

# BOARD OF LANDSCAPE ARCHITECTURE

Department of Business and Professional Regulation  
Board Conference Room  
1940 N. Monroe Street  
Tallahassee, FL 32399

April 25, 2003  
9:00 a.m.

## General Board and Business Meeting Minutes

### Board Members Present:

Paul Davis, Chair  
Collene Walter  
Elizabeth Marshall-Beasley  
Philip Graham

### Board Member Absent:

Elizabeth Anne Gillick

### Others Present:

Rosanna Catalano, Board Counsel  
Charles Pellegrini, Prosecuting Attorney  
Juantia Chastain, Executive Director  
Terri Estes, Government Analyst  
George Ayrish, DBPR Continuing Education Services  
David Nam  
Jeff Caster

### **Call to Order**

Paul Davis, Chair, called the meeting to order at 9:15 a.m.

### **Review and Approval of Minutes**

Mr. Graham commented that page 13 needed to be corrected to read assess instead of access.

MOTION: Ms. Walter moved to approve the February 7, 2003 minutes as corrected.

SECOND: Mr. Graham seconded the motion and it passed unanimously.

### **Disciplinary Case**

**DBPR vs. James R. Giczewski**  
**Case Number 2002-01174**

Mr. Pellegrini presented the case and presented a settlement stipulation for the board's consideration. He commented that the department charged the respondent with a violation of Chapter 481.325(1)(k), Florida Statutes, failing to perform a statutory duty placed on a licensed landscape architect and Chapter 481.319(1), Florida Statutes, practicing through a corporation without licensure. Mr. Pellegrini commented that the counsel for the respondent was served by mail. Mr. Pellegrini stated that the respondent has had no prior discipline. Mr. Pellegrini stated that the stipulation imposes an administrative fine of \$1,000 plus costs of \$48.38 and a reprimand of the respondent's license. Mr. Pellegrini recommends that the board enter into a final order for the recommended stipulation. Mr. Graham commented that he was amazed at the amount of paperwork and duplication. Ms. Catalano commented that the board could issue a reprimand based on Chapter 481.325(1)(k), Florida Statutes.

MOTION: Ms. Walter moved to approve the recommendation of the settlement stipulation.

SECOND: Mr. Graham seconded the motion and it passed unanimously.

Ms. Marshall-Beasley was recused from voting since she served on the Probable Cause Panel that reviewed this case.

Mr. Davis stated that the attorney of Mr. Giczewski submitted yellow page ads that indicated other firms offering the same services that might be in violation. Mr. Davis asked Mr. Pellegrini if there was a mechanism to follow-up on those ads. Mr. Pellegrini responded that he referred that correspondence to the investigations department. Mr. Davis commented that he would like the board to be consistent throughout. Mr. Davis would like to see an aggressive effort. Ms. Chastain stated she would talk with the Division Director, Mr. Varnado, to have this investigated. Mr. Davis stated he would at the least have the listings submitted investigated.

Mr. Graham asked how this violation of practicing prior to licensure was brought to the board's attention. Mr. Davis responded that the individual made application for the certificate of authorization.

**Application Review**  
**Certificate of Authorization**  
**Design Scapes of Manasota**

MOTION: Ms. Walter moved to approve certificate of authorization.

SECOND: Ms. Marshall-Beasley seconded the motion and it passed unanimously.

Ms. Chastain asked the board how they would like to handle future applications of this nature. She asked if they would like the application to be held for the disciplinary issues to be resolved or could the application come before the board and the applicant is fined as a condition of licensure. Ms. Chastain stated that other professions impose a fine as a condition of licensure. Ms. Chastain stated that this particular case was prompted due to the applicant admitting to practicing prior to licensure. Ms. Catalano responded that the board could approve the application with a fine as a condition of licensure. Ms. Catalano reviewed Chapter 455.227, which allows for approval of an application with a condition of licensure.

Mr. Graham asked Ms. Catalano if they could fine the applicant and move the application through faster. Ms. Catalano responded they could use Chapter 455.227(1)(j), which is aiding and abetting unlicensed practice. She stated that they could approve the application with conditions. Ms. Marshall-Beasley commented that the applicant made a good faith effort. Mr. Graham commented that he would like to streamline the process. He stated that there was a lot of effort and time put into this case.

