

BOARD OF LANDSCAPE ARCHITECTURE

Marriott's Harbor Beach Resort & Spa
3030 Holiday Drive
Ft. Lauderdale, FL 33316

August 1, 2003
8:00 a.m.

General Board and Business Meeting Minutes

Call to Order

Mr. Davis, Chair, called the meeting to order at 8:08 a.m.

Board Members Present:

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

Others Present:

Rosanna Catalano, Board Counsel
Charles Pellegrini, Prosecuting Attorney
Juanita Chastain, Executive Director
Terri Estes, Government Analyst
Joe Muffoletto, DBPR Bureau of Education and Testing
David Nam
Jeff Caster
Christopher Keller
James Varnado, DBPR Division Director
Willson McBurney
George Gentil
J. Roland Lieber
Andrew Dance
Bob Mitchell
Fred Strasau, Jr.
Katherine Pordeli
Richard Rome
Ted Baker

Mr. Davis commented that he had a conversation with Mr. Stressau regarding the Florida Building Code examination requirement.

Review and Approval of Minutes

April 25, 2003, Board Meeting (e-mailed)

Ms. Walter commented that on page 9, add on to the end of the first sentence, “and the architect is contesting that interpretation”. She commented that on page 11, the last paragraph, second sentence to add clarification that “Red Vector was not approved by the board for the core building code course”.

MOTION: Mr. Graham moved to approve the minutes with changes as noted.

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

Rules - Rule 61G10-18.001, Florida Administrative Code

Ms. Catalano commented that the rule was adopted July 3, 2003 and printed in the laws and rules booklet. Ms. Walter commented that for anyone seeking credit for an academic class must submit their transcript 90 days prior to the licensure renewal.

Review of Continuing Education Providers and Courses

PSMJ Resources, Inc.– Provider # 2844

Course applications:

CEO Ownership Transition Forum

Pricing, Negotiating & Contracting

Ms. Walter presented course applications and commented that they are complete and recommends approval. She commented that the CEO Ownership Transition Forum was eligible for 15.6 credits and Pricing, Negotiating & Contracting was eligible for 7.8 credits. Mr. Graham asked if the credits could be rounded up or down to an even number. Ms. Catalano replied that the board could vary and waiver from the rule based on Rule 61G10-18.001(1)(c)(3) and would set a precedent. Ms. Catalano commented that they do not have to give .5 credit. Ms. Walter recommended 15.5 and 7.5.

MOTION: Mr. Graham moved to round to the nearest half.

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

MOTION: Ms. Gillick moved to approve the courses.

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

Florida Chamber’s Environmental Network

Written request to have course approved for 10 optional and 2 laws and rules

Ms. Estes presented the letter stating that the board approved this course previously, however, they recommended that the provider request in writing that they have the course be granted for 2 hours of laws and rules since it was not part of the original application request.

MOTION: Ms. Gillick moved to approve their request.

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

Ratification List – (handout)

MOTION: Ms. Marshall-Beasley moved to approve the ratification list.

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

Mr. Graham asked Ms. Catalano if a person that qualifies a firm is required to be a corporate officer of the firm or do they have to be an owner of that firm. Ms. Catalano replied in the negative and stated the requirement was in Chapter 481.319, F.S. Mr. Graham commented that the qualifier is legally held responsible for the firm. Mr. Nam commented that he did not believe that the individual qualifier would be held personally accountable for the firm's actions. Mr. Graham commented that he had a concern for individual licensees that qualify an out of state company and that individual is the only contact in Florida, would he be held liable. After discussion it was determined that yes, possibly the individual could be held liable and it was more a civil matter.

Discussion

Florida Nurseryman and Growers Association (FNGA)– draft letter

Mr. Graham presented the letter and the board discussed. Mr. Graham commented that he has had more time to think about the letter and would like to include a time certain for a response. Ms. Gillick commented that in the last two sentences to encourage attending or inviting a representative to the October meeting.

