette to look into
413 necessity of filing form regarding cost of the reception.

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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.