After further discussion, the board determined they would like future applications that reflect practice prior to licensure be brought before the board for approval.

**Rules - Rule 61G10-18.001-18.002, Florida Administrative Code**

**Memorandum dated February 21, 2003**

**Memorandum dated March 5, 2003**

**Memorandum dated March 14, 2003**

**Memorandum dated March 24, 2003**

Mr. Graham asked if attending board meetings would count as continuing education for the board members. Ms. Catalano replied affirmative. However, that rule had not taken effect. Ms. Catalano commented that Rule 61G1-18.002 was effective April 14, 2003. She continued by stating that Rule 61G1-18.001 was delayed due to some changes that Joint Administrative Procedures Committee, JAPC, wanted implemented to make the rule clearer. These changes halted the adoption of the rule. Ms. Catalano stated that there was a loophole where the board could go around JAPC to have the rule adopted then go back and address the two changes JAPC requested. She continued by stating that the department could write a letter acknowledging the issue and that they want to move forward but will address the changes. Ms. Catalano stated the department did not issue the letter and that is why the rule was halted. Ms. Catalano stated that she had noticed the Florida Administrative Weekly that the board would be changing the rule and addressing the JAPC issues. She stated that the board should define number 5 better and recommended removing what a licensee can not get credit for.

Ms. Marshall-Beasley asked what happened to the hour for hour credit. Ms. Catalano replied that on the second page of the packet she distributed, it reflects

documented semester university or college hours credit is the equivalent of 2 continuing education credits. She continuing by stating that if you take a 3-credit course it is worth 6 continuing education credits.

Ms. Chastain referred the board to page 1-A, which states you must complete the core course prior to November 30, 2003 and on page 3 an individual licensed less than 12 months need not complete any continuing education. She continued by stating that was a conflict. Mr. Ayrish stated that if they exempt the initially licensed individuals it may be in conflict with a senate bill that is on the floor. Ms. Catalano does not see a conflict. Mr. Ayrish stated that the date was causing the conflict. Ms. Catalano stated to reword it to "if an individual that holds a license more than 12 months". Mr. Ayrish commented that allowing an instructor to have double credit has created a problem recording.

Mr. Caster asked about the 5-day reporting requirement for universities or colleges. Mr. Ayrish responded that the board is exempting the universities or colleges from being a provider. Mr. Ayrish stated the individual should be instructed that the course would not be automatically transmitted to the department. He continued by stating they would need to notify the department and it would be a manual process.

The agenda was amended to address page 573, which addressed credits for college classes, an e-mail from Mr. Davis regarding Ms. Roppolo. Ms. Catalano stated that there is no credit allowed under the new rule because she audited the class. Ms. Catalano will respond in writing to Ms. Roppolo.

MOTION: Mr. Graham moved to accept the modified rule change.

Ms. Catalano reviewed modified language to read, "licensees who has held a license for more than 24 months and whose license period ends during the biennium ending November 30, 2003, must complete the following". She stated that subsection 3 would read, "a first time Florida licensee licensed 12 to 24 months prior to the end of a biennial period, shall take the core curriculum courses or pass the equivalency test of the building code training program".

Ms. Catalano confirmed the language for attending the board meetings. She stated that the language for 61G1-18.001(3)(a) would read, a minimum of 2 of the required 8 credits must be obtained by completing a course on Florida's laws and rules effecting the practice of landscape architecture or by complying with subsection 5.

The board returned to the Rule 61G1-18.001 discussion. Ms. Catalano commented that if they approved the rule then, the adoption package would take 20- calendar days after the date for adoption, 30 days if all goes well.

MOTION: Mr. Graham moved to approve the rules as amended.

SECOND: Ms. Marshall-Beasley seconded the motion and it passed unanimously.

**Review of Continuing Education Providers and Courses  
American Society of Landscape Architects – Provider # 2640**

**Course applications:**

**Security and Design in the Public Realm**

**Lessons Learned from Denver Skatepark**

**Emerging Sports Turf Technologies**

**Authenticity and Deception in Landscape Preservation**

**How to Write Pruning Specifications with ANSI A300-Part 1**

**How to Write Pruning Specifications with ANSI A300-Part 2**

**Conservation through Ecotourism Planning and Design**

**Context Sensitive Solutions**

**Revegetation of Brownfield and Former Solid Waste Disposal Sites**

**A Site Design Approach to Creating Safe Environments**

**Historic Landscape Preservation: A Look at Canada and the US**

**Security Design: A Site Design Response to Terrorist Threat**

Ms. Walter presented the courses, recommended approval and commented that they were 12 online seminar courses for 1.5 credit hours each.