Mr. Graham commented that this was an urgent matter and he would like to resolve before the October meeting. Mr. Nam commented that his understanding was there was an entire marketing area working on this campaign. Mr. Graham commented that he was not sure that the letter was strong enough and would like them to cease and desist. Ms. Marshall-Beasley commented that she would like to have them present to have the conversation to resolve.

Ms. Gillick commented that she felt they were getting conflicting and incomplete reports and would like to resolve this with FNGA in person. Mr. Graham commented that he had materials that indicate this campaign is underway and moving forward.

Ms. Catalano recommended that the response letter to Mr. Cauthen should come from the Board Chair. Mr. Graham commented that he felt they needed to have Mr. Bolusky meet with them to have an open dialogue.

Ms. Catalano commented that it appears what FNGA is doing is problematic according to her discussion with the Economic Crimes Unit and her letter sent to them pointed to the statutes. Ms. Walter commented that it appears that individuals are using this certification as being "State Certified".

Ms. Marshall-Beasley commented that there are non-registered people using the notation of ASLA. She commented that you do not have to be registered to be a member of ASLA. She commented that this is confusing to the consumer. Ms. Gillick commented the requirement used to be that a member must be registered person, however, the rules have changed. Mr. Nam commented that ASLA's bylaws say they can use the term but if it conflicts with Florida Statutes then an individual could be discipline.

Ms. Walter commented that the difference between the ASLA designation and the FNGA designation is that FNGA's certification advertises "State Certification". Ms. Catalano commented that Chapter 481.323(1)(b), F.S., reads that a person may not knowingly use the name or title landscape architect, landscape architecture, landscape architectural, landscape engineer, LA, or words to that effect or advertise any title or description tending to convey the impression that he or she is a landscape architect when he or she is not a holder of a valid license pursuant to this part. She commented that with that statute the board could file a complaint. Mr. Graham commented that by using ASLA designation would indicate that an individual is a landscape architect and it could be misleading.

Ms. Marshall-Beasley commented that when an individual is held out by the press as being a landscape architect and they are not, how would that be handled. Ms. Catalano replied that is blurred because the news may not always be correct and an individual should not necessarily be held accountable for the news or media. Mr. Nam commented that if a complaint were filed for an individual regarding that situation the board would review the facts that are presented.

Mr. Davis commented that the advertising materials reference that the exam that FNGA offers is scored by a Florida psychometrician. No one on the board was familiar with this information.

Ms. Catalano commented that when she drafted the letter she thought the board understood what the problem was with the advertisements and what the concerns were. Mr. Nam commented that either the board initiates a dialogue with FNGA or sends the information to the Economic Crimes Unit. He asked Ms. Catalano if the board could obtain an opinion or declaratory statement from the Attorney General's office regarding this issue and what action they feel should be taken. Ms. Catalano replied that in this case she has received an opinion from an individual in her office and an attorney in the Economic Crimes Unit regarding the problems the designation creates. She continued by stating that the attorney

with the Economic Crime Unit has spoken with Mr. Cauthen, representative for FNGA regarding the concerns and potential problems with the designation.

Ms. Gillick questioned if it was legal for the Department of Agriculture to partner with FNGA. Mr. Davis questioned if the Department of Agriculture was actually certifying the individuals. Ms. Catalano commented that there are private entities that partner with the state on projects. Ms. Gillick questioned if it was legal for the state to partner with a private entity in light of the fact of Chapter 481, F.S. Ms. Catalano commented that it appears that the designation "Florida Certified Landscape Designer" is problematic and whether it rises to the level to move forward has not been determined. She commented that on the face of it, the designation is problematic.

Mr. Nam commented that if counsel for FNGA has received an indication from the Economic Crimes Unit that the designation is problematic and inviting Mr. Bolusky to the meeting may not yield a timely and definitive approach. Ms. Marshall-Beasley commented that they should try this approach.

Mr. Graham commented that they could use stronger language and this designation should cease. Ms. Marshall-Beasley commented that they could not make him appear. Mr. Graham commented that they could invite Mr. Bolusky to try to resolve this issue before sending to the Economic Crimes Unit. Mr. Walter commented that they should make it clear that they want Mr. Bolusky and not the attorney. She continued by stating that the letter should also ask for him to appear at a time certain. Ms. Gillick commented that they should inform him if he does not appear, then they would proceed with forwarding to the Economic Crimes Unit or exploring the alternatives to resolving this matter.

Ms. Walter commented that they should be shown the examples the board has received and include as an attachment to the letter. Mr. Nam commented that they will either say they will continue or not. Mr. Graham commented that they need to ask them to stop using the designation because it is misleading and has potential harm.

Ms. Walter commented that because they are related professionals she feels they should be given an opportunity to appear to discuss this issue. She commented that currently the only dialogue has been between counsels. Mr. Nam asked what the board would do if the issue is not resolved and this may drag on for years. Ms. Gillick commented that there is an article that states the partnership began in 2002 and that is not what was represented by FNGA's counsel. She commented that if they did not begin a dialogue with the board then the board would have no other recourse but to forward to the Economic Crimes Unit for a complaint.

Mr. Keller commented that this has been going on for sometime and he would like to receive an opinion from the Attorney General's office as a formal opinion if

the face to face meeting does not happen. He commented that October is sometime away. Ms. Catalano commented that the next noticed meeting is October and that would be the first opportunity to readdress this issue.

Ms. Catalano commented that in order to get a written official opinion would delay this process. She stated that essentially they have an opinion from the office. Ms. Catalano suggested that the advertising materials be attached to the FNGA letter and signed by the Board Chair.

Mr. Danz reminded the board that under the Sunshine law they could not draft the letter on break. The board thanked Mr. Danz.

Mr. Graham commented that there is a designation for landscape design. Mr. Nam commented that if you don't act in a direct and precise manner the board is to be misunderstood, which causes more problems.

MOTION: Ms. Marshall-Beasley moved to amend the agenda to move forward and come back to the FNGA draft letter.

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

CLARB 2003 Annual Meeting

Mr. Graham commented that he would recommend Mr. Davis and Ms. Gillick attend on behalf of the board because they have the past knowledge.

MOTION: Mr. Graham moved to send Mr. Davis and Ms. Gillick to represent the Florida Board.

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

Ms. Gillick commented that she would like input from the board members regarding issues they would like to have relayed to CLARB. She commented that CLARB is reinventing themselves and moving into areas other than testing. She would like to hear the board's concerns. The board determined that they would send their thoughts to Ms. Catalano and board staff. The board requested that a conference call be scheduled to discuss items to take to the meeting.

Ms. Marshall- Beasley commented that they cannot ignore the pass fail rates of the examination. Mr. Muffoletto commented that the pass-fail rates are similarly low in California, which suggests the problem is the test. Mr. Graham commented that they could provide input on the conference call.

Ms. Gillick commented that CLARB was founded to facilitate reciprocity and as a testing venue. She commented that they are branching out and facilitating a staff increase and making this a big business. Ms. Marshall-Beasley commented that they should not broaden their scope when they have failed in the initial mission,

which was testing. She commented that if they have failed why should they branch out.

Ms. Walter asked if the make up of CLARB was academic. Mr. Davis stated that it does not appear to be academic. Ms. Gillick commented that there was a lengthy conversation at the last CLARB meeting regarding the strength of the Florida Statutes.

The board discussed the option of computer based testing and the cost factor regarding the administration of the Landscape Architecture Registration Examination (LARE). Mr. Davis commented that CLARB was offering two sections of the multiple choice part of the examination by computer based testing.

Ms. Gillick referred to an e-mail from Mr. Penrod that states repeat candidates do worse than first time takers. Mr. Muffoletto commented that there is not proof of that. Mr. Graham commented that CLARB needs to refocus their energy on testing and not expand.

Reports

Paul Davis, Chair's Report

Mr. Davis commented that he attended a grading session of the June LARE grading and draining section. Ms. Marshall-Beasley commented that she visited the Florida A & M landscape department, will be attending Florida International University in the fall, and has not received a response from the University of Florida.