MOTION: Ms. Walter moved to approve all 12 courses as presented.

SECOND: Mr. Graham seconded the motion and it passed unanimously.

**American Society of Landscape Architects – Florida Chapter – Provider #2709**

**Course application:**

**Landscape Architect's Role in Redevelopment**

**Everglades Restoration**

Ms. Walter reviewed the courses and recommended approval.

MOTION: Mr. Graham moved to approve.

SECOND: Ms. Marshall-Beasley seconded the motion and it passed unanimously.

**Florida Department of Community Affairs– Provider #1042**

**Course application:**

**General Building Code – Advanced Course**

Ms. Walter presented the course, stated that it was an overview specific to landscape architecture and recommended approval for 4 hours.

MOTION: Mr. Graham moved to approve the course effective December 1, 2003.

SECOND: Ms. Marshall-Beasley seconded the motion and it passed unanimously.

**Ratification List – (handout)**

MOTION: Ms. Walter moved to approve the ratification list as presented.

SECOND: Ms. Marshall-Beasley seconded the motion and it passed unanimously.

**Discussion**

**Model Ordinance Meeting – May 6, 2003**

Ms. Walter commented that she would like someone from the board to attend the upcoming May 6<sup>th</sup> meeting. She stated that it appeared that there might be additional changes made to the Ordinance. The board asked that Mr. Thomas be put on notice if changes are made to please notify the board because they would like to see the Ordinance again. The board also would like a letter to reflect that the board reserves the right to withdraw endorsement of the Ordinance if there are substantial changes after the May meeting.

Mr. Caster commented that he found the Department of Agriculture's involvement with the document was alarming. He stated that Agriculture is in the process of implementing a statewide media campaign that highlights Florida Certified Landscape Professionals. He stated it would include posters, billboards, and radio, and television commercials that do not mention Florida Nurseryman and Growers Association, FNGA. Mr. Caster stated that there are business cards out in the public, that reflect Florida Certified Landscape Designer with a number but it does not reflect FNGA. He commented that he is concerned with the title being used, Florida Certified Landscape Professional/Designer.

After discussion, the board determined that Florida and Certified implies state licensure. Ms. Catalano commented that she would look into the legal implication. Mr. Caster commented that he strongly supports the certification of landscape designers, however, this is confusing. Mr. Davis stated that this could jeopardize the health, safety, and welfare to the public.

After further discussion, the board determined that they should send a letter regarding the Model Ordinance stating that the board supports the most recent version. Ms. Catalano stated that she would draft a letter regarding the designation of Florida Certified Landscape Professional/Designer.

Ms. Chastain and Ms. Walter would draft a letter to Mr. Thomas regarding the board's support of the Model Ordinance as presented. Mr. Caster stated that it was important to have a presence at the meeting.

The board recessed and reconvened at 11:01 a.m.

### **Compliance information**

Ms. Chastain commented that the Division of Regulation provided this information.

### **Alternatives for Demonstrating Competency on the Florida Building Code (A representative from the Bureau of Education and Testing will be present)**

Mr. Wray Nolting was present from the Bureau of Education and Testing. He commented that Mr. Muffoletto previously distributed information regarding the alternatives for demonstrating competency of the Florida Building Code. Ms. Marshall-Beasley appreciated the information, but commented that the board recently completed the rules update and does not feel adding the requirement to the examination was appropriate. The board agreed and determined that satisfying this requirement by a course was the most beneficial.

### **CLARB Strategic Plan**

Mr. Davis commented that this plan was submitted at the Mid-year CLARB meeting as being the unofficial direction of CLARB. He stated it had not been approved at this time. Ms. Marshall-Beasley stated that they are superceding the states laws, regulations, and rules. She stated that they are a testing agency. Ms. Walter commented that they are branching out into continuing education as well as testing.

Ms. Marshall-Beasley stated that on page 640, it reflects 86% of students indicated they intend to seek licensure but 30% nationally sit for the licensing exam. She continued by stating that of that group only 40% pass the examination. Ms. Marshall-Beasley stated that they do not have enough landscape architects to meet the need. Ms. Walter commented that the root of the problem is that "x" number of people graduate then fewer numbers sit for the examination and pass. She continuing by stating that the concern is the test does not test knowledge, it's expensive, and unfair. Ms. Walter commented she would like to see the strategic plan correct those issues.

Mr. Graham stated that they are a testing venue not an educator. Mr. Davis stated that on page 641 addresses CLARB's recommendations on how to address current issues. Ms. Marshall-Beasley commented that they are a testing agency not a regulatory agency. Mr. Davis stated that CLARB was formed for regulating the profession. Mr. Graham stated that they have taken on the roll of the national overseer of the regulatory boards. He stated that somehow the boards have relinquished to them and it would be difficult to take that power back.

Mr. Graham stated that they were formed not as a testing agency but helped facilitate individuals receiving licensure in states. Mr. Davis stated that CLARB

was formed as a committee of ASLA to promote licensure in the various states. He commented that they broke away from ALSA as an independent body. Ms. Marshall-Beasley referred the board to the paragraph that reflected CLARB's mission statement. She stated that it is a shift from her previous understanding of their role.

Ms. Marshall-Beasley commented that a majority of their finances are generated from testing. Mr. Graham commented that there is a concern regarding the cost of the test. Ms. Marshall-Beasley commented that it might be a bigger expense because of the few number of testing candidates. Mr. Davis stated that the continuing education might offset the cost of the test.

Mr. Graham commented that there are other certifications out in the field. He stated that individuals will look for other ways to be certified if they can not pass the test. He commented that there should be a mechanism to help individuals pass the examination to receive licensure. Ms. Catalano asked if they could lower the examination pass score. The board discussed and they determined they did not want to lower the pass score because it might hinder licensee's ability to endorse to another state.

Mr. Graham asked if there has been a study to determine if the problem was the test or the educational systems. Mr. Davis responded that CLARB and ASLA are looking into this problem. Mr. Davis commented that the test covers health, safety, and welfare. He commented that the educational institution teaches design. Mr. Davis stated that candidates that passed the exam they would not necessarily protect the health, safety, and welfare of the public.

Ms. Catalano asked if the problem was the exam or was the universities passing students that they shouldn't. Mr. Graham responded that the schools teach one thing and CLARB tests for something else. Mr. Graham commented that there are prep classes that assist students with the examination. Ms. Walter commented that when she was preparing for the examination she was given retired questions from the examination. Ms. Marshall-Beasley stated that she knows people that have taken the test for 5 years and have never had a repeat question.

Mr. Graham stated it might be helpful to do a survey of the individuals that are taking the test and for what reason i.e. licensure. Mr. Davis commented that they might be working in fields that do not require a license. Mr. Graham asked if it would be appropriate to send comments regarding the strategic plan that could be passed to CLARB. Ms. Chastain replied that the board members could send their comments to her and she would compile for the next board meeting. Ms. Chastain asked the Chair to return to the Florida Building Code issue. Mr. Davis replied in the affirmative. Ms. Chastain stated that she wanted to make sure the board was aware that all of the core courses would expire June 30<sup>th</sup> with the exception of the administrative course. Mr. Ayrish commented that they

could implement the requirement in an equivalency exam. After discussion, the board determined that they hope to see more applicable courses to the profession and that they would stay with the course to meet the requirement.

### **Architects signing and sealing landscape plans**

Ms. Walter stated that this deals with an architect that took plans to a local municipality and they are requiring that his plans be signed and sealed by a landscape architect and the architect was contesting that interpretation. Ms. Walter commented that in the architect's scope of practice the definition says they can design plans that are associated with the structures they are designing. Ms. Walter stated that this was a broad interpretation. Ms. Catalano stated that she discussed this issue with the architect and interior designer's prosecuting attorney, David Minacci, and he commented that it would depend on the situation. She stated that Mr. Minacci informed her that he would rely on expert witnesses to determine if a situation is incidental to the practice of architecture and interior design. Ms. Catalano stated that Landscape's law allows, at some point in a design build contract, where architects or engineers can sign and seal.

Mr. Graham asked if a local government placed a more restrictive requirement than what the state does, shouldn't it be upheld. Ms. Catalano replied in the affirmative as long as it does not contradict the state's laws. Mr. Nam stated that architects and interior designers could only practice in areas that they are competent. After further discussion, the board determined that the county could have more stringent requirements as long as they did not violate the state laws.