Ms. Walter commented that she would be attending a Florida Building Commission Technical Advisory Committee meeting on August 13, 2003 regarding the advanced courses being taken by an examination. She commented the upcoming meeting would be conversation regarding the creation of an equivalency test. She commented there were specific items that they work with specific to the building code that should be included in the examination. Ms. Marshall-Beasley wanted to confirm that licensees could either take the core course or pass an equivalency test. Ms. Walter confirmed that was the intention. Mr. Graham commented that this was an opportunity for the board to present to the Florida Building Commission the reason they should be identified in the Florida Building Code.

Ms. Walter commented that this meeting was the Technical Advisory Committee (TAC) not the Florida Building Commission, however, there are 3 members on the TAC that sit on the Commission. Mr. Davis commented that Mr. Strasau's concern was the courses or examinations have nothing to do or apply to the profession of landscape architecture.

Ms. Walter commented that it is difficult to have one-size fits all pertaining to the examination because of the diverse number of professionals that work with the Florida Building Code. She commented that the advance courses would be required to be reviewed and approved by the board so those courses should be specific to the landscape profession. She commented that the equivalency tests should be profession specific, however, she does not feel that would happen.

The board recessed at 9:50 a.m.
The board reconvened at 10:15 a.m.

Mr. Davis asked Mr. Graham about the financial situation of the board. Mr. Graham replied he did not have an update. Ms. Chastain responded that she would have updated financial information for the October meeting.

Juanita Chastain, Executive Director's Report

Ms. Chastain introduced Mr. James Varnado, the department's Division Director. Mr. Varnado commented that he was at the meeting to continue the relationship between the board and the department and he would be happy to assist them if they had questions or comments. Ms. Chastain referred the board to the number of licensees, providers, and continuing education courses.

Charles Pellegrini, Prosecuting Attorney's Report

Mr. Pellegrini commented that there were 2 licensed activity cases, 2 unlicensed activity cases, and 6 cases under investigation (4 unlicensed and 2 licensed). Ms. Marshall-Beasley asked about the telephone sweep regarding unlicensed activity. Ms. Chastain stated that would be an ongoing activity.

Rosanna Catalano, Board Counsel's Report

Ms. Catalano commented that their rule was effective July 3, 2003. She commented that she was discussing with Suzanne Printy regarding the boards concern with the certificate of authorization for fictitious name and she would get back with them with them in the future.

Mr. Strasau questioned after taking the 4-hour building code course why there was nothing on the examination that had anything to do with landscape architecture. He commented that when he attends continuing education courses he tries to get as much education from that course as possible. He commented that it was insulting to spend the time and money only to take an examination that has nothing to do with your profession. He commented that he wondered why he was required to take the course that had no knowledge benefit and why he could not carry the credits for a course over from one cycle to another.

Mr. Stassau commented that he was told that it was legislation for the Florida Building Code. Ms. Chastain commented that continuing education credits could not carry over and read the statute that requires the course be taken in the two year window.

Mr. Stassau commented that some of the courses should be noted that the course content would not change and should be allowed to carry over. Ms. Walter commented that Mr. Stassau wanted courses taken that do not change be carried over or partial credit from one cycle to another. Ms. Walter commented that initially when she was appointed the Educational Technical Advisory Committee she thought she would have input on the core course content. She commented that unfortunately she did not have much input but fortunately the core course is a one-time course. She stated that the core courses were created as a one size fits all to cover the numerous professions. She commented that because the Florida Building Commission had so many complaints that it was determined that future courses would be reviewed and approved by the individual professional boards. Ms. Walter commented that the future advance courses would be pertinent to the profession.

Mr. Strasau commented that he would spread the word that the future advance courses would be more pertinent to the profession.

Florida Building Commission Member list

For the board's information.

Florida Building Commission, Modifications 702 and 703 – draft letter

Ms. Walter commented that Ms. Estes filed two proposed modifications to recognize the profession of landscape architecture. She commented that the Administration Technical Advisory Committee reviewed and denied the proposed modifications. She commented that the modifications will go before October 13-14, 2003, the Florida Building Commission on a consent agenda to officially be voted down. She commented that they have an opportunity to have the modifications taken off the consent agenda they may have an opportunity to have them reconsidered.