### **Future Board Meetings**

May 20, 2003, 9:00 a.m., Telephone Conference Call

July 31, 2003, 9:00 a.m. Marriott Harbor Beach Resort and Spa

October 31, 2003, West Palm Beach

### **Reports**

#### **Paul Davis, Chair's Report**

Mr. Davis commented that his report was basically the CLARB information that was previously provided. He commented that Ms. Walter was continuing to work on the Florida Building Commission issues and Ms. Marshall-Beasley was working on testing issues. Mr. Davis asked Mr. Graham if he would serve as the boards finance liaison and Florida Building Commission back-up. Mr. Graham replied in the positive. Mr. Davis confirmed that Ms. Marshall-Beasley and Ms. Gillick were serving on the Probable Cause Panel. Mr. Davis commented that he and Ms. Gillick were the contacts for CLARB issues.

#### **Juanita Chastain, Executive Director's Report**

Ms. Chastain commented that she had no report. However, they needed to approve her, under new business, as the Executive Director.

### **Charles Pellegrini, Prosecuting Attorney's Report**

Mr. Pellegrini distributed a handout for their information regarding case load.

### **Rosanna Catalano, Board Counsel's Report**

No report.

### **For the Boards Information**

CLARB Financial Report for the year ending September 30, 2002

Letter to Mr. Richard Browdy dated March 21, 2003

### **New Business**

MOTION: Mr. Graham moved to accept and approve Ms. Chastain as the board's Executive Director.

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

Mr. Graham asked Ms. Estes about a new board member orientation. Ms. Estes replied that she was trying to arrange a new board member orientation and offered to provide new board member workbooks. The board was advised to have applicants contact the board office regarding questions and inquiries.

### **Amy McKay request to reschedule**

Ms. McKay was on the last board meeting agenda. The board requested that she provide medical documentation to reschedule her examination for no additional fee.

MOTION: Ms. Walter moved to approve rescheduling her examination for no additional fee.

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

### **Reconsideration**

#### **Omni Financial Services**

#### **Course: The Financial Management Workshop**

Mr. Davis commented that the boards' concern was this was a sales pitch. Ms. Walter commented that this application was denied because the board felt it was more of a product endorsement. Ms. Walter stated that the board asked for and received additional information to reconsider the course. Ms. Walter commented that this course was more specific to general business management. Mr. Graham commented that this course was not germane to the profession. Mr. Davis stated that financial management was beneficial information. Ms. Catalano referred the board to the rules and asked the board to specifically articulate the reason for denial. She referred the board to Rule 61G10-18.006, F.A.C. and asked the board to specify why the provider does meet this rule. Mr. Davis commented that this course addressed personnel management. Ms. Catalano reviewed that the board does not feel this course promotes health, safety, and welfare. However,

the board feels that this course is more of a personal management course and not professional. Mr. Davis referred to the course content stating medical insurance, long-term disability insurance, death, and life insurance are part of practice management. Mr. Davis commented that this is helpful to the profession.

MOTION: Mr. Graham moved to approve as an optional course.

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

**Request to reschedule for June examination – Gerald Wenta**

The board requested documentation of illness and Mr. Wenta could not provide documentation. Mr. Wenta stated that he was advised to write the board requesting approval to be rescheduled and was not advised to provide documentation of the illness. Mr. Graham stated the gentleman did what he was asked to do. Ms. Walter stated this is not a precedent. After discussion, the board determined that an individual must document illness in the future to be eligible to be rescheduled for examination.

MOTION: Ms. Walter moved to approve because Mr. Wenta provided what was requested. She continued by stating that in the future the board requests verification of illness and/or emergencies by documentation.

SECOND: Mr. Graham seconded the motion and it passed unanimously.

Ms. Estes commented to the board that she received a telephone call from a constituent that is upset because they took a core course through Chitester which in turn purchased the course from RedVector. Ms. Walter commented that RedVector was not approved by the board for the core building code course and courses are purchased from the Department of Community Affairs. After discussion, the board determined the issue was with Chitester, RedVector, and the Department of Community Affairs.

**Old Business**

No old business.

**Adjourn**

MOTION: Mr. Graham moved to adjourn at 1:30 p.m.

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