Ms. Walter commented that there was a draft letter as well as a Commission Member list that the board should review, make suggestions and possibly contact any individuals they know on the Commission Member list. She commented that there is a 45-day comment period on the Florida Building Commission web site. She commented that the board should consider making a comment on the web site in addition to the letter.

Ms. Walter commented that she intended to ask Mr. Browdy to be the Commissioner that would pull the modifications from the denial consent agenda. Mr. Nam commented that ASLA planned on attending the Florida Building Commission TAC meeting. He commented that the TAC was well advised of the reason for need of the modifications. Mr. Nam commented that he did not feel they understood the benefits of the recognition of landscape architects.

Mr. Graham commented that this is serious because the municipalities go by the Building Code not the statutes and this is potentially harmful to our practitioners not to be recognized. He commented that the board should be proactive regarding this issue and would like ASLA to assist. He commented that the board should take the list of Florida Building Commissioners, contact them and give examples of what a landscape architect is allowed to perform.

Mr. Nam commented that he attended the meeting where the modifications were turned down. He continued by stating that he commented that the landscape architects are required to take the core course and that landscape architects are a regulated profession by statute. He commented that he tried to address the TAC's concerns regarding the designation of landscape architects being noted in the Florida Building Code.

Ms. Walter commented that she tried to include in the draft letter what is allowed by landscape architects and Chapter 481, F. S. She commented that she would try to keep the letter short and to the point. She commented that it would be helpful to get the Commissioners on the phone and explain why this is important to the board and individuals. After discussion the board determined that Ms. Chastain should contact the Commissioner's as a follow-up to the letter.

Ms. Walter stated that Florida Building Commission counsel commented to the TAC the importance of the modification and they still turned it down. Mr. Nam commented that the TAC is where a majority of the business gets done and he made a compelling legal argument to take action and they were not moved or swayed. Mr. Davis commented that there were 1,100 licensees that would be impaired if this is not remedied.

After discussion it was determined that the letter would be sent, staff would perform follow-up calls, and board members and ASLA members would contact anyone they knew to encourage the Commission to accept the modifications.

The board made some modifications to the Florida Building Commission letter. The final letter is attached. The board discussed attaching a CD or video tape regarding the profession but they determined it was going to be difficult to get the Commissioner's to read a letter much less view a video tape or CD.

Ms. Walter commented that the 45-day comment period is open to the general public so any organizations or individuals were welcomed to make comments. She gave directions on how to make comments on the web site. Ms. Walter commented that she planned on attending the October 13-15, 2003 Florida Building Commission meeting. Ms. Walter was identified to go and speak on behalf of the board.

The board determined that they would make comments to the board staff to post for the comment period and the individuals could make comments as well.

Mr. Graham revised, reviewed, and read the FNGA letter after much discussion and input from the board, the final letter is attached.

Ms. Marshall-Beasley asked if the board could instruct staff that if no one from FGNA attends or does not send a representative that the board will move to the next level. An unidentified person suggested that the board should get an opinion from the Attorney General's office as to what the next step would be and what the grounds would be. Ms. Catalano commented that the board has received a verbal opinion from the Economic Crimes Unit regarding this issue and explained the process regarding a writing legal determination from the Attorney General's office.

MOTION: Mr. Marshall-Beasley moved to approve the letter.

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

Future Board Meetings

The future board meeting dates were set as follows:

August 22, 2003, 9:00 a.m. - telephone conference call

November 7, 2003, 9:00 a.m. - Palm Beach

February 6, 2003, 9:00 a.m. - Tallahassee

May 7, 2003, 9:00 a.m. - Tampa

New Business

Mr. Baker asked if the board could review the prosecuting attorney's report because he has repeatedly filed complaints regarding an individual and nothing has happened in 4 years. Mr. Pellegrini presented his report for Mr. Baker. Ms. Chastain commented that Director Varnado was very concerned with unlicensed activity and she would make him aware of his concerns.

Old Business

No old business.

Adjourn

MOTION: Ms. Gillick moved to adjourn.

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

The meeting adjourned at 12:35 p.